

PLANNING APPLICATION REPORT

Case Officer: Jacqueline Houslander

Parish: East Portlemouth **Ward:** Stokenham

Application No: 3186/20/VAR

Agent/Applicant:

Mrs C Middleditch
The High Nature Centre
East Portlemouth
Salcombe
TQ8 8PN

Applicant:

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Site Address: The High Nature Centre, East Portlemouth, TQ8 8PN

Development: Variation of conditions 3, 5 and 23 of planning consent 20/0785/12/F



Reason this is being put before Committee: Councillor Foss (asked by Cllr Brazil to review the delegated report because of a personal interest in the site) wishes the application to be heard at Committee.

Recommendation: Refusal

Reasons for refusal:

1. The proposed variation of conditions would alter the nature of the development of the existing permission and derogate from its description. The application as made would need to be assessed on its own merits as a full application in accordance with adopted policy. As such the proposal would fail the requirements of Section 73 of the Town and Country Planning Act 1990.
2. The proposed permanent use of the site for camping and camper vans and yurts as well as the permanent provision of kitchen facilities in a poly tunnel on this site in the

countryside does not meet the fundamental requirements of sustainable development as required by policies SPT1, SPT2 and TTV1 in the Plymouth and South West Devon Joint Local Plan. Given its rural and isolated location neither would the proposed variations meet the criteria for development in the countryside outlined in Policy TTV26. The harm in terms of accessibility of the site to basic facilities and services as well as impact on the countryside is unacceptable.

3. The proposed development by virtue of the introduction of camper vans and tents, and additional catering facilities when viewed cumulatively with other existing activities and structures on the site, would result in harm to the South Devon AONB and would fail to conserve and enhance the unique landscape character of the AONB. Neither is it a development which needs to be located within the Undeveloped Coast and would have a continued and more intense detrimental effect on the undeveloped and unspoilt character, appearance and tranquillity of the Undeveloped Coast and the Heritage Coast. As such the development fails to accord with JLP Policies DEV23, DEV24 and DEV25.
4. The development has not demonstrated the success and merit of the employment offer over the medium term and has therefore failed to meet the requirements of Condition 03 of the planning permission granted under reference 20/0785/12/F. Neither does the economic benefit statement justify the use of the land for the purposes requested meet the requirements of policy DEV15 in the Plymouth and South West Devon Joint Local Plan, which seeks to ensure that rural employment development does not impact negatively on the roads and environment.
5. Insufficient information has been submitted in relation to the impacts of the uses proposed on the ecology of the site; the drainage impacts and no information has been provided to reduce the developments carbon footprint contrary to policies DEV26; DEV25 and DEV32 of the Plymouth and South West Devon Joint Local Plan.

Key issues for consideration:

Location of development; uses in the countryside; impact on the AONB; impact on the Undeveloped Coast and Heritage Coast; Acceptability of employment uses of this nature in the protected landscape and against rural development policies.

Site Description:

The application site is two Devon banked fields a kilometre east of East Portlemouth on the corner of the main road to the village and the turning south to Rickham. The land was previously used for a mixture of grazing and occasional horticulture resulting in 6 polytunnels and a shared access with residential neighbours opposite at High House Farm.

To the south and towards the coastal area there is a small caravan site with roads bounding the west and northern edge of the land. The land area amounts to just over 2 hectares (5 acres) and is moderately flat. Access to the land is via a track from the main East Portlemouth road shared with farmers and Seacombe Bungalow.

There are a number of structures and activities currently taking place on the site, which are not in full accordance with the previous planning permission. These aspects are currently being explored by the enforcement team.

The entire area is an exposed coastal part of the South Devon Area of Outstanding Natural

Beauty (AONB), Heritage Coast and Undeveloped coast.

The Proposal:

This application seeks variation of conditions numbered 3, 5 and 23 of Planning Consent 20/0785/12/F. Those conditions were:

3. The use hereby authorised shall cease not later than 10 years from the date of this permission. On cessation, the land shall be returned to agricultural purposes, the Roundhouse, yurts and all other structures except for the polytunnels shall be permanently removed from the land.

Reason: Permission is granted on the basis of the employment offer to local economic and social sustainability. The temporary period given will allow the Local Planning Authority to reassess the success and merit of the employment offer over the medium term when considering a permanent permission.

5. The polytunnels shall be used for B1 and D1 purposes only of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. Notwithstanding these permitted uses, no use of plant, machinery, or other mechanical equipment is permitted unless otherwise agreed in writing in advance with the Local Planning Authority.

