

PLANNING APPLICATION REPORT

Case Officer: Kate Cantwell
Dart

Parish: Kingswear **Ward:** Dartmouth and East Dart

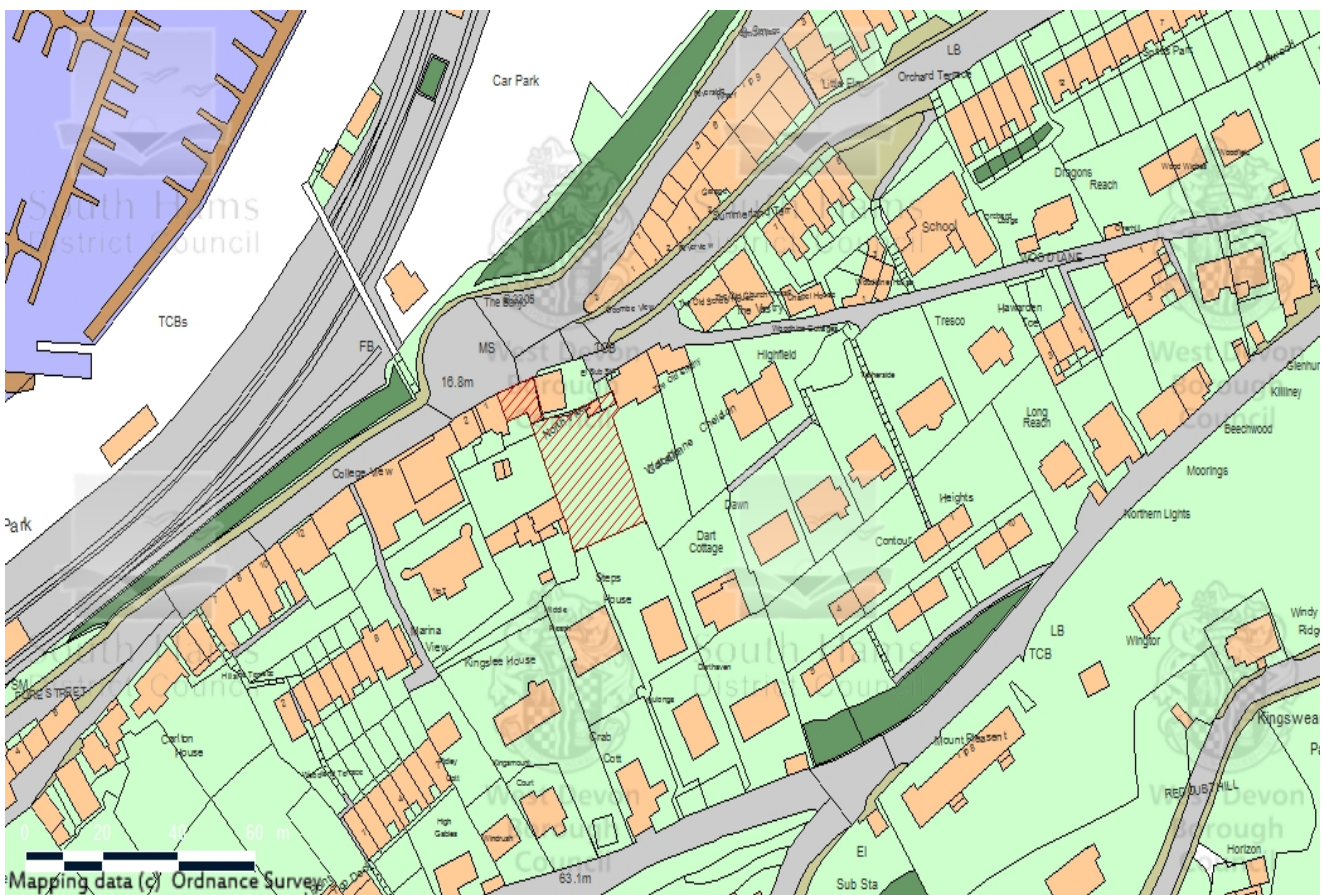
Application No: 0842/17/FUL

Agent/Applicant:
Mr Adam Bennis
BBH Chartered Architects Ltd
9 Duke Street
Dartmouth
TQ6 9PY

Applicant:
Mr & Mrs S Merotra
Ashleigh House
Fore Street
Kingswear
TQ6 0AD

Site Address: Ashleigh House, Fore Street, Kingswear, TQ6 0AD

Development: READVERTISEMENT (Revised Plans and Application Form)
Construction of new build dwelling with associated landscaping within the curtilage of a grade II listed building



Reason for taking to committee: Cllr Hawkins requested this was brought to committee based on concerns regarding size, un-neighbourliness, overlooking and highways.

Recommendation: Conditional Approval

Conditions

1. Standard commencement
2. Accordance with plans
3. Details of external materials
4. Details of building details (rain water goods, etc.)
5. Area above terrace doors shall not be glass
6. Balcony screen to be solid or opaque
7. Construction Management Plan – prior to commencement agreed by applicant 18/6/2019
8. Provision of parking and turning areas
9. Unsuspected contamination
10. Surface water drainage details
11. Adherence to ecology report recommendations
12. Garden to serve Ashleigh House
13. Adherence to low carbon measures and noise limit on air source heat pump
14. Adherence to MCS for air source heat pump
15. Piling – notification to residents

Key issues for consideration: Scale, amenity and relationship to surrounding buildings, access and parking, impact on heritage, drainage, construction impacts, land stability, design and landscape impacts.

Site Description:

The site lies in the heart of the village of Kingswear on the east side of the river Dart estuary. The site is located off Fore Street, Kingswear, to the rear of the existing buildings fronting the road. Fore Street, the row of houses to the front of the site, including the existing dwelling Ashleigh House, and a portion of land at the front of the site is within the Conservation Area. Ashleigh House is a grade II listed building.

