

PLANNING APPLICATION REPORT

Case Officer: Chloe Allen

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

Application No: 2327/22/OPA

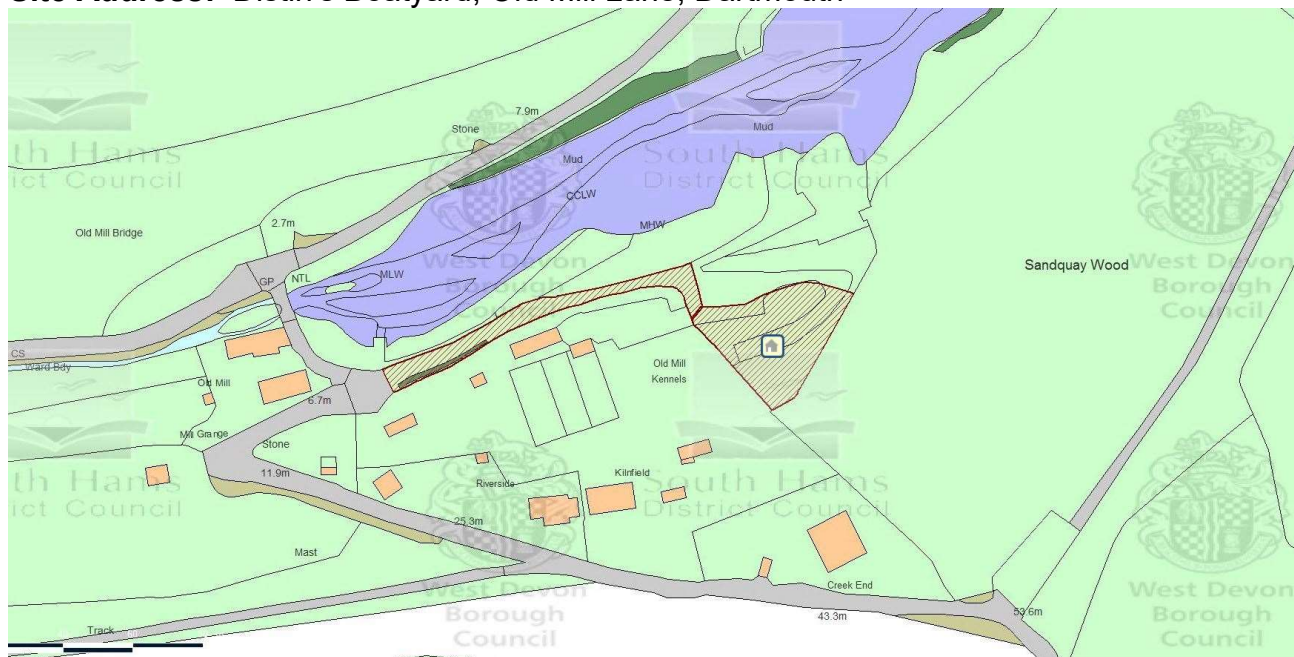
Agent/Applicant:

Mr David Distin
Distin's Boatyard
Old Mill Creek
Dartmouth

Applicant:

Mr David Distin
Distin's Boatyard
Old Mill Creek
Dartmouth

Site Address: Distin's Boatyard, Old Mill Lane, Dartmouth



Development: Outline application with some matters reserved for proposed onsite security building with manager's accommodation as live work unit (resubmission of 0412/22/OPA)

Reason item is being put before Committee:

Cllr Jonathon Hawkins requested that this application is considered by Planning Committee as, because of the remoteness, the manager's office is essential for the future of the business and its employment.

Cllr Hilary Bastone accepts Cllr Hawkins decision to refer the application to Development Management Committee.

Recommendation: Refusal

Reasons for refusal:

1. It is not considered that there is a proven need for the introduction of a permanent dwelling (live/work unit) on the site, tied to the boatyard business, nor that accommodation cannot be found

in the surrounding area. The functional need for a dwelling to serve this enterprise has not been adequately justified to warrant development in this unsustainable, countryside location. The application is considered to be contrary to Policies SPT1, SPT2, TTV1, TTV26, DEV15 and DEV24 of the Plymouth & South West Devon Joint Local Plan 2014-2034, and Policies GE1 and GE12 of the Dartmouth Neighbourhood Plan.

2. The proposed dwelling is in an elevated position that will be visually prominent. The extensive glazing on the northern elevation would result in an intrusive and harmful amount of light spill into what is an intrinsically dark landscape. The proposal fails to conserve and enhance the local landscape character, visual quality and setting of the AONB, contrary to Policies DEV23, DEV24 and DEV25 of the Plymouth & South West Devon Joint Local Plan 2014-2034, Paragraph 172 of the National Planning Policy Framework, and Policies GE1, GE6 and GE10 of the Dartmouth Neighbourhood Plan.