Reason: To prevent noise and disturbance harming the amenity of neighbours and the tranquillity of the landscape.

23. No further chattels, caravans, tents, yurts or other temporary or moveable structures shall be positioned on the land without the prior written approval of the Local Planning Authority.

Reason: To protect the rural appearance of the area.

The changes required are:

- Condition 3: Permanent' permission for 'temporary' yurt camp structures.
- Condition 5: Field kitchen catering service - Class A3 – food and drink to be added.
- Condition 23: Provision for occasional tents and campervans.

The applicant has explained the reasons for seeking to vary those conditions as follows:

“Variation of Condition 3: We are requesting for a variation of condition 3 to provide security of revenue. The banks require security of income before any business development capital can be released.

Variation of Condition 5: We are requesting for a variation of condition 5 to enable the business to develop its field kitchen catering service. The polytunnels provide essential shelter for our alfresco dining enterprise during periods of bad weather. The field kitchen will increase revenue and local employment. We are aware that class A3 may become permitted development soon.

Variation of Condition 23: We are requesting for a variation of this condition to enable us to reach a wider market thereby increasing revenue and local employment. A variation of this condition will enable us to accommodate people wishing to bring their own tents for example: teachers bringing school groups, SW coastal path walkers, and cyclists using the Sustrans National Cycle Network Route 2.”

Consultations:

- East Portlemouth Parish Council: The Parish Council voted to object to the application for the following reasons:
 - Variation of condition 3 (temporary granting of permission for yurts).
 - The Parish Council felt that the High Nature Centre had failed to demonstrate “the employment offer to local economic and social sustainability” on which the temporary status would be judged.
 - Accounts lodged at Companies House show that there is no payment of employees (other than the owner) or of tax and National Insurance contributions. Furthermore there is no evidence of investment in the business beyond the initial capital input and the accounts submitted to Companies House suggest that the business is, to all intents and purposes, insolvent.
 - Variation of condition 5 (use of polytunnels).
 - The Parish Council felt that the use of the polytunnels to accommodate a field kitchen dining service was in no way appropriate. The applicant has failed to provide any details concerning the practical details to develop operations in this way, in terms of equipment, hygiene and sanitary arrangements, mitigation of increased noise levels and increased traffic implications. No application has been made to allow for use of the polytunnels beyond 1900 hours.
 - Variation of condition 23 (no further chattels, caravans, tents, yurts etc).
 - The Parish Council felt that the reason for this condition – ‘to protect the rural appearance of the area’ – is as relevant today as it was when the condition was imposed. There have been frequent breaches of this condition over a long period of time and this has led to increased noise and disruption.
 - There is no provision within the application which considers the increased disturbance which would inevitably ensue from increased occupancy.
 - The Parish Council also commented that the High Nature Centre has consistently breached a large number of the conditions that were placed upon the planning approval 20/0785/12/F and that reports of these breaches to District Councillor and to Enforcement had not led to any improvement in compliance.
- County Highways Authority – No highway implications.
- Landscape Officer – Objects:

The site lies within the South Devon AONB, South Devon Heritage Coast, and JLP Undeveloped Coast designations.

South Hams Landscape Character Assessment – LCT 1B Open inland coastal plateaux – This is a sparsely settled landscape of high, open, gently undulating plateaux, with notable coastal influence on the windblown vegetation. There are iconic, unspoilt and expansive panoramic views and high levels of tranquillity. The character of the landscape immediately surrounding the site exhibits the typical characteristics of this LCT.

High levels of recreational use continue to impact on the condition of the landscape, with an increase in car parking, camping and caravan sites. The landscape guidelines aim to protect the open, undeveloped character of the coastal plateaux with expansive, uninterrupted views to and from the sea, with high levels of tranquillity.

It is recognised that there have been biodiversity enhancements within the site, but it is felt that these are of limited benefit to the wider landscape quality.

The extant temporary consent at this site afforded strict limitations on the duration and use of the site; in part because of the high sensitivity of this landscape, and the potential deterioration in character caused by the non-agricultural use of the land.

The previous SHDC Landscape Officer visited the site in relation to the earlier application for a permanent roundhouse structure, 3967/17/VAR (Conditional Consent), and reported that it was evident that the anticipated deterioration in character had occurred, and that - although well-vegetated - the loss of the field pattern, creation of engineered banks, introduction of structures, fencing, play equipment and other more-typically residential paraphernalia has had a negative impact on an otherwise high quality rural landscape.