The site is a steeply sloping rectangular garden plot of approx. 0.1ha. The garden has a number of terraces connected by flights of steps with sloping flower / shrub beds between levels, including an area of decking at the top / south end with an area of lawn below. At the bottom / north end of the site, the garden ends in a near vertical drop of bedrock.

The site is approximately 700m² including the existing dwelling and slopes downwards towards Fore Street from the south to the north.

The Proposal:

It is proposed to build a detached 3-bedroomed property on the site towards the top of the garden, with a separate garage and car parking area at the bottom / north end of the site.

The proposed house has three storeys. The ground floor comprising a large boot room, outside store and utility room and stairs to access the first floor and main living areas. First floor comprising 3 double bedrooms including the master with en-suite and there is an additional separate bathroom. The second floor comprising a large kitchen, dining and living room area, which open onto the covered terrace/balcony which provides an outdoor eating with sea views. In addition to a larder, W.C. and study area there is another large living room with Juliet balcony on the second floor also.

The proposed house has a ground floor internal area of 21m², the first floor has 86m² and the second floor has 105m² - totalling 212m².

Proposed materials: external walls of the ground floor to be finished in a natural stone and have modest openings for access and windows; first and second floor walls to be finished in a painted render with larger windows to serve the main living spaces and take advantage of the views; the roof to be natural slate; doors to be a timber hardwood and powder coated aluminium; windows and roof lights to be powder coated aluminium; balustrading to be glass with a top bar and no frame, and; the external floor finishes to be a natural stone paving.

Consultations:

Landscape Specialist

No objection based on the revised plan which take into account earlier comments.

Drainage Specialist

Objection received dated 15th March 2019 was withdrawn when the LPAs Drainage Specialist's attention was drawn to information relating to the drainage proposal in the application documents. Condition recommended relating to surface water based on the in principle scheme shown in submitted documents.

Devon County Council - Highways Authority

24 May 2019

I have now had sight of the Transport Advisory Note and can see the proposals would be acceptable. The Highway Authority has no objections.

28 August 2018

The proposal again includes a single dwelling to the rear of the property North View. It is noted the parking area proposed to serve the existing dwelling and new dwelling has been revised again. It is noted the neighbouring parking space for Wood Lane Cottage is excluded from the planning red line and three internal spaces are now shown for the two dwellings. It is the view of the Highway Authority the spaces as shown on drawing 3489 03 Rev K are unworkable. The parking spaces are 4.5m in length and there is a 3m manoeuvring area behind the parking spaces, which is too tight. The proposals will therefore likely generate additional parking demand on the public highway where there is no spare capacity. The nearest parking available on the public highway, which is unrestricted is located on Higher

Contour Road. Higher Contour Road already attracts regular complaints to the Highway Authority due to the fact there is insufficient capacity for parking and there have been requests to extend the residents parking zone further to incorporate this road. Also Wood Lane that leads to Higher Contour Road is not ideal to walk up as it is steep, narrow and bounded by private property with limited passing places. It is noted some of the objections to the application also are concerned about the possibility that drivers will contravene the 'no entry'. The Highway Authority cannot recommend refuse a planning application because drivers are likely to contravene a traffic order, since that is an enforcement issue. There are however no injury accidents reported to the Police in the last 3 years on Wood Lane and for a single dwelling the Highway Authority is concerned it would not be able to substantiate a road safety argument at appeal. Furthermore, parking on the public highway is a privilege not a right under highway statute and over subscription of parking on the highway is not necessarily going to generate a road safety issue. To assume it would be speculation and the Highway Authority is concerned at appeal speculation would fall down as a reason to refuse for refusal.

In conclusion, whilst the site appears to be overdeveloped the Highway Authority is unable to substantiate a reason for refusal on highway safety grounds.

Environmental Health Section

Initial objection due to absence of a contamination Assessment was removed following submission of Phase 1 Preliminary Geotechnical and Contamination Assessment Report by Ruddleston Geotechnical. Based on this contaminated land assessment, a condition was recommended.

Kingswear Parish Council

27th March 2019

Object:

- The construction and excavation works will have serious implications for the stability and structure of the surrounding area.
- The property is too large and represents over-development.
- The structure and design is not in keeping with the Conservation area and it will not be of any value in terms of enhancement to the Area of Natural Beauty (AONB).
- It is out of proportion in terms of its description as a 3 bed property.
- The access is from a narrow road and this will be dangerous to other road users and pedestrians
- The construction vehicles would cause serious congestion and create further parking problems in this area.
- There is known to be many species of wildlife within the grounds of the property and neighbouring properties that will be disturbed and will result in a loss of habitat.
- The development will create noise and air pollution from the ground works and this will have a detrimental effect on the neighbour's health and well being.
- There are potential emissions of radon gas that will affect this property and the neighbouring properties.

Biodiversity Specialist

Given the nature of the site and results of the site survey I am happy that we rely on the submitted survey report from Butler Ecology from May 2016 and that the recommendations would remain valid and necessary. If minded to approve please condition adherence to section 7 of the report.

Representations:

Representations from Residents

33 letters of objection have been received over the course of the application (and accounting for the re-consultation). Those comments cover the following points:

- Development is out of scale, overshadowing the neighbouring Grade II listed Ashleigh House
- Loss of Ashleigh House's private garden
- Loss of privacy to neighbouring properties
- Loss of natural light to neighbouring properties
- Located in the AONB
- Located in the Conservation Area and will unbalance setting of historic buildings, harmful to character the area
- The proposal is overdevelopment of the site
- Will rely on access via Wood Lane which, at 1.7m wide, cars and vans regularly get jammed on my wall. It is near a busy primary school and the lane is not fit to take

more traffic. Additional traffic on the highway will mean more blockages both during the build and day-to-day use.