Key issues for consideration:

- **Principle of Development/Sustainability:**
- **Design/Landscape:**
- **Neighbour Amenity:**
- **Highways/Access:**
- **Drainage**
- **Ecology**
- **Low Carbon Development**

Site Description:

The site is within the open countryside, to the south of Old Mill Creek, Dartmouth, and lies within Flood Zone 1 and the undeveloped coast. The site lies to the south of a wider area of land which is within the applicant's ownership, known as Distin's Boatyard (15/0187/04/CLE relates). The existing business involves the repair and maintenance of boats; moorings are also provided and boat owners also carry out work at the site on their own boats on a DIY basis. The business provides 80 river moorings and a further 80 berths at the Boatyard.

Close to the entrance to the wider site there are a number of trees protected by Tree Preservation Orders. To the east of the site is an area of ancient woodland known as 'Sandquay Wood' and the SW Devon AONB boundary (site lies outside of this). To the north is the Dart Estuary County Wildlife Site. The site lies within the Berry Head SAC 5Km buffer, and the 250m flight corridor buffer. The site is within Landscape Character Type: 3G. River valley slopes and combs.

To the west of the site is Old Mill Kennels and Cattery site, which appears to have been redundant for a long period of time, south and south west are residential properties which are sat at a higher land level, and north is the existing boatyard and workshop building.

The Proposal:

The proposal is for outline planning permission for the erection of an onsite security building with manager's accommodation (live/work unit) to be used in connection with the repair and maintenance of boats.

The boatyard has been owned by the Distin's since 1951 and it has been in continuous use for that purpose since that time. The Design and Access Statement states that:

'A footpath runs through the yard and there have been various issues with security. In 2019 a fire at 2am was only prevented from becoming more serious by the quick thinking of a person who happened to be staying on board their own boat who quickly contacted the local fire brigade. Crime numbers are available for recent cases.'

'The new workshop allows for more complex maintenance and rebuilding projects to be carried out efficiently under ideal working conditions indoors. As such it is of particular value to owners of timber and heritage vessels and is regularly used to maintain the wooden Castle Ferry boats'

'In order to transform the security and site supervision a yard manager needs to be employed and housed on site. The stark shortage of affordable housing in the immediate Dartmouth area makes it unlikely could find alternative accommodation off site and this would in any case fail to address concerns with 'out of hours' site security. In Summer the boatyard is available for customer parking and there is also scope for providing much needed 'park and launch' facilities for the newer forms of leisure boating which renage from RIBs on trailers with towing vehicles to car top-able kayaks and paddleboards. This type of equipment is highly mobile and vulnerable to crime, increasing the future need for year-round security'

The application site is at much higher land level than the existing boat yard, access and workshop. The finished floor level of the existing workshop is 4.80m AOD, and the proposed building would have a finished floor level of 15.50m AOD. The access road to the building would run between the workshop and the application site and would loop around to enter the site at the north east corner.

The building measures 8m in width, by 12.5m in length (plus overhanging porch approx. 1.5m in length). The eaves height is 2.1m and maximum roof height is approximately 3.4m. The building has a curved roof and is proposed to be constructed in horizontal timber cladding, double glazed powder coated aluminium windows, and profile metal sheets to the roof. A heat pump is to be utilised and the roof is to contain PV cells. There is also a large amount of glazing on the North West and south west elevations.

Foul drainage is proposed to connect to the existing sewage treatment plant and drainage field, and the surface water is to connect to a new attenuation tank and discharge to the stream.

Consultations:

- **County Highways Authority** – Standing Advice. No objections raised.
- **Environmental Health Section** - No objections. Do not anticipate contaminated land concerns, recommend 'unexpected contamination' condition imposed on any approval. No concerns with foul drainage scheme.

Officer Note: EH also commented on previous application (same proposal) as follows:

- Contaminated land statement is helpful and confirms that previously the area of land was used as residential gardens and has not been part of the boatyard, therefore contaminated land concerns are not anticipated.
- Private foul drainage system is proposed, comprising of a new package treatment plant discharging to a drainage field. The site is constrained and therefore details of the ability of the drainage field to accommodate the treated water without flooding, would be required. A discharge of cleaned water directly to the river may be more appropriate long term if this is possible to achieve, with attenuation tanks allowing controlled discharge if necessary.

- The plans show an adjacent kennels. If these are still present then noise from the dog barking is likely to impact on the new resident; however they will also be affected by noise from the boatyard. Both noises will have characterised this area and the live work occupier is associated with the boatyard, therefore we do not recommend any noise control measures.
- **Dartmouth Town Council** – Support.
- **Dittisham Parish Council** - No comments received.
- **Drainage** – No comments received.
- **Historic Environment Officer (DCC)** – Commented on previous application (same proposal) as follows:

No comments. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

- **Forestry Commission** – Object. Commented as follows:

We note that the development is positioned within ancient woodland as can be seen on the MAGIC Map Browser. This should cause the original application to be refused in line with Government policy.