The greatest area of landscape concern in this current application is the request to vary Condition 23, which states:

No further chattels, caravans, tents, yurts or other temporary or moveable structures shall be positioned on the land without the prior written approval of the Local Planning Authority. Reason: To protect the rural appearance of the area.

The current recreational and holiday accommodation uses of the site are a detracting influence on the quality and condition of the landscape, and do not contribute to conserving and enhancing the special qualities and unique characteristics of the SD AONB. It would therefore be contrary to adopted policy to allow an increase in this type of recreational use of the site by tents and campervans.

The application does not sufficiently meet the policy tests of DEV23 Landscape Character. (The current management of the site, to encourage biodiversity, partially addresses the expectations of DEV23.2).

The application has not demonstrated that it meets the policy tests of DEV24 Undeveloped Coast and Heritage Coast.

The application has not demonstrated that it meets the policy tests of DEV25 Nationally Protected Landscapes.

Representations:

The Council received 62 letters of support and 17 letters of objection. The comments received can be summarised as follows: -

Summary of comments from Letters of Representation stating an objection:

- Increased traffic.
- Not sufficient parking.

- Noise Impact on neighbouring properties.
- Loss of privacy to neighbouring properties.
- Loss of sense of security in area.
- Gates being left open allowing access to livestock onto private land.
- Site does not adhere to existing planning conditions.
- No apparent evidence of delivery of aspirations made in previous applications.
- No evidence of local employment.
- Not sustainable business.
- Not sufficient car parking provision
- Over dominance.
- Concern regarding building on greenfield sites
- Existing properties rebuilt to larger proportions
- Increase in noise pollution.
- Increase in light pollution.
- Commercial activities permitted detrimental to natural habitat and wildlife.
- Concern as regular holidaymakers to area.

Summary of comments from Letters of Representation stating support:

- Beneficial to local economy
- Benefits local businesses.
- Provides local employment.
- Beneficial to vitality of local community
- Unique and attractive tourist destination
- Development has enhanced site biodiversity.
- Enhances Area of Outstanding Natural Beauty.
- Site large enough to ensure no detrimental impact.
- Provides employment, social sustainability and contribution to the local as well as wider community.
- Provides a valuable low impact, sustainable space and setting for a variety of inclusive courses.
- Courses provided encourage wellbeing, sustainability and consideration to the natural world and the wider climate crisis.
- Works well with the local community.
- Area is private and cannot be seen from road.
- No major noise or traffic issues caused by development.
- Valuable site for
- Field Kitchen will use produce grown on site.
- Low impact, environmental and socially conscious business.
- Business can demonstrate financial growth.
- Permanent permission will allow sustainable business to grow further.
- Business benefits local well being.

Relevant Planning History:

20/1139/92/3

FUL - Erection of eight polytunnels. [Conditional approval: 07 Oct 92]

20/1622/94/3

FUL - Construction of Devon hedge banks and planting of trees to form shelter belts for existing polytunnels repositioning of one tunnel and erection of temporary gale break where required. [Conditional approval: 07 Dec 94]

20/2596/11/PREMIN: PRE

Pre-application enquiry for change of use of agricultural land to mixed use including tourism education recreation and rural business development construction of low impact round house and siting of 4 eco-yurts - Pre-app. [Partial Support: 10 Sep 12]

20/0785/12/FUL

Construction of roundhouse and siting of five yurts to be used in association with nature holiday enterprise. Provision of additional facilities for educational recreational and business activities together with associated car parking. [Conditional approval: 16 Nov 12]

20/2932/13/VAR

Variation of condition 2 (amendment to plans) of planning approval [Conditional approval: 13 May 14]

20/0098/13/DIS

Discharge of conditions 4 6 12 14 19 21 and 22 to planning approval [Discharge of condition approved: 25 Apr 13]

20/1750/15/DIS: ARC

Application for approval of details reserved by condition 11 (Schedule of Materials and Finishes) of planning consent 20/0785/12/F. [Discharge of condition approved: 06 Oct 15]

20/2412/13/MIN: NMM

Non-material minor amendment (additional information about yurt camp kitchen toilets and showers) to planning approval 20/0785/12/F (Construction of roundhouse and siting of five yurts to be used in association with nature holiday enterprise. [Refusal: 21 Jan 14]

3967/17/VAR

Variation of condition numbers 2 and 3 following grant of planning permission 20/0785/12/F to allow the roundhouse to be granted permanent permission and the vary the approved plans for the roundhouse.[Conditional approval 20/07/2018]

ANALYSIS

Principle of Development/Sustainability:

The principle of development was considered at length when the original planning permission was considered in 2012/2013. Permission was granted for "*Construction of roundhouse and siting of five yurts to be used in association with nature holiday enterprise. Provision of additional facilities for educational, recreational and business activities together with associated car parking landscaping works.*" It is that permission which is subject to the present application.