- Day-to-day deliveries to the proposed build will cause additional delivery vans to use Wood Lane. They often ignore the signage, following poor sat nav instructions and get stuck on the wall at my house and have been known to damage listed properties. This blocks the road, access for which is essential for elderly residents who rely on access to get to appointments and hospital.
- The access to build this property requires reversing from Fore Street the wrong way through a one-way entrance. Any attempts to deliver goods and building materials will end up with vans getting stuck.
- The combined sewerage system on Wood Lane (there aren't separate storm sewers) are already at capacity during rain. Additional load from foul and/or storm water will lead to additional flooding on Wood Lane and Fore Street.
- Parking is over-capacity in Kingswear and this property will also be eligible for a parking permit on already over-capacity roads.
- The proposed development is not in keeping with the prevailing style of properties in Kingswear and as such can only make a negative contribution in this regard.
- Construction period will result in noise disturbance, dust and air pollution impacting on amenity and environment.
- Concern about de-stabilisation of the ground and impact on surrounding properties from the groundworks resulting from excavation and building works.
- We reside with our extended family immediately next door that is 2 metres away, from the proposed development. Given the site, it seems deliberately antagonistic to site the proposed building in such close proximity & to place its dominant aspect immediately up against our home. The direct impact of this is as follows:
 - A) bedroom windows are completely obstructed by the proposed building.
 - B) The large new balconies now extend forward of the building line & directly overlook our patio. The main sitting areas are within metres & afford no privacy what so ever for either party.
- The Geotech report of Feb 2016 provided no intrusive investigation & as such is entirely speculative. Given recent experiences in the village it would be grossly negligent to permit such an extensive development so close to older existing buildings based entirely on un- indemnified speculative data.
- Please see my previous comments with the photos attached. For the past 2, 3 years I have commented on this application try to correct the red line. Last year I sent to the Case Officer my Official copy from HM Land Registry title plan number DN326595 and DN686037. Latest plans still show the red line well over my parking. Also I refer to an application with SHDC MRE/30-0129/01 Demolition of store and construction of parking area at Ashleigh House. These plans shows how parking for Ashleigh House was created and the true position of the red line. My parking is to the east of the proposal. Access to the proposal is only 2.1m wide. The red line was put out over the my land to give the impression, wider entrance. 1.0m was taken from the North end of my parking area and green planterbed cut by half! It's limits how close to the wall I can park, I do need access to my back door. Bin men need come there too to collect the rubbish bags and recycling. It's impossible to park car close to the house because of a 25cm high step at the entrance of the parking space. Red line enclose part of my private land and we not formally notified, why Certificate of Ownership shows - owner is unknown?
- Why the triangle hatched area of the public road shown in the red line. I enclose old photos, the correct line of the highway to run across past our house to the original fence. When parking to the rear of Ashleigh House was done in 2011, the developer

damaged part of road and repaired the tarmac along their assumed highway line. Now the applicants refer to tarmac line as it line of Highway! How I can park my car if this triangle behind will added to the applicants? As it stands on the drawings now I wouldn't be able to park my car next to my house, after 28 years use of my parking space I will be need to find parking on the overcrowded village roads. It will be minus one parking place in Kingswear.

- The proposed parking arrangements are totally impractical, will never be able to provide good access for 3 vehicles.
- The Climate Change Act set target in UK of reducing CO₂ emission 80% by 2050 or 34% by 2020. The UK Green Building Council says around 10% of UK CO₂ emissions are from construction. The CO₂ generated through the entire building process excavation, transportation, materials, construction, disposal, maintenance. It estimates that to build average 4 bedroom house generates 150t of CO₂ emission. This proposal shows carbon footprint above the average 250 tonnes, it will emit CO₂ enough to build 5 typical 2 bedrooms houses! Additional huge excavation required to create access and the car park, excavations for house and numerous terraces for the landscape, big quantities of concrete and aluminium. It requires at least 2000 trips of heavy emission 1 tonne dumpers to remove excavated rock and then uploading to bigger trucks. Architect's Journal from 01.2019 urged to reconsider use of concrete after research found that cement responsible for 8% of global CO₂ emissions. Design, Access and Heritage Statement don't show any effort to use less polluting eco-friendly sustainable materials such as timber windows, compressed earth for foundation, lightweight roof tiles, low carbon cement. Proposed wood burner will produce 38% of particle matter air pollution. Will excavated soil and rock be transported and reused for other projects or recycled, if some rock possible to recycle for retaining wall? Site description says - "site consists of series of timber and stone" but project doesn't showing any use of recycling materials. Doesn't show how far will be travel building materials. 20% of the UK CO₂ comes from transportation
- Ecology report more then 3 years old
- The latest tinkering of the plans which were uploaded on 24/5/19 addresses none of the concerns or issues raised previously. Indeed, by moving the chimney stack externally & changing the material, this proposed dwelling is even more overbearing.

NB - Objections were also made regarding impact on property values and concern about radon gas. Neither are material planning matters. Radon gas is a consideration under Building Regulations controls.

Relevant Planning History

30/0571/06/F: FUL Formation of underground Calor Gas storage tank. Conditional approval: 24 Apr 06

30/0873/05/F: Erection of garden shed. Conditional approval: 20 Jun 05

30/0099/92/1: OPA Outline application for erection of two dwellings. Dismissed (Refusal): 23 Nov 92

30/0128/01/LB: LBC Listed Building Consent for demolition of store to allow creation of parking area. Conditional approval: 16 Mar 01

30/0129/01/F: FUL Creation of parking area. Conditional approval: 16 Mar 01

ANALYSIS

Principle of Development/Sustainability:

The JLP has established an approach to prioritising growth through a hierarchy of sustainable settlements in policy TTV1. Each town and village has a role to play within the rural area. The evidence base for the JLP scored Kingswear high within the Sustainable Villages category, and it was only removed, along with all other villages in the South Devon AONB, due to the absence of site-specific landscape sensitivity information.