Protecting and expanding Britain's forests and woodlands, and increasing their value to society and the environment. www.gov.uk/forestrycommission The test for impact to ancient woodland is not a test of significance under the NPPF and the wording could not be more explicit that "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused". Therefore any negative impact of any magnitude is relevant.

It is our opinion that the development will cause disturbance to the woodland during construction and ongoing during the operational life of the development. We note the case made for the benefits that would be likely to accrue from the development and it is for the Planning Inspectorate to make the assessment on whether this passes the test demanded of demonstrating "wholly exceptional reasons".

The Decision Maker should measure the development by the standard set by the NPPF and reject the appeal unless the application has met the standard of being a 'wholly exceptional reason'. Should a decision be made to permit development then it may be helpful to consider the protocol for decision making where a development impacts ancient woodland and follow the hierarchy of 'Avoid – Reduce - Compensate'. Whilst a compensatory scheme alone would not be appropriate to permit development a substantial package of compensatory woodland creation should be a condition.

Officer Note: Further correspondence with Forestry Commission. Main concerns relate to impacts from light, noise, dust, vibration, hydrological impacts etc, that come from the construction phase or during the lifespan of the building. Impacts should be fully considered and mitigation measures clearly set out. The Ecology Report only considered certain species and related legislation, and doesn't consider impacts on the Ancient Woodland and the guidance of the NPPF. Discussed potential for report considering impacts/mitigation to be secured by pre-commencement condition. Forestry Commission stated: *'Looking at the nature of the application I would expect them to be able to successfully satisfy requirements. This might result in such things as directional lighting, the careful consideration of the placement of surface water drainage and septic tanks, vegetation to screen, etc. Also a significant issue is dust and vibration during construction from large machinery. The bigger the development the harder they need to work on mitigation, so a single dwelling that does not encroach would be ultimately low risk.'*

- **Tree Officer** – No objection subject to conditions. Agree with conclusions of AIA noting modern era tree failures has lessened the aerial importance of the adjacent woodland and the robustly built aged boundary wall will prevent migration of beneficial soil biota to the main.

Officer Note: Tree Officer objected to previous application (same proposal), providing the below comments. The dwelling has been moved further north since the previous application and the current application includes an AIA and TPP:

- TPOs do not offer a constraint to the proposal given the existing land use surrounding them.
- Forestry Commission and Natural England Standing Advice is that any development should have a minimum of a 15m buffer zone between the development and Ancient Woodlands. Where assessment shows other impacts are likely to extend beyond this distance larger buffer zones may apply.
- It is considered that the proposed accommodation with live work unit by virtue of potential loss or deterioration of the ancient woodland due to tree pruning/ felling or harm to soil horizons within the 15m buffer zone and land use intensification would be harmful to the status of the Ancient Natural Woodland and cannot be supported.
- If approved, it is considered that the proposal is likely to lead to harm/ erosion to the adjacent Ancient Natural Woodland (Sandquay Wood) contrary to the aims and objectives of Policy Dev 28 of the Plymouth & South West Devon Joint Local Plan 2014-2034. No evidence supports the application that there would be a sufficiently weighted public benefit to outweigh the requirements of Paragraph 180C of the NPPF.
- **DCC Ecology** – Further information required in respect of light spill and possibility to reduce the amount of glazing on the north-western elevation. Recommended conditions to ensure development accords with the PEA, to restrict external lighting, and to restrict works in nesting season.
- **Landscape** – Objection (full comments in Landscape/Design section below). Not presently satisfied that the proposal would fully accord with JLP landscape policies DEV23 Landscape Character, DEV24 Undeveloped Coast and Heritage Coast and DEV25 Nationally Protected Landscapes.
- **Harbour Master & CEO, Dart Harbour** – Regard Distin’s Boatyard as a key asset on the river, providing essential maintenance services to a wide variety of boat owners, and providing useful employment in the maritime sector. As such, they support small developments on the site, in keeping with the area, as needed to maintain the yard as a viable marine business.

Representations:

X2 support letters and one ‘undecided’ letter received, raising following matters:

- Should support retention of traditional boatyards in their property, appropriate locations – as per AONB management plan – better solution than using agricultural land bordering on the estuary which would be better used for re-wilding and nature conservation.
- Smaller traditional yards play a particularly important role in enabling the maintenance and preservation of traditional vessels, particularly wooden boats that have a character and cultural resonance that modern production vessels simply don't. An example of this is SHDC's own Hauley IV, V & VI wooden tug fleet which has recently been extensively restored and renovated at SHDC's own workshop/slipway at Old Mill Creek. Without the base at Old Mill the work would have been so much more extensive and difficult to justify. David's yard provides the same facility for vessels such as my timber Castle Ferry boat, a vessel which has been a small feature on the Dart for around 70 years and which needs regular maintenance at a yard which allows longer projects and restorations to take place. Even if welcomed by the larger remaining yards such as Noss, doubt that this would

be affordable as increasingly the pricing is aimed at the higher end yachts spending much shorter periods of time ashore.