A Section 73 application was subsequently submitted in 2013 to authorise a kitchen cabin; a stable block to be used for toilets, and showers. This was approved.

A further Section 73 to allow the round house to be granted permanent permission and to vary the approved plans for the roundhouse was approved in 2017.

Each s73 approval resulted in the grant of a new standalone planning permission to be read alongside the original which remains unamended.

The principle of the use of this land has always been questioned because of the location of the site in the SD AONB and Undeveloped and Heritage Coast and the mixed nature of the development carried out on the site. In planning terms, the current permission for the use of the land will expire in November 2022, but the roundhouse itself has permanent permission, albeit it has not yet been constructed.

In relation to this Section 73 application, the variations sought are to allow for permanent use of the yurts on site, allow for occasional camping and campervans on the site and add the use of a kitchen to the approved uses on the site.

s73(2) of the Town and Country Planning Act 1990 explains how in such circumstances an application should be determined:

“On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and –

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.”

Following *Finney v Welsh Ministers* [2019] EWCA Civ 1868, it is clear that a Section 73 application cannot vary the description of the development/the operative part of the host permission. In this case the host permission clearly states *“Construction of roundhouse and siting of five yurts to be used in association with nature holiday enterprise. Provision of additional facilities for educational recreational and business activities together with associated car parking”*. (Conditional approval: 16 Nov 12)

Officers are concerned that the proposal would exceed the clearly expressed and restrictive nature of the original proposal and its approved description and would need to be assessed on its own merits as a full application considered against adopted policy. As such the proposal would fail the requirements of Section 73 of the Town and Country Planning Act 1990. By implication, an approval of the application as made could be argued as being unlawful because it is not within the power of the Council (or an Inspector/Secretary of State at appeal) to grant such a variation as proposed i.e., because it would derogate from the description of development and, notwithstanding that, would fundamentally alter the nature of the development originally permitted.

The Joint Local Plan (‘JLP’) was adopted in 2019 which post-dates any previous decisions and is the up to date and relevant Development Plan for the purposes of assessing the current proposals.

The JLP sets an overarching strategy for delivering sustainable development that complements the existing settlement pattern within the plan area. The high-level strategy for delivering sustainable development is expressed within policies SPT1 and SPT2, with other policies amplifying and giving effect to those requirements.

The adopted JLP establishes a hierarchy of settlements to which development will be directed, and those settlements are named as part of policy TTV1. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages Policy Area. The policy describes how the settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside will be used to inform whether a development proposal can be considered sustainable or not.

Paragraph 5.5 of the JLP explains that policy TTV26 - Development in the Countryside will be applied 'outside built up areas'. The application site is far removed from the nearest settlement or built up area and is considered to be sited in the Countryside.

Consequently, for the purposes of policy TTV1 of the JLP, the proposal site is considered to be located within the fourth tier of the Council's settlement hierarchy. In such circumstances policy TTV1 explains that:

'development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and 2) including as provided for in Policies TTV26 and TTV27.'

The applicant makes no case under policy TTV27, and the scheme is not for an affordable housing exception site.

The aim of policy TTV26, as articulated in the first line, is to protect the role and character of the countryside. The policy is divided into two different sets of policy requirement; the first part applies to development proposals considered to be in isolated locations. The second relates to all development proposals in the countryside.

The JLP SPD (§11.50) states that the Council applies the test of isolation in a manner consistent with the *Braintree*¹ case and any superseding judgment. The recent *Bramshill*² judgment affirmed that the essential conclusion in *Braintree* (at para. 42 of that judgment) was that in determining whether a particular proposal would be "isolated", the decision-maker must consider *'whether [the development] would be physically isolated, in the sense of being isolated from a settlement'*. What is a "settlement" and whether the development would be "isolated" from it are both matters of planning judgment for the decision-maker on the facts of the particular case.

In applying this approach to High Nature, notwithstanding the limited examples of agricultural building and homes to the north and south of the site and more broadly thereabouts, the site plainly does not form part of a settlement and is of a considerable distance and degree of separation from the nearest settlements in the wider locality. Applying the principles outlined above it must be the case that the site is in an isolated location. Both parts of policy TTV26 apply.

