

## PLANNING APPLICATION REPORT

**Case Officer:** Gemma Bristow

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

**Application No:** 2416/19/FUL

**Agent/Applicant:**

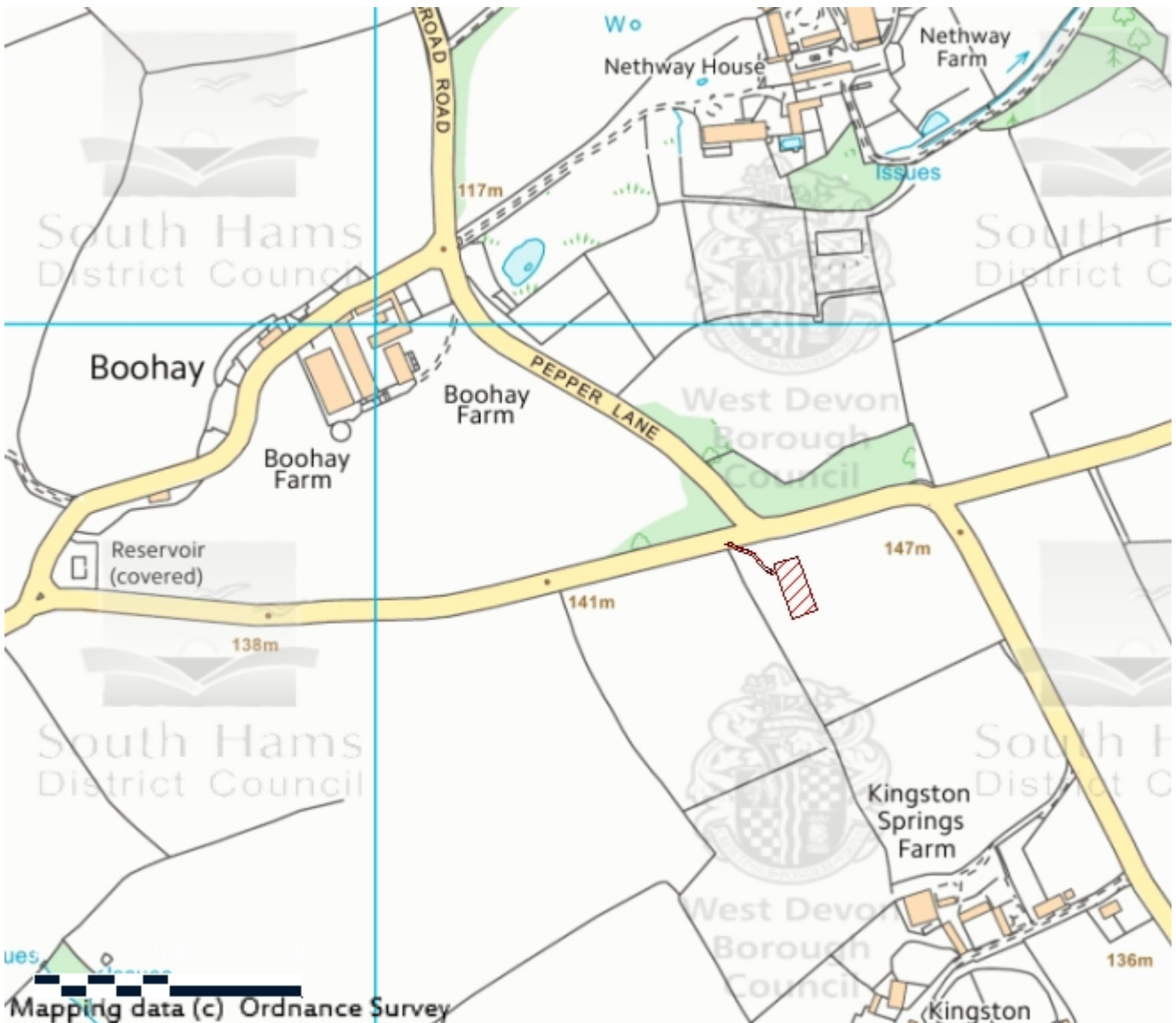
Mrs Amanda Burden Luscombe Maye  
59 Fore Street  
Totnes  
Devon  
TQ9 5NJ

**Applicant:**

Mr & Mrs Andrew Murrell  
c/o agent

**Site Address:** Land At Sx 903 518, Kingswear

**Development:** Provision of a Ménage



**Reason item is being put before Committee:**

Requested to be heard at Committee by Cllr Hawkins as the proposal would provide a safe area to exercise horses away from busy roads.

**Recommendation:**

## Refusal

### Reason for refusal

1. The proposed ménage would be located within the Undeveloped Coast and Heritage Coast policy area and would have a detrimental effect on its unspoilt character and appearance without having demonstrated to the satisfaction of the Local Planning Authority the exceptional circumstances required to justify the coastal location. This is contrary to policy DEV24 and therefore also SPT1 of the Joint Local Plan 2019 and NPPF paragraph 173.
2. The development will introduce an incongruous feature into the landscape which will diminish its natural beauty. The development fails to conserve and enhance the landscape character, scenic and visual quality of the area, in particular the special qualities and distinctive characteristics of the South Devon AONB. This is contrary to policy DEV24 and DEV25 of the Joint Local Plan 2019 and paragraphs 172 and 173 of the NPPF.