- In summer, the yard has capacity to park vehicles for expanding market for kayakers, paddleboarders etc. and facilities for safe sustainable launching but this will require extra staffing and enhanced security.
- Boatyard has enabled visits to Dartmouth and enjoyment of surroundings year round, and without the facility, many probably couldn't afford to do this.
- Boatyard been operating for generations and is an example of small scale/local and hopefully sustainable riverside business, adding significantly to character of the area. Not part of corporate/nationwide organisation providing facilities beyond the grasp of most, the yard caters for many local people giving them affordable access to the water.
- The yard caters for owners of smaller boats and is often left unattended. Unfortunately the increasing cost of boating does raise concern for security. This proposed facility will obviously provide reassurance for new and existing boat owners and hopefully enable the yard to maintain its services to the local community.
- In this case the proposals are on a small scale and in keeping with the existing character of the site. From a Neighbourhood Planning perspective it appears to fulfilling many of the obvious objectives for the area. Respecting the scale and character of the existing site. Helping ensure the long term sustainability of this small local business. An opportunity for local employment. Providing a small scale affordable home for a local resident. Maintaining access to the water for many local residents and themselves who may otherwise not be able to enjoy the beautiful area. It will never be a Noss or Darthaven facility it is a traditional yard with a unique character and appeal of its own which just needs to survive for the benefit of everyone.
- There is a Raleigh Estate path running from what is known as Oldmill Castle along the edge of the creek through what is now the boat yard & where formerly the cottages & Lime Kiln were to the road which leads to the bridge across the creek. This has at some time been diverted around the rear of the site. This path is referred to in the Application Details but can see nothing in the other documents or drawings to show that this is unaffected by these proposals. It is essential for users of this path, that the path is not blocked or subject to any major diversion.

Relevant Planning History

Site Planning History			
LPA Reference	Proposal	Decision	Appeal
15/0904/75/1: OPA Boat building	Erection of building for boat repair work	Refusal: 14 Oct 75	AUN: Unknown: 24 Mar 77
15/0276/76/3: FUL No documents	Erection of building for boat repair and storage	Refusal: 22 Apr 76	AUN: Unknown: 24 Mar 77
15/0152/83/3: FUL Boat building	Temporary boat cover store and small workshop.	Refusal: 13 Apr 83	
15/1827/89/3: FUL Reforming river edge	Reforming river edge and landscaping surrounding land	Conditional approval: 05 Dec 90	
15/1752/91/4: COU No documents	Use of land (normally covered with water) for mooring two boats for residential purposes	Refusal: 08 Jan 92	

15/0187/04/CLE: CLE lawful use	Certificate of Lawfulness for existing use of land as boatyard for breaking repair refurbishment and storage of boats	Cert of Lawfulness (EXISTING) Certified: 27 Apr 05
15/1213/07/F: FUL Improvements and alteration	Improvements and alteration to quay	Conditional approval: 04 Jul 07
15/1721/10/O: OPA Workshop and Office Building	Outline application for demolition and removal of prefab building & porta cabin & the erection of a new workshop & office building & reclaiming part of mud beach	Withdrawn: 20 Sep 10
15/1888/11/O: OP A Workshop and Office Building	Outline application for demolition and removal of prefab building & porta cabins & the erection of a new workshop & office building (resubmission of 15/1721/10/O)	Conditional approval: 27 Sep 11
15_18/0071/12/RM: ARM workshop	Reserved Matters application for Access Appearance Layout (including arrangements for the disposal of foul and surface water) and Scale pursuant to Outline Planning Permission 15/1888/11/O for demolition and removal of prefab building & porta cabins	Conditional approval: 21 Mar 12
15_18/2504/12/MIN: NMM Repositioning of workshop	Non material amendment to planning approval 15_18/0071/12/RM (repositioning of workshop)	Conditional approval: 14 Nov 12
15_18/0239/13/DIS: ARC Workshop	Discharge of conditions 5 7 8 & 9 of planning application 15_18/0071/12/RM (Reserved Matters application for Access Appearance Layout (including arrangements for the disposal of foul and surface water) and Scale pursuant to Outline Planning Permission	Discharge of condition approved: 20 Feb 13
15_18/1754/15/MIN: NMM NMA for boat building	Non-material amendment to planning consent 15_18/0071/12/RM (revisions to floorplan and elevations)	Conditional approval: 23 Oct 15
0412/22/OPA	Outline application with some matters reserved for proposed on site security building with managers accommodation as live work unit	Withdrawn: 19 Apr 22