Kingswear benefits from a good level of local services and facilities, is well connected both digitally and physically to settlements in higher tiers of the settlement hierarchy, and is considered a suitable location to deliver sustainable development subject to a proposal demonstrating that all relevant JLP policies (including AONB and landscape policies) are satisfied. By developing a vacant site within an established village with functional links to Dartmouth (which is a Key Town), the development accords with policy TTV2: Delivering sustainable development in the Thriving Towns and Villages Policy Area, as it reinforces the sustainable settlement hierarchy.

The criteria in policies SPT1 and SPT2 are considered through discussion of material planning considerations in the following sections of this report.

TTV26 does not apply to this site as it is not a countryside location being plainly within the Kingswear settlement. TTV27 is an exceptions site policy, which also does not apply to this site.

The development of a single dwelling squarely within the settlement of Kingswear reinforces the settlement hierarchy because it will accommodate residents who have potential to enhance or maintain the vitality of the village community. While this dwelling is not going to be an affordable home, a truly affordable home on this site would be unlikely to be achievable. The site is restricted to a single dwelling as there is no access or parking for more, and development finance would dictate that a single dwelling in this village with extensive views of the Estuary would need to command a final value to make the project viable after building costs on this site are taken into account.

Analysis extrapolated from ONS 2011 data for the Parish shows that Kingswear has roughly the same proportion 4+ bedroom properties and detached properties that we find across the District, but in Kingswear 4 bedroom properties are currently 28% of the stock, where the Strategic Housing Market Needs Availability Assessment (SHMNAA) seeks 18% to rebalance the housing mix. There is just a 2% difference between the number of detached dwellings in Kingswear and those found across the district, and given the site constraints nothing other than a single detached property would be appropriate for this site. Being a single dwelling, it will not have a significant impact on the existing oversupply of 4+ bed properties in Kingswear.

Taking this into account, the proposed development does not conflict with policy DEV8: Meeting local housing need in the Thriving Towns and Villages Policy Area, because the dwelling is a size, type and tenure is not significantly at odds with that which is needed in the area and the site constraints do not enable a different housing offer (such as 2 smaller units) to be provided on the land. The site characteristics hinder opportunities that might be presented on more easily developable sites to meet specialist housing needs.

Design/Landscape:

The site is steeply sloped and so the proposed dwelling is positioned to the rear of the site which is up-slope. This will enable a cut and fill exercise to manage the height of the building and maintain off-set distances between Steps House to the rear and south of the site and also Waterview House to the front and north of the site.

The design includes garaging near the site access at the lower part of the site which will also be built into the slope of the land and will provide a garden area above (effectively on its roof) to serve Ashleigh House. This addresses some of the neighbour concerns about complete loss of garden space to serve Ashleigh House. It was also specifically in response to advice from the Council's Conservation Specialist who advised that to retain a market value and help secure ongoing occupation and therefore maintenance of Ashleigh House which is listed, retention of a functional garden space was desirable.

The sloped site and position of the house within the site means that retaining structures and steps are required to connect the dwelling with the access and garage. The Council's Landscape Specialist was closely involved in development of the landscape design to secure an approach which would leave room for structural planting in available level areas, and planting within the face of retaining features. This successfully avoids large areas of retaining walls and the Landscape Specialist concludes that proportionate opportunities available within the site constraints for securing enhancements have been taken, with appropriate planting and materials. The Landscape Specialist raised no objection to the proposed development.

Policy DEV23: Landscape Character requires that *“development will conserve and enhance landscape, townscape and seascape character and scenic and visual quality, avoiding significant and adverse landscape or visual impacts.”*

Within the wider landscape context of Kingswear and surrounding countryside the development will continue the horizontal rows of buildings forming tiers on the Kingswear slopes which respects the scenic quality of the settlement and maintains that element of the village's distinctive sense of place. While the development will result in the loss of some green space to accommodate the new building, the Landscape Specialist has agreed the proposed landscaping scheme and the loss will not be significant in these wider views. Amendments to the landscaping plan were made to include retaining wall surface that would allow vertical planting to green the facing walls. The development will not affect the seascape as it will be set back from the water, and given the enclosed nature of the site, more proximate views are limited by intervening buildings and changing levels.

Materials for the building are details on plans as:

- Lower walls – natural stone
- Walls – sand cement render
- Roof – natural slate
- Doors – timber hardwood
- Windows and roof lights – power coated aluminium
- Rain water goods – galvanised metal
- Balustrade – glazed with no posts
- Side boundaries - fences

A planning condition is proposed to secure submission of further details of external materials such as the texture and colour finish of the render, samples of stone, mortar and roof slates

to ensure appropriate materials for the location of the building adjacent to the Conservation Area and listed building and within the AONB.

The design is contemporary but retains some traditional design features which create a visual coherency with the surrounding built form. Materials reflect those used in neighbouring properties with natural slate roofing. The walls will be render finish with a colour and texture to be specified through planning condition to complement the surroundings. Further details will be submitted to satisfy a condition seeking details of the design of rain water goods, doors, window reveals and the eaves. Careful attention to such details as well as materials used in the hard landscaping around the building will be key to integrating the new building into its setting and securing a positive contribution to the village character.

Taking these factors into account, the architectural and landscape design is considered appropriate to its landscape context and, overall, there will be no significant adverse landscape or visual impacts.

The west elevation facing the adjacent property has no windows so there is no overlooking in that respect. The western gable does incorporate a balcony which is 2.5 metres deep on the western boundary. To avoid overlooking to the garden area of adjacent property to the west, a condition requiring that the 1.8m high balustrade shown on the plans is obscure is recommended. It is noted that the neighbouring gardens are steeply sloped and are heavily vegetated and do not offer views of an open lawn area which would be more sensitive to overlooking. For this reason the taller obscure balustrade is considered adequate protection for privacy.

The proposed eastern elevation similarly has no windows, and the eastern gable has only a Juliet balcony facing north, which avoids overlooking to the gardens of properties to the east. The occupants of Wood Lane Cottage to the northeast of the site have objected on the grounds of loss of privacy from the north facing windows of the proposed building, but this was not detected during the site visit.