In application of the criteria in the first and second parts of policy TTV26, officers conclude that the development is not necessary for the purposes of agriculture or forestry; does not secure the long-term use of a heritage asset; does not secure the re-use of redundant buildings and neither is the development of outstanding sustainability or design credentials.

¹ *Braintree DC v SSCLG* [2018] EWCA Civ 610.

² *Bramshill v SSHCLG* [2021] EWCA Civ 320.

The proposals to make the use of the land more permanent would therefore not be in accordance with the first part of the policy. In reviewing the second part of the policy, the development does not meet those criteria either and as such the use of the land for the purposes requested do not meet policy TTV26 or policy TTV1.

Policy DEV15 is also relevant to the consideration of the application. It relates to the rural economy and the applicant has indicated that there are benefits of this business to the rural economy.

Policy DEV15.1 states:

“Support will be given to proposals in suitable locations which seek to improve the balance of jobs within the rural areas and diversify the rural economy. The following provisions apply:

- 1. Appropriate and proportionate expansion of existing employment sites in order to enable retention and growth of local employers will be supported, subject to an assessment that demonstrates no adverse residual impacts on neighbouring uses and the environment.”*

Part 7 of the policy specifically refers to the provision of holiday accommodation...*“Camping, caravan, chalet or similar facilities that respond to an identified local need will be supported, provided the proposal is compatible with the rural road network, has no adverse environmental impact and is not located within the Undeveloped Coast policy area.”*

Part 8 of Policy DEV15 requires all developments to meet the following criteria:

- “i. Demonstrate safe access to the existing highway network.*
- ii. Avoid a significant increase in the number of trips requiring the private car and facilitate the use of sustainable transport, including walking and cycling, where appropriate. Sustainable Travel Plans will be required to demonstrate how the traffic impacts of the development have been considered and mitigated.*
- iii. Demonstrate how a positive relationship with existing buildings has been achieved, including scale, design, massing and orientation.*
- iv. Avoid incongruous or isolated new buildings. If there are unused existing buildings within the site, applicants are required to demonstrate why these cannot be used for the uses proposed before new buildings will be considered.”*

The expansion of such businesses must be supported by an assessment indicating that there are no residual impacts on neighbouring uses; the environment and the rural road network and that a Travel Plan should be submitted to demonstrate how the traffic impacts of the additional uses on the site have been considered and mitigated. In this case the environmental impacts are particularly pertinent because of the site's sensitive landscape. The landscape specialist has clearly indicated there is a negative impact on the environment of the uses if the land for the purposes requested.

The principle of the roundhouse and 5 yurts was established under previous consents including the parent decision and the supporting documentation sets out a series of identified benefits including:-

- 1) More than 2000 hedgerow trees planted
- 2) Low cost start up business facilities
- 3) Local employment through the yurt camp, activities and workshops
- 4) Biodiversity and soil fertility increased
- 5) Local families utilising land for growing food

- 6) Surplus produce distributed locally
- 7) Community events
- 8) Diversification from agriculture to education, tourism and light industry
- 9) Education

The application is not accompanied by a viability assessment, business plan or travel plan, so none of the suggested benefits are demonstrated conclusively or in accordance with the original reason for imposition of Condition 3. The accompanying statement does not identify any policy objective or how it addresses and demand for such facilities. The proposals fail to meet policy DEV15 in the JLP.

Design/Landscape:

The site is within the AONB and the Undeveloped Coast designation. Policy DEV25 (AONB) and DEV24 (Undeveloped Coast) are therefore among those most important for the determination of this application. In the undeveloped coast development will be supported where it will not detract from the unspoilt character appearance and tranquillity of the area and where development cannot be accommodated elsewhere. The highest level of protection will be given to the protected landscapes of the South Devon AONB and any development must be able to demonstrate that it conserves and enhances the AONB landscape.

The principle was established under the original consent and there have been wildlife and ecological benefits from extensive planting on site. The application is not accompanied by a verified visual appraisal. The kitchen is located within a polytunnel which is not subject to any approval, even though there was consent for a small kitchen building given in 2013 (20/2932/13/VAR).