Old Mill Kennels Planning History

LPA Reference	Proposal	Decision	Appeal
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15/1427/05/F: FUL	Erection of a dwelling	Refusal: 13 Oct 05	
15/0259/06/F: FUL	Demolition of existing kennel blocks and erection of dwelling and landscaping of grounds	Refusal: 20 Jun 06	HEA: Withdrawn: 09 Oct 07
15/0405/08/F: FUL	Erection of dwelling	Refusal: 24 Feb 09	Dismissed (Refusal): 24 Feb 09

ANALYSIS

Principle of Development/Sustainability:

Spatial Strategy

Sustainable development lies at the heart of the spatial strategy, with Policy SPT1 setting out how development and change will be managed in accordance with the principles of delivering sustainable development through a sustainable economy, a sustainable society and a sustainable environment. Policy SPT2 elaborates further, setting out how the LPA will apply the principles of sustainable linked neighbourhoods and sustainable rural communities to guide how development and growth takes place in the Plan Area, supporting the overall spatial strategy.

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. Paragraphs 5.8-5.10 of the supporting text to Policy TTV1 of the JLP identify the 'Main Towns', 'Smaller Towns and Key Villages' and 'Sustainable Villages' within the Thriving Towns and Villages Policy Area. However, 'Smaller Villages' and 'Hamlets' are not identified as part of the Policy TTV1. In this case, the application site is outside of the identified settlements, and is within a small cluster of development, within the open countryside.

Policy TTV1 explains that in the Smaller Villages, Hamlets and the Countryside, development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and SPT2) including as provided for in Policies TTV26 and TTV27.

Policy TTV27 relates to local housing needs in rural areas, and states that proposals for residential development on sites adjoining or very near to an existing settlement which would not otherwise be released for this purpose may be permitted provided that it can be demonstrated that it meets certain criteria. In this case, the site is not adjoining or near to an existing settlement and does not meet the criteria listed. TTV27 is therefore not relevant.

Policy TTV26 of the JLP relates to development in the countryside. The aim of the policy is to protect the role and character of the countryside. Policy GE12 of the DNP reflects the aims of TTV26, requiring development proposals outside the settlement boundary shown on Map 11 to be treated as development in the open countryside. Paragraph 5.169 of the JLP provides reasoned justification for TTV26 in general, and explains how the policy works in conjunction with TTV1 and the settlement hierarchy. Of particular relevance is the statement that 'the delivery of new homes that are distant from existing services and amenities do not represent a sustainable solution to the need for new homes in rural areas.' This accords with the wider

spatial strategy for meeting housing and employment needs in the TTV policy area, which seeks to direct the vast majority of development towards the named sustainable settlements identified in paragraphs 5.8 - 5.10 of the JLP.

The policy is divided into two different sets of policy requirements; part one (TTV26(1)) applies to development proposals considered to be in isolated locations. The second part of the policy, (TTV26(2)) is applied to all development proposals that are considered to be in countryside location.

Officers are applying the Bramshill Ruling in considering whether or not the site should be judged to be isolated (City & Country Bramshill Limited v SoSHCLG, Hart District Council, Historic England, & The National Trust for Places of Historic Interest or Natural Beauty, 2020). This judgement superseded the Braintree Ruling, which had previously applied a more literal understanding of the term 'isolated', stating that a proposal site would need to be 'far away from people, places or things' to be considered isolated. The Bramshill Ruling applies a less restrictive interpretation than Braintree, ruling that "...the word 'isolated' in the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is or is not 'isolated' in this sense is a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand" (paragraph 10 of the ruling).

The application site is adjacent to an existing workshop and boatyard, Dartmouth Outboard Clinic Ltd., Creekside boatyard, a number of dwellings, a kennels/cattery site (currently disused), a fishing shop, and 'Sandquay Wood'. Although the proposal would therefore represent development in the countryside, when applying the principles of the Bramshill Ruling, it is not considered to be isolated. It therefore does not meet the criteria to be assessed under policy TTV26(1), but TTV26(2) is applicable in this instance.

JLP Policy TTV26 (2) states:

'Development in the countryside

The LPAs will protect the special characteristics and role of the countryside. The following provisions will apply to the consideration of development proposals:

2. Development proposals should, where appropriate:

- i. Protect and improve public rights of way and bridleways.*
- ii. Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.*
- iii. Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.*
- iv. Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.*
- v. Avoid the use of Best and Most Versatile Agricultural Land.*
- vi. Help enhance the immediate setting of the site and include a management plan and exit strategy that demonstrates how long term degradation of the landscape and natural environment will be avoided'*

The proposal does not impact upon any public rights of way or bridleways, and so point (i) is not relevant to the proposal. Concerns were raised regarding an existing path through the site which leads to Sandquay Woods, and the potential for the development to block such. Whilst this is not a public footpath, the applicant has confirmed that the path will not be obstructed by

the development and will be retained. The development does not seek to preserve or re-use a traditional agricultural building (point ii), and would not use the best and most versatile agricultural land (point v). The development is not complementary to any viable agricultural operation, but, is proposed in connection with the existing viable boatyard business.