The rear/southern elevation of the proposed dwelling is single storey above ground level at that point and will not be seen in full elevation from surrounding properties as it is set down slope from the nearest property to the south. That property has a conservatory and balcony area which is raised above ground level and so will not be obscured by the proposed building and light will be retained to its living spaces facing north.

The proposed elevations helpfully show, too, that the roof of the proposed dwelling will be lower than that of the adjacent properties to the west. The proposed roof will be 41.18 AOD and the submitted site survey shows the rear boundary to vary between 38.61 and 39.91 AOD. This means the roof will be a maximum of 2.57 metres above the ground level and approximately therefore less than 1m above the existing site boundary. The distance between the neighbouring property to the south and the proposed building, in combination with the changing levels and the pitched roof which reduces mass, is an acceptable building relationship, particularly in Kingswear where buildings are characteristically positioned in a tiered fashion and fairly close together.

The patio area to the front of the proposed dwelling is split-level and measures 2.4m deep at its widest point, which suggests it will not be used as the main outside living space which instead is the covered terrace at second floor.

Occupants of Waterview House have raised concern that the new dwelling will result in loss of light to the rear/south elevation of their property, in particular light and privacy loss through their second storey living room window. It is a gable fronted dormer window positioned 14m metres from the front of the patio of the proposed dwelling and approximately 8m below the main living spaces on the second floor of the proposed dwelling. There will be a direct line of sight, without intervening structures or mature and tall vegetation, however, the distance between this window and the proposed dwelling creates an angle which will not offer a clear view into the gable window. The size of the gable window on Waterview House means it does not contain a main living space, but rather allows light to reach the room it serves and increases the volume of that room. The occupants activity will necessarily be further within the building itself which also avoids direct observation of activities between the two buildings.

Taking these specific matters into account, and in the context of the built form common in Kingswear which is characterised by closely grouped buildings on steep slopes, leads me to conclude that this is an acceptable building arrangement without significant adverse amenity impacts.

Objections also raised concern that the entire garden amenity space for Ashleigh House will be lost as a result of this application. In fact the area on top of the proposed garage is designed to serve Ashleigh House.

For the reasons set out above, the proposed development accords with JLP policies DEV10: High Quality Housing, DEV3: Amenity and DEV20: Place shaping and quality of the built environment.

Heritage:

The application originally was accompanied by a listed building consent application. A site visit was carried out with the Conservation Specialist who advised that, while the site is in the curtilage of a listed building, there are no curtilage listed structures altered or affected by the proposal so Listed Building Consent is not required. Accordingly, that application was withdrawn.

The Conservation Area crosses only the northernmost tip of the site which is the location of the existing Ashleigh House to which no changes are proposed. The proximity of the development to the Conservation Area does however require assessment. The height of existing surrounding buildings and the slope of the site, limits public views of the site from the Conservation Area and in other near views from outside the Conservation Area. There are also other examples of large modern buildings within and near the Conservation Area such as the building which Kingswear Village Stores occupies (within the Conservation Area) and the row of terraces properties to the east of the site.

In distant views from Dartmouth and the Estuary itself, the site and development will be seen in the context of all the surrounding development with similar proportions and materials.

The Conservation Specialist has been consulted as the design developed to address points raised and no objection was raised to the final design. The amendments included changes to the footprint of the building and changes to fenestration to increase the wall to window ratio and better reflect adjacent building proportions.

JLP policy DEV21: Development affecting the historic environment requires that development proposals need to "sustain the local character and distinctiveness of the area by conserving and where appropriate enhancing its historic environment, both designated and non-

designated heritage assets and their settings, according to their national and local significance.”

Due to the position of Ashleigh House between the site and the Conservation Area and the position of the proposed building lower than existing adjacent properties, the impact on the Conservation Area is negligible as only a small portion of the new building will be visible in some views. The Conservation Officer has raised no objection to the impact on Ashleigh House as a listed building. As such, the significance, character, setting and local distinctiveness of these heritage assets are retained and the tests in part 2 of DEV21 do not need to be applied.

Environmental Health:

The Environmental Health Specialist has reviewed the submitted documents and suggested a planning condition should the application be approved which would come into force if unexpected contamination is found during ground works on site.

The proposed residential use within a settlement and adjacent to other residential uses poses no conflict in terms of environmental impacts once construction is completed. Construction impacts are considered in more detail on other sections of this report.

The submitted plans show an air source heat pump located on the north eastern extent of the northern patio in front of the proposed house. This is a low carbon measure which is proposed in combination with a whole house ventilation system. This and other measures described by the applicant are secured by a condition to ensure they are implemented and the low carbon benefits are realised. The Environmental Health Specialist has suggested a condition to ensure the noise from the pump is limited to 42dB and in all other respects accord with the MCS (Microgeneration Certification Scheme) Planning Standards which are also referred to in Class G.1 of the General Permitted Development Order 2015 which allows for installation of air-source heat pumps on sites which are not within the curtilage of a Listed Building as this one is. In this case the location of the pump surrounded by walls (as shown on the plans and elevations submitted) has no adverse impact on the setting of the Listed Building and so is considered acceptable also in that regard.

Neighbour Amenity:

This has been included in the section on design.

Highways/Access:

The accessed by a series of timber and stone stairs leading upward from Fore Street and the existing parking is limited to a single space to serve Ashleigh House and the adjacent parking space (just outside the red lie boundary) which is used by occupants of Wood Lane Cottage. The proposed scheme creates two additional parking spaces to serve the proposed dwelling (achieved by excavating a section of the ground at the front of the site) and retains the parking space serving Ashleigh House. The new layout also provides a separate bin store area and improved stairway to provide a safer way to access the proposed dwelling and separate steps from the parking area up to the raised garden to serve Ashleigh House.