### Key issues for consideration:

The principle of development in the Undeveloped Coast, Heritage Coast, landscape impacts in particular impacts on the AONB, and amenity.

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### Site Description:

The site comprises a piece of land north of Kingston Springs Farm, Boohay used for keeping horses. The site is in open countryside, within the Area of Outstanding Natural Beauty and Undeveloped Coast. The site itself is set behind a hedgerow and trees and has limited visibility from the public highway (the ground level of the highway to the north being lower than that of the site).

### The Proposal:

Provision of a ménage, 51m by 21m, enclosed by a bank and hedge along southern and eastern boundary. Field sub divided by central hedge (at request of planning officer).

Copse planting adjacent to road.

Amendment: Field division initially post and rail fence.

### Consultations:

- County Highways Authority      standing advice
- Town/Parish Council              no comments
- Strategic Planning                Objection

It is noted that since the land obtained an approved equine use, the policy framework has changed somewhat in terms of how we consider the acceptability of development within the UC policy area – the JLP policy sets a higher bar than previously adopted policy. An application needs to demonstrate why a coastal location is required, and that the development could not reasonably be located outside the UC policy area. The policy is clear that development will only be supported in exceptional circumstances.

There may be some circumstances where the policy requirement is satisfactorily met. For example, where a local housing need arising within a particular UC settlement cannot reasonably be located elsewhere – because the need is geographically specific. Similarly, some agricultural related development may be justifiable because the farmer can only farm within the UC policy

area if that's where the farm is – you cannot expect the farm to be relocated outside the UC policy area.

The applicant states the use of other commercial ménages is costly and impractical, neither of these would I consider to represent an 'exceptional circumstance'. The fact that there are existing facilities outside the UC does demonstrate that such a development could be (and is) located outside the UC policy area – the applicant doesn't have to own these facilities in order to use them. The applicant also suggests that the road network being busy is sufficient justification for having a purpose built training facility within the UC policy area. From the proposal site it is only 3km to the A road network, resulting in very limited exposure to rural roads of single carriage width.

- Landscape Specialist

The proposed ménage sits within the AONB, Heritage Coast and Undeveloped Coast. Within this area, the highest weight is afforded to the conservation and enhancement of landscape character and scenic beauty. The proposed site lies on sloping land, necessitating ground engineering, banking, levelling and resurfacing of a considerable area of land in order to create the ménage. Such operations would fail to conserve and enhance the AONB and Undeveloped Coast landscape, which at present is characterised under LCT type 1B (Open Coastal Plateaux) as a landscape of high, open, gently undulating and rolling plateaux, with an arable or pastoral land use, sparsely settled with settlement often hidden in dips in the topography.

The open and elevated form of the landscape here affords wide views to and from the site area, with a consistent pattern of large, open rolling fields being readily apparent at the site and across the surrounding countryside. Whilst the proposed hedge bank and native hedgerow planting are relevant features locally, they would not mitigate for the harm to the landscape caused by the proposed development, which would still appear as an incongruous engineered man-made feature. The banking and planting would also result in an uncharacteristic field division. I'm therefore not able to support the application on landscape grounds, finding that it would fail to accord with policies DEV24 and DEV25. As noted above, great weight should be given to AONB considerations in the planning balance.

**Representations:**

None.

**Relevant Planning History**

30/1542/15/F. Provision of agricultural/equestrian building and use of land for both agriculture and equestrian. Approved Aug 15

**ANALYSIS**

Principle of Development/Sustainability:

Strategic Policy SPT1 seeks to support growth and change where it accords with principles of sustainable development which are identified in that policy and include avoiding adverse environmental impacts and maintaining local distinctiveness and sense of place.

Policy TTV26 specifically applies to development in the countryside, and it includes a number of relevant points. Part 1 relates to isolated development such as proposed, but the proposal is not addressed by any of the exceptions given. Part 2 of TTV26 sets out a number of other criteria to apply within the countryside, but they are not relevant given the land is already in equestrian use and there are no bridleways or public rights of way across the land. The use of the land has already been changed from agricultural to equestrian under permission ref: 30/1542/15/F. Therefore there is no principle change of use of the land associated with this application.

Policy TTV28 applies to horse related development in the countryside. This policy seeks to ensure there is adequate land for the number of horses to be kept, existing buildings are reused before new ones are considered and are commensurate with the number of horses and there is an agreed scheme of management for any ancillary development.

The applicant has confirmed four horses are kept on the land, as was stated in the 2015 application and the applicant owns and occupies 5 acres and rents a further 5 acres. It is stated the ménage is needed to continue to train the horses in winter months, and due to the additional vehicles on the roads which can make riding dangerous. The stable block approved in 2015 provides stabling for the four horses as well as half the space dedicated to hay and equipment storage.