With regard to point iv., Planning Practice Guidance provides advice on the considerations which may be relevant to the assessment of proposals such as this application. This includes *'evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products.'* The JLP SPD, at Section 11.58 states that *'TTV26.2(iv) in order to meet this policy requirement an applicant should provide operational details of the farm business or land-based enterprise to demonstrate the requirement to live on-site. This will be subject to an independent agricultural needs assessment.'*

Furthermore, as the development is proposed in connection with the growth and operation of the boatyard business, DEV15 is of relevance. DEV15 seeks to support proposals, in suitable locations which seek to improve the balance of jobs within the rural areas and diversify the rural economy. However, this is subject to the provision that, amongst other things, the development meets the essential needs of agriculture or forestry interests.

The need for the proposed development has been assessed further under the below headings:

(i) is there a clearly established existing functional need

The proposed development is to provide an onsite security building with manager's accommodation, as a live/work unit, in connection with the boatyard. The proposed building has a floor area of approximately 100sqm (12.5m x 8m) with a covered porch area of approximately 12m, and contains one bedroom, a kitchen, bathroom, sitting area, porch and admin area. The boatyard has been owned by the Distin's (applicant) since 1951 and it has been in continuous use for that purpose since that time. The business involves the repair and maintenance of boats, and moorings are also provided; boat owners also carry out work at the site on their own boats on a DIY basis. The Design and Access Statement states that:

'A footpath runs through the yard and there have been various issues with security. In 2019 a fire at 2am was only prevented from becoming more serious by the quick thinking of a person who happened to be staying on board their own boat who quickly contacted the local fire brigade. Crime numbers are available for recent cases.'

'The new workshop allows for more complex maintenance and rebuilding projects to be carried out efficiently under ideal working conditions indoors. As such it is of particular value to owners of timber and heritage vessels and is regularly used to maintain the wooden Castle Ferry boats.'

'In order to transform the security and site supervision a yard manager needs to be employed and housed on site. The stark shortage of affordable housing in the immediate Dartmouth area makes it unlikely could find alternative accommodation off site and this would in any case fail to address concerns with 'out of hours' site security. In Summer the boatyard is available for customer parking and there is also scope for providing much needed 'park and launch' facilities for the newer forms of leisure boating which range

from RIBs on trailers with towing vehicles to car top-able kayaks and paddleboards. This type of equipment is highly mobile and vulnerable to crime, increasing the future need for year-round security’.

The applicant also advised that marine crime is an ever present risk to the industry, exacerbated by often remote locations. They stated that:

‘Salcombe Harbour Authority (SHDC) spend £70,000 p.a. specifically on marine security.

Blackness Marine at Cornworthy recently had £80,000 worth of outboard engines stolen.

An inflatable boat repair firm in Dartmouth suffered similar losses a few years ago.’

Following withdrawal of application 412/22/OPA the applicant was advised to include details of any crime incidents within any subsequent applications. The fire in 2019 is noted, but no details of other incidents have been provided. The applicant advised that they were having difficulty locating their records as these are hard copy and not stored online. The applicant stated that *‘whereas these unwanted activities have hitherto been about minor thefts from boats and acts of vandalism and arson, the security issue now needs to be addressed BEFORE I can expect to attract higher value vessels, towing vehicles trailers etc.’*

It is accepted that there is an established business running from the site, and that the growth and expansion of rural businesses is supported by Policy TTV2 and DEV15 of the JLP. However, it is considered that the provision of security is not sufficient justification in this case for residential accommodation in the countryside where planning policies seek to restrict such development. The LPA are mindful that many businesses are located in rural areas and often also have valuable equipment and stock; therefore many of such businesses could put forward similar justification. The site security could be improved through alternative measures, including: the provision of CCTV cameras, alarm systems, indoor storage (paddleboards/RIBS), trailer wheel locks, GPS Asset Trackers, ground anchors, night security staff etc. It is also understood that the applicant lives in Dartmouth, which is approximately 5 minutes from the site, and therefore could travel to the site in a reasonably short period of time, should the need arise; there are also a number of residential properties which overlook the site. There are access gates at the entrance to the site and it is understood that the boatyard is accessible by water only two hours either side of high tide. The activities which take place on the site do not appear to be ones which require regular 24 hour attention, such as with farm animals or to deal with emergencies that could cause serious loss of crops or agricultural products. Furthermore, the building is a large size for a one bedroom dwelling, being 100sqm (not including the external porch). The Nationally Described Space Standards (NDSS) state that the minimum size for a one bedroom (two bed spaces) dwelling is 50sqm. Whilst it is acknowledged that the NDSS are minimum standards only, the proposed dwelling is double the recommended floor space.