The applicant is aware of some changes to highways signage which are needed (and were raised in public consultation responses) and advises that permission to change these as necessary will be applied for in due course. This is separate to the planning consenting process.

Many of the objections referred to highways related matters, namely: how traffic related to construction will access to site and where it will park, where deliveries will be made and site compound located; concern that the new dwelling will encourage or result in drivers driving the wrong way up the one way street to access the site; obstruction of adjacent neighbours parking area and access to their property and in particular complaint that the site boundary is not drawn correctly on plans and does not reflect ownership correctly resulting in the absence of proper notification having been made to those neighbours (Wood Lane Cottage).

In response to these points:

- A Construction Management Plan is required by planning condition and should provide sufficient detail to demonstrate how vehicles will be directed to the site, which route they will take, where staff vehicles, delivery vehicles and construction machinery will be parked, materials stored, and any site office/staff welfare facilities located. This will require formal approval by the LPA in consultation with DCC and the Highways Authority before development can commence.
- Normal highways rules will apply and vehicles should not travel the wrong way along a 1 way road. The LPA can reasonably rely on drivers following the Highway Code, and if this is not done it would be a civil legal matter to resolve (beyond any controls agreed through a Construction Management Plan).
- The query/objection relating to the site boundary, specifically the part of the site where it borders Wood Lane Cottage, has been the subject of a number of emails and additional information has been submitted by the occupants/owners of that property to support their position. In response to local objection challenging the ownership of an area of land hatched red on the site plans, the applicant undertook a land registry search and advertised to try and identify the owner. There was no registered owner (Certificate Ref 052/Z63NZLB).

The land registry title documents provided by the applicant (refs DN 369475 and DN 456711) show applicants' ownership of two areas of land (the main part of the site and a narrow section of land near the entrance) which are reflected in the most recent site boundary plans. The applicant acknowledges that Wood Lane Cottage has used the space for years and this is not disputed or prevented by the applicant or application.

There area of land (a narrow sliver) above/south of Wood Lane Cottage parking area adjoins their land and the site boundary was amended by the applicant in response to their comments and to omit the area at the foot of that rock face. This maintains access to their rear garden and bin store area. Any further dispute over ownership of this land should be resolved through civil legal measures. There is no development proposed in that location, and no obstruction to access to the rear of Wood Lane Cottage as a result and so no further planning implications to consider.

Biodiversity:

The site lies within the SAC Sustenance Zone for the Berry Head Special Area of Conservation (SAC) for greater horseshoe bats, but is not within any of the designated 500m-wide flight corridor buffer zones.

The application included a wildlife survey dated 20th May 2016. The summary of that report reads:

“A European Protected Species survey of the very steep terraced garden of Ashleigh House was carried out on the morning of 30th November 2015 by Nic Butler (Butler Ecology). No evidence of protected species was found, but potential bird nesting and

slow worm habitat was noted on site. The proposed development (construction of a new detached house and garage in the garden) can be timed and carried out to minimise any risk of disturbance or injury to animals and overall there are no significant wildlife reasons why the planning application should be refused. Recommendations are made for the development to be timed / carried out in such a way to avoid disturbance to nesting birds and / or injury to slow worms.”

- A bat licence under the Conservation (Natural Habitats, &c) (Amendments) 2012 Regulations will not be required for the proposed works.
- No further survey work or mitigation is necessary.
- 2 x Schwegler 1WI Summer and winter Bat Boxes should be built into the west and east elevations

The SHDC Biodiversity Specialist has been consulted and specifically asked if the submitted 2016 Preliminary Ecological Appraisal is still acceptable due to the date on which it was undertaken. The Specialist stated that: “Given the nature of the site and results of the site survey I am happy that we rely on the submitted survey report from Butler Ecology from May 2016 and that the recommendations would remain valid and necessary. If minded to approve please condition adherence to section 7 of the report.”

The proposed bat boxes alongside the proposed landscaping scheme are considered to be adequate biodiversity gain for this site which is already in use as a residential garden.

Taking these matters into account, the proposed development accords with JLP policy DEV26: Protecting and enhancing biodiversity and geological conservation.

Drainage

The site is located in Flood Zone 1 and is not in a Critical Drainage Area. The applicant has provided further details to confirm an ‘in principle’ scheme i.e. attenuated discharge to SWW sewer, can be accommodated on the site and in July 2016 South West Water emailed the agent to advise that attenuation to limit flows to 1.5l/s would be required to enable a connection to the mains sewer, and unrestricted surface water discharge would not be allowed.

Objections received as a result of public consultation referred to the submitted Ballentine commenting that the report says soakaways not practical and that there is nowhere for attenuation. The Ballentine letter in fact says that “with the slope of the site infiltration drainage systems to cater for the surface water from roofs, house and terrace are not appropriate or reasonably practical to install.” Attenuation is not the same as infiltration and so this element of the objection appears to be based on a misunderstanding. The attenuation approach proposed has been agreed in principle by SWW and the Council’s Drainage Specialist, requiring further details to be secured and agreed by planning condition.

A letter of objection commented that the existing public combined sewerage network in the vicinity of this site is currently at capacity during period of high rainfall. However South West Water have confirmed that there is capacity in the network and the Water Act requires that it ensures this is the case.

Taking this into account, the proposed development and details provided so far evidence the development can be achieved in accordance with the requirements of JLP policy DEV2: Air,

water, soil, noise, land and light which requires that “Development should: 1. Avoid harmful environmental impacts and health risks for both new and existing development arising from soil, air, water, land, or noise pollution or land instability.” Also the requirements of policy DEV35: Managing flood risk and water quality impacts are met.