The applicant has stated the number of vehicles using the local roads has increased since the National Trust site Coleton Fishacre has increased its opening days, hours and the number of events held there throughout the year. The applicant states the nearest alternative ménage's available for hire are Cheston Equestrian Centre at Wrangaton (21.9miles), Ivybridge Equestrian Centre (24.1 miles), Bicton (39.5 miles) and The Grange at Okehampton (58.2 miles). They state that travelling to any of the centres on a regular basis is costly and impractical. In addition, the applicant has stated that when they acquired the land and applied for permission for the stable block and change of use of the land to equestrian they were not in a position to propose a ménage. The applicant's horses are homebred competition horses which now need to be exercised every day.

The applicant has provided the justification above for requiring the ménage in this location, however this justification does not meet the very high bar needed to be located in the Undeveloped Coast policy area. While stated as impractical and costly, the applicant has stated there are commercial ménages that could be used to exercise the horses. Furthermore, it is noted that the applicant was not initially in a position to propose a ménage when the stable block was applied for in 2015, and so it seems the horses may have outgrown the facilities on this land from their increased competition exercise regime.

Policy DEV24 relates to development within the Heritage and Undeveloped Coast and sets a very high bar for when development will be allowed. Development that would have a "detrimental effect on the undeveloped and unspoilt character, appearance or tranquillity" of the coast will only be permitted in exceptional circumstances where it can demonstrate it requires a coastal location. The justification that the use of other commercial facilities are costly and impractical is not considered an exceptional circumstance. In addition, the increased use of the local roads is also not considered to meet the very high test to form a justified reason for requiring a coastal location. The proposal is therefore contrary to policy DEV24 as it has not demonstrated exceptional circumstances that mean it requires a coastal location.

#### Design/Landscape:

The site falls within the South Devon AONB and the Heritage Coast and so is subject to the highest level of protection established at a national level in NPPF para 172 and at a local level by policy DEV25.

The site is located on high ground with an open aspect and views available from the adjoining public highway. Views are also available through gate gaps which are a sensitive receptor in rural locations where views into fields are often only achieved through gaps in the hedges. The land rises from the location of the stable building to the east, so the ménage would need to be dug into a bank to create the necessary level surface. Details have been provided that it would be enclosed by a battered bank and native hedge which would create an unnatural landscape feature around the ménage. While a Devon hedge bank is not unusual in the area, its creation around a manmade feature in an area where the undeveloped nature of the landscape is specifically protected is unusual and conflicts with policy DEV24 (as described above).

While the land use was already changed to equestrian by the 2015 application, this did not include any subdivision of the land. As initially proposed was a post and rail fence across the length of the field which would have had a negative impact on character of the area. This was amended to hedging in order to offer an improvement to the application and retain the rural character of the landscape. However, again in this particular location it would not enhance the landscape character as it would create an unnatural field division which reflects the desired land use and not the larger field patterns that characterise the area.

In addition, the applicant has proposed copse planting at the access into the field which would provide further landscaping enhancements to the site in terms of the AONB. It is noted that other copse planting was conditioned on the previous application on the south side of the stable building and this has not been implemented. Nevertheless, as it is still within 10 years from the 2015 permission the implementation of this permission is still enforceable. This has been reported to enforcement to ensure the planting is implemented.

Whilst the proposed hedgebank and planting are relevant features locally, they would not mitigate for the harm to the landscape caused by the proposed development, and it therefore conflicts with policies DEV24 and DEV25 of the Joint Local Plan. These matters are giving great weight in the planning balance as directed by NPPF paragraphs 172 and 173.

Neighbour Amenity:

No amenity issues due to the separation to adjoining neighbours and so accords with policy DEV1.

Highways/Access:

The access is already established, as is the use of the land, so no highways issues are raised.

Other Matters:

Drainage – The applicant has stated the ménage would be free draining so the proposal would not result in additional runoff. If the application was recommended for approval further details would be requested to ensure this is the case, and if not a condition imposed to ensure a workable surface water drainage solution is secured.

Biodiversity Policy DEV26 requires all development to ensure biodiversity enhancements, but this should be “proportionate to the type, scale and impact of development”. If implemented, the proposed tree planting and hedge creation offers proportionate biodiversity gains commensurate with the scale of the development.

Planning balance

This site is within the South Devon Area of Outstanding Natural Beauty, the Undeveloped Coast and Heritage Coast policy areas which receive the highest level of protection. There is a principle objection to developing a ménage within the Undeveloped Coast because no exceptional circumstances have been demonstrated, which is the test DEV24 sets in order for development to be considered acceptable. In addition, the adverse landscape impacts of the development are not outweighed by the proposed copse and hedge creation. The application is therefore recommended for refusal.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.***

**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  
TTV28 Horse related developments in the countryside  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV20 Place shaping and the quality of the built environment  
DEV23 Landscape  
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

#### **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.