It is recognised that the provision of accommodation on site would prevent the manager from having to travel to and from their place of work. However, the sites unsustainable location, remote from any day to day services/facilities, is likely to result in them being highly reliant on car travel to access such. Whilst the site is not far from the edge of Dartmouth, the route to get there is a steep and narrow road which is also unlit and does not have any pavements from the site. As such, although some walking may take place, it is not convivial to either this mode of travel or cycling. The site also does not have regular access to public transport.

Whilst the benefits of on-site security are understood, the LPA are not satisfied that the requirement for there to be a proven need for an on-site presence has been met. Additionally, the size of the building is considered to be excessive for a one bedroom dwelling.

(ii) does the need relate to a full-time worker, or one who is primarily employed by the enterprise

It is acknowledged that the proposed development would likely result in the creation of at least one additional full time job, being a yard manager.

(iii) future viability of enterprise

Planning Practice Guidance (Paragraph 010) also states that the degree to which there is confidence that the enterprise will remain viable for the foreseeable future should also be taken into account when considering housing in the countryside.

A letter from the applicants accountant has been provided, who confirm that the business has been profitable each year since commencement, and that this is set to continue with turnover expected to increase going forward. It is confirmed that the business is on a sound financial footing, with reasonable cash reserves, a positive annual cashflow and zero indebtedness.

(iv) is there existing accommodation available in the area which is suitable for occupation by workers concerned

Whilst the applicant's comments regarding unaffordability of properties in the surrounding area are noted, insufficient information has been provided to demonstrate that there isn't other existing accommodation in the area which would be suitable and available for occupation by the workers concerned. The site is in fairly close proximity to Dartmouth, being approximately 5 minutes away in a car. It is understood that the applicant lives in Dartmouth and therefore could travel to the site in a reasonably short period of time.

Conclusion

For the above reasons, it is not considered to have been demonstrated that there is an essential need for the accommodation on this site within this countryside location. Therefore, the proposed development is considered to be contrary to the spatial strategy of the JLP, and detailed policies relating to the settlement hierarchy and development in the countryside, as referenced above.

Undeveloped Coast

The site also falls within the JLP Undeveloped Coast designation, and therefore Policy DEV24 is of relevance, which states that:

'Development which would have a detrimental effect on the undeveloped and unspoilt character, appearance or tranquillity of the Undeveloped Coast, estuaries, and the Heritage Coast will not be permitted except under exceptional circumstances. Development will only be permitted in the Undeveloped Coast where the development:

- 1. Can demonstrate that it requires a coastal location.*
- 2. It cannot reasonably be located outside the Undeveloped Coast.*

3. *Protects, maintains and enhances the unique landscape and seascape character and special qualities of the area.*
4. *Is consistent with policy statements for the local policy unit in the current Shoreline Management Plan.*
5. *Is consistent with the relevant Heritage Coast objectives, as contained within the relevant AONB Management Plan.*

Development for the purposes of agriculture, forestry, public access and enjoyment of the coast and estuaries, or community facilities that meet the objectively assessed needs of the local community, will be supported if it meets the above tests.'

Policy DNP GE1 of the Dartmouth Neighbourhood Plan (DNP) is also of relevance, stating that development within the designated landscapes must demonstrate why it cannot be accommodated reasonably outside the Undeveloped Coast.

Whilst the development is proposed in connection with the existing boatyard, which requires a coastal location, it has not been demonstrated that there is a proven need for a dwelling in the proposed location, or that accommodation cannot be found in the surrounding area, including Dartmouth, which lies outside of the undeveloped coast. Therefore, the application is considered to be contrary to parts 1 and 2 of DEV24 of the JLP and Policy GE1 of the DNP.

Principle Residency

Policy DNP H4 of the Neighbourhood Plan requires new open market housing to be restricted via condition, to occupation as a principle residence only. As such, if the application were to be approved, a principle residency condition would be required. Officers have considered the stage of the Neighbourhood Plan and the amendments/recommendations within the examiner's report.

Design/Landscape:

The application is for outline permission. Two of the same application page have been submitted, one stating only landscaping is to be considered, and the other stating access, layout, scale and appearance is to be considered. The applicant advised that landscaping is the only matter that they are not seeking approval for.

Proposed elevations, floor plans and a block plan for the dwelling have been submitted. No Landscape details have been submitted, however, the Design and Access Statement states that landscaping will be provided as shown in the ecology report. The ecology report recommends that the southern corner of the site, which is currently tall ruderal habitat, should be enhanced through planting native shrubs such as hazel, hawthorn and holly.

The LA's Landscape Officer was consulted and commented as follows:

'The application site is within the setting of the AONB, which covers the majority of the creek and surrounding woodland slopes (DEV25). The area around the site is viewed as a consistent, high quality landscape, demonstrating the special qualities of the AONB, and contributing positively to the identified key characteristics and valued attributes of the area. The site falls within the designated area of the Joint Local Plan's Undeveloped Coast policy (DEV24), the boundary of which extends along Old Mill Lane.