Construction:

A letter from Ballentine (Civil, Structural and Marine Engineering Consultants) dated April 2016 Rev A states that “it is considered that the excavations required to construct the property will not compromise the support to the adjacent properties or adversely affect the overall slope stability.” They advise some ‘shallow support provisions’ may be needed as work progresses, and further investigations will be undertaken as work on site progresses with trial holes being used to inform the structural design and to be supervised by a suitably qualified geotechnical engineer. Ballentine’s review of the Ruddlestone Geotechnical report concluded that the excavations will be into solid rock and so it is not envisaged that any significant active earth pressures will be applied to the retaining walls.

As a result of objections raising concern about land stability and impacts on neighbouring properties, Devon Building Control were consulted and reviewed the Geotechnical report and proposed plans. Devon Building Control also observed that the report identified that the site is underlain by rock, which is the most suitable ground condition for construction. While they recognised that no structural drawings had been provided setting out the exact construction method, they were confident that an acceptable solution could be found. This is normally and appropriately done through the building control process.

Furthermore, following these consultations, the Planning Specialist consulted SHDC Environmental Health again to specifically consider the impacts of the construction process from a human health and amenity perspective. The Environmental Health Specialist was satisfied that the suggested conditions would be sufficient to control the development, and if, during construction, neighbours felt aggrieved, they could pursue a complaint through the Statutory Nuisance process.

In this respect, the proposed development accords with the requirements of JLP policy DEV2: Air, water, soil, noise, land and light having demonstrated with evidence that harmful environmental impacts and health risks arising from land instability are unlikely to occur.

Low Carbon Development

JLP policy DEV32 identifies the need to deliver a low carbon future for Plymouth and South West Devon which: “should be considered in the design and implementation of all developments, in support of a Plan Area target to halve 2005 levels of carbon emissions by 2034 and to increase the use and production of decentralised energy. The following provisions apply:

“1. Developments should identify opportunities to minimise the use of natural resources in the development over its lifetime, such as water, minerals and consumable products, by reuse or recycling of materials in construction, and by making best use of existing buildings and infrastructure.”

In response to this the applicant provided the following commentary:

- The building will be designed to achieve a built envelope that exceeds the current building regulation requirements for thermal performance. This is the most effective area to invest in when seeking longevity in performance. It cannot be easily changed

and will as such be required to continue to perform at an extremely high level for the life time of the building. Technologies and renewables will no doubt come and go and as such a versatility and investment in the core design will allow for technologies to be added and replaced over time, whilst all being able to function as efficiently and effectively in conjunction with a super insulated and highly sealed built envelope.

- The current proposals are designed to work with a heating system powered by an air source heat pump and with no reliance on fossil fuels.

- The areas of glazing are not excessive and larger areas are predominantly designed and positioned to the north sides of the building. This will improve the quality of the natural day lighting within the building, lessening the load requirements on powered lights and will assist in the management of solar gain and overheating in the summer months.

- The building will be designed to be 100% low energy lighting throughout all the internal and external requirements.

- The building will be designed to have a whole house ventilation system with heat exchanger to provide ventilation compliance in accordance with the desire to seal the external envelope and achieve an air tightness under required test that will be in excess of the building regulation requirements.

A planning condition to secure the implementation of these measures is proposed to ensure delivery as specific details are not included in the plans and documents provided with the planning application. On that basis the application accords with the relevant criteria of policy DEV32.

Conclusion:

Policy SPT1 states sets out that development will be planned for and managed in accordance with principles of sustainable development which is comprised of a sustainable economy, a sustainable society and a sustainable environment. Addressing the relevant part of that policy, it is concluded that the Conservation Area and nearby listed building are not adversely affected by the proposed development. The building is designed to take account of solar orientation and satisfactorily plans for necessary drainage infrastructure which will accommodate impacts of climate change. The development also responds to the JLP target for delivering low carbon development. The proposed building makes effective use of land in this central village location to provide a new dwelling. No additional dwellings would be achievable on this site because of parking and access limitations and so a single dwelling on this site is acceptable in terms of housing provision in respect of DEV8. Biodiversity, amenity and environmental impacts of construction have been properly accounted for in the proposal and analysis in this report.

Policy SPT1 also requires that “local distinctiveness and sense of place is respected, maintained and strengthened through high standards of design.” Design is in some respects a subjective matter, but the assessment in this report has made a detailed assessment of the proposal in relation to surrounding properties and concludes that the scale, external appearance and relationship between buildings is acceptable. While the development will result in the loss of some green space within the village, it is not publically accessible and it is not to the detriment of the settlement pattern and dense, slope-hugging character of Kingswear which is characterised by a mix of building designs reflecting architectural changes throughout the years. While the southern part of the site is located in the

Conservation Area, that part of the site will not accommodate the new dwelling, and the design has retained the characteristic render external finish with some smaller elements finished in complimentary materials.

The building is large, but in the context of others around the site and in the locality it is not unusually large, and there remains sufficient room for parking, bin storage and garden areas despite the site characteristics.

Policy SPT2: Sustainable linked neighbourhoods and sustainable rural communities seeks to guide development to deliver neighbourhoods and communities which are vibrant, have an appropriate density, have access to transport, services and amenities, and a good balance of housing types and tenures. The assessment in the earlier sections of this report addresses each of these points and demonstrates the new dwelling in this location would meet those policy objectives and delivers a new home which makes a small contribution to the delivery figures set out in SPT3: Provision for New Homes.

While the local objections are noted, the issues raised are either resolved, dealt with by planning conditions, or an alternative position explained within this report.

Taking all these matters into account, the development has been demonstrated to conform with relevant JLP policies and is therefore recommended for approval.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
SPT3 Provision for new homes
SPT11 Strategic approach to the Historic environment
SPT12 Strategic approach to the natural environment
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
DEV9 Meeting local housing need in the Plan Area
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV23 Landscape character
DEV24 Undeveloped coast and Heritage Coast
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

Neighbourhood Plan

Considerations under Human Rights Act 1998 and Equalities Act 2010
The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Conditions in full:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall in all respects accord strictly with drawing numbers:

502 01 Rev D 'Planting Plan' dated 10/5/19

502 02 Rev C 'Planting Plan' dated 15/11/19

3489 03 Rev O Proposed Site Plan dated 9/5/19

3489 04 Rev J Proposed Site Plan dated 30/08/18

3489 05 Rev K Proposed Elevations dated 9/5/19

3489 20 Rev D Site Location/Boundary Plan dated 30 August 2018

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. Prior to their installation details / samples of facing materials including stone, render, mortar, roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved.