The impact of the proposed tents is dependent on both size and numbers. These are not specified. Camper vans also vary in size and there is no indication of how they may be limited in terms of scale and location within the site and overall numbers, and it remains that this is additional development in a sensitive countryside location which is contrary to policy and for which no identified need has been established. The development will add to the level of activity within the site. Whilst tents and camper vans may come and go the nature of the activity associated with tourism suggests they will be present for a substantial part of the year and will further develop the site with the camper vans, in particular giving rise to a potential increase in light pollution. It is considered that the level of development proposed is likely to change the character of the site. It is therefore considered that the development will add significant harm to the character of the area.

In summary the application does not sufficiently meet the policy tests of DEV23 Landscape Character. The application has not demonstrated that it meets the policy tests of DEV24 Undeveloped Coast and Heritage Coast and the application has not demonstrated that it meets the policy tests of DEV25 Nationally Protected Landscapes. The harm that has been identified represents a breach of the plan as a whole, for this reason alone. The harm identified weighs greatly against a grant of planning permission.

Neighbour Amenity:

The site is surrounded by fields and given the considerable distance from neighbouring properties, however the additional and more intense use of the site with campervans and tents could impact in terms of additional traffic generation. As no travel plan has been submitted, officers are unable to assess the potential impacts on the use of the roads and the potential for that to impact on the neighbouring properties.

Highways/Access:

The access to the site remains as it currently exists. The Highway Authority have raised no objection. However, the current proposals will involve additional traffic, both by camper vans and tent owners attending the site and also through the use of the field kitchen. The lack of a travel plan impacts on this consideration too and as such it is not possible to assess the impacts of the additional traffic likely to be generated by the intensification of the use, or how sustainable transport options could be maximised (if at all).

Ecology:

No ecology survey provided it is therefore not possible for officers to consider the impacts of the changes requested on the ecology on the site.

Climate change:

Policy DEV32 seeks to ensure that developments help the country to reach the carbon reduction target by 2050. No information has been received to identify what measures this proposal would provide to reduce its carbon footprint. Therefore the proposal does not comply with Policy DEV32.

Conclusion:

It is considered that the variation of conditions would alter the nature of the development compared to the original approved proposal and would need to be assessed on its own merits as a full application in accordance with adopted policy. As such the proposal would fail the requirements of Section 73 of the Town and Country Planning Act 1990.

The proposal is in a location where development of this nature on a permanent basis does not meet the aims of the JLP towards sustainable development (SPT1, SPT2 and TTV1) and justification is not provided for the permanent uses in the countryside under policy TTV26.

In addition the proposal raises fundamental harms in terms of protected landscape. The proposed development by virtue of the introduction of camper vans and tents, when viewed cumulatively with other existing activities and structures on the site, would result in harm to the South Devon AONB and would fail to protect maintain and enhance the unique landscape character of the Undeveloped and Heritage Coast policy areas. As such the development fails to accord with JLP Policies DEV23, DEV24 and DEV25.

The application has failed to provide sufficient justification in economic terms to allow for the continued use of the site for the purposes identified, neither has a travel plan been provided to indicate the transport impacts of the development and any mitigation measures. Climate change has also not been addressed.

Finally the development has not demonstrated the success and merit of the employment offer over the medium term and has therefore failed to meet the requirements of Condition 03 of the planning permission granted under reference 20/0785/12/F.

The proposal is therefore recommended for refusal and where the benefits of allowing the application are poorly made out. There are no other considerations that would indicate a planning balance being struck any other way than to refuse planning permission.

This application has been considered in accordance with Section 73 of the Town and Country Planning Act 1990 and Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy:

Relevant policy framework

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 Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government ('MHCLG')* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test ('HDT') and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019 confirming the change.

On 13th January 2021 MHCLG published the HDT 2020 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 144% and the consequences were "None". On 14th January 2022 DLUHC published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% and the consequences are "None". Therefore a 5% buffer is 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 5.8 years at end March 2021 (the 2021 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2021 (published 12th November 2021).

[*now known as Department for Levelling Up, Housing and Communities]

The most important 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

SPT12 Strategic approach to the natural environment

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV26 Development in the Countryside

DEV1 Protecting health and amenity

DEV2 Air, water, soil, noise, land and light

DEV5 Community food growing and allotments

DEV15 Supporting the rural economy

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

Neighbourhood Plan: None

Other Material Considerations:

Additionally, the following planning documents are also material considerations in the determination of the application:

- The Plymouth and South West Devon Supplementary Planning Document
- South Devon AONB Management Plan

Other material considerations include the policies of the NPPF and guidance in the PPG. Application of national planning policy and guidance serves to reinforce the recommendation to refuse to grant permission, specifically noting paragraphs 170 and 172 of the Framework.

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.