Reason: In the interests of visual amenity, to ensure appropriate materials and finish for the location of the building adjacent to the Conservation Area. In accordance with Joint Local Plan policies DEV10, DEV20 and DEV21.

4. Prior to their installation details of the rain water goods, doors, window reveals and eaves detailing to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved.

Reason: In the interests of visual amenity and to ensure appropriate materials and finish for the location of the building adjacent to the Conservation Area. In accordance with Joint Local Plan policies DEV10, DEV20 and DEV21.

5. The material to be used above the doors to the covered terrace on the western gable shall not be glass or any other reflective or transparent material.

Reason: In the interests of visual amenity and to conserve local character and avoid unnecessary light spill to neighbouring properties and thereby also conserving the nightscape. In accordance with Joint Local Plan policies DEV20, DEV21, DEV23 and DEV25.

6. The 1.8m high screen on the western edge of the first floor terrace, shown on drawing 3489/03 Rev K 'Proposed Elevations/Sections' shall be solid or sufficiently opaque so as to prevent views to the west.

Reason: To protect amenity and privacy for the occupants of the properties to the west of the site and for users of the terrace on the subject site and in accordance with Joint Local Plan policies DEV1 and DEV20.

7. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking

place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

(o) site management arrangements, including the site office and developer contact number in the event of any construction/demolition related problems, and site security information.

This CMP shall be strictly adhered to during the construction of the development hereby permitted, unless variation is approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, public convenience and highway safety and preventing inconvenient obstruction and delays to public transport and service vehicles and to emergency vehicles.

8. The dwellings/buildings hereby approved shall not be occupied until the parking, servicing, garaging areas relating to it and shown on the approved drawings, have been properly consolidated, surfaced, laid out and constructed. The parking, servicing and garaging areas shall be kept permanently available for the parking and maneuvering of motor vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and satisfactory provision is made for the garaging and parking of vehicles attracted to the site and in the interests of road safety and amenity.

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local

Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

10. Notwithstanding the submitted details, prior to the installation of any part of the surface water management scheme or before development continues above slab level, whichever is the sooner, full details of the most sustainable drainage option shall be submitted to and approved in writing by the Local Planning Authority (LPA). Design steps as below:

1. Attenuation should be designed for a 1:100 year return period plus an allowance for Climate change (currently 40%).
2. The offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods. Full details of the flow control device will be required.
3. The drainage details of the car park and access will be required. If it is proposed to be permeable then it should be designed in accordance with CIRIA C753. Full design details and sectional drawing showing the specification and make up will be required.
4. A scaled plan showing full drainage scheme, including design dimensions and invert/cover levels of the attenuation features, within the private ownership, will be required.
5. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development.

11. The recommendations, mitigation and enhancement measures of Section 7 of the Butler Ecology report for this site dated May 2016 shall be fully implemented as follows:

- * 2 x Schwegler 1WI Summer and winter Bat Boxes should be built into the west and east elevations as indicated in the annotated plans below within the Butler Ecology report.
- * Clearance of any potential nesting habitat shall be carried out outside the nesting season – i.e. between September and February inclusive. Potentially disturbing works shall not be carried out during the bird nesting season (March to August inclusive), unless a nesting bird survey has been carried out confirming that there are no nesting

birds present, that report having been submitted to the Local Planning Authority for review and agreement to the works immediately preceding them being undertaken.

* The protocol set out in Section 7 of the Butler Ecology Report shall be followed if it is deemed necessary for work within or close to the bird nesting season.

Reason: To safeguard the interests of protected species

12. The garden area above the proposed garage shall be retained for the use of Ashleigh House and guests only and retained as such thereafter.

Reason: to ensure the occupants of Ashleigh House retain a private garden area for residential amenity and to retain the appeal of the property to future occupants and owners and therefore encourage its continued maintenance and value as a heritage asset.

13. Prior to occupation of the dwelling hereby approved, the design features, equipment and construction measures described in the email from Adam Benns of BBH Architects dated 4th June 2019, including low energy lighting, heating via an air source heat pump (shown on the approved plans), thermal performance above Building Regulations requirements and a whole house ventilation system with heat exchanger, shall be installed and fully functioning. These measures shall be retained and maintained and operational while the dwelling is occupied. No alternative heating system shall be installed without prior written agreement from the Local Planning Authority.

Reason: To ensure the low carbon and sustainable features of the building are retained to help deliver a low carbon future for the Plan Area and support of a Plan Area target to halve 2005 levels of carbon emissions by 2034 in accordance with Joint Local Plan policy DEV32.

14. Prior to installation of any air source heat pump the applicant shall submit to the Local Planning Authority for approval in writing, details of the proposed system which demonstrate it accords with the MCS (Microgeneration Certification Standards) Planning Standards. Details shall include any attenuation that is required to meet the MCS Planning Standards. Once approved the system shall be installed and maintained in accordance with the approved details.

Reason: In the interests of neighbour amenity.

15. Notwithstanding the information provided in the Ruddlestone Phase 1 Preliminary Geotechnical and Contamination Assessment Report dated 22 March 2018 and the Ballentine Arnold letter dated April 2016, if areas of softer ground are found and require piling as a construction method, the applicant shall write to the occupants of neighbouring properties, at least a week before piling works are commenced, to advise them of the dates and hours within which that work will be undertaken.

Reason: To control the amenity impacts of this construction method and in accordance with Joint Local Plan policy DEV1: Protecting health and amenity.