Landscape Character:

- *National Landscape Character Area: 151 South Devon*
- *Devon Landscape Character Area: Dart Estuary*

- *South Hams Landscape Character Types: LCT 3G River valley slopes and combes*

Old Mill Creek is a tidal inlet of the River Dart to the north of Dartmouth set in a steep sided, secluded valley, with the semi-natural woodland on the slopes enhancing this landscape's sense of enclosure and largely undeveloped appearance. There are a few residential properties and a number of boat-related businesses mostly located at the western end of the creek, including Distins Boat Yard. Up the wooded valley, slightly further away to the west, is a water treatment works.

Also present are a range of embankments and retaining walls next to the road, close to the site and at the water's edge. These manmade features result in the area having a developed appearance in places (mainly related to traditional maritime uses), in addition to the rural, wooded and natural, estuarine elements of the scene, so giving the locality a diverse character.

Comment:

The proposal is for a live-work unit for site security and Manager's accommodation, comprising a bedroom, bathroom, with a kitchen and living space that includes an administration / office area. The proposed building would be located on elevated ground on the valley side, sitting above and to the south of the boatyard and workshop. The design reflects the barrel roof design of the workshop and office building, which was built on the site in 2018, with timber cladding to the elevations and profiled metal clad roofing to match this existing building.

I note that the Ecology report makes mitigation recommendations for habitat enhancements, by planting native trees and shrubs in the southern corner of the site, close to the woodland adjacent to the site. If followed, this recommendation would also help to reduce light spill from the eastern and southern elevations, which I would support.

However, the extensive floor to ceiling glazing for the main living area on the northern elevation would be difficult to screen effectively, and is a problematic element of the building design, because adopted policy expects designs in sensitive locations such as this to reduce the impacts of light pollution from artificial light, on intrinsically dark landscapes and nature conservation interests. Although the choice of materials is not traditionally used for residential development, I support the use of the proposed materials palette as the proposed shape, form and materials for the building clearly respond to the design of existing building on the site, and would not appear particularly incongruous in the context of the rest of the boatyard.

However, even though it is a single storey building, the site is in such an elevated position that the dwelling will be visually prominent, particularly in views from across the creek. The extensive glazing on the northern elevation risks an intrusive and harmful amount of light spill into what is an intrinsically dark landscape. There will be negative visual effects on views experienced from the well-used Dart Valley Trail on the north side of the creek, yet no mitigation is suggested to screen the new building from these views.

I acknowledge that the adverse effects would be relatively localised and that the wider Landscape character will be conserved. The site is visually well contained by the sloping topography, level of surrounding tree cover and the narrowness the creek valley, so whilst there were some views of the application site when I visited, it was not fully visible from any one location. The winter situation, when the predominantly deciduous trees are not in full leaf, would be different, and the development would be more visible from publicly accessible locations along the lanes and creek-side.

My concerns in this respect might be overcome by reducing the extent of glazing on the northern elevation and by including native tree and shrub planting as mitigation to the north of the proposed dwelling, to provide some additional screening. However, I am not presently satisfied that the proposal would fully accord with JLP landscape policies DEV23 Landscape Character, DEV24 Undeveloped Coast and Heritage Coast and DEV25 Nationally Protected Landscapes.'

Officers agree with the Landscape Officer's comments, and it is not considered that the development, in its current form, satisfactorily demonstrates that it avoids significant adverse landscape or visual impacts on the landscape and on the undeveloped and unspoilt character, appearance or tranquillity of the Undeveloped Coast, and to the setting of the South Devon AONB. Additionally, due to the topography of the site, and the fact the dwelling was re-located further north to mitigate impacts on the adjacent Ancient Woodland, Officer's would question whether there is sufficient space for additional landscaping to be provided to the north of the proposed dwelling which would effectively screen the development and resultant light spill.

As such, the development is considered to be contrary to DEV23, DEV24 and DEV25 of the JLP and Policy GE1 of the DNP. The development is also considered to be contrary to Policy GE10 of the DNP which seeks to protect the dark sky environment of the parish, by limiting the use of a high proportion of glass in walls and roofs without consideration of the impact on the environment when internally lit.

Officers are also mindful that Mill Creek is designated as a locally important view in Policy GE6 of the DNP. Appendix F of the DNP states that 'the northern limit of the Parish boundary runs down the middle of the creek, part of the Undeveloped and Heritage coast. Within the AONB, there are important mud flats (PHI and CWS) bordered by ancient woodland (PAWS), containing designated heritage assets.' The policy states that development within the foreground or middle ground of locally important views should not harm and should, where possible, contribute positively to the existing composition of natural and built elements. Development should not be overly intrusive, unsightly or prominent to the detriment of the view as a whole, or to the landmarks within the view.

Neighbour Amenity:

There are other residential properties close to the wider site owned by the applicant. However, these are a significant distance away from the proposed dwelling location and are set at differing land levels; dense landscaping also provides screening between the site and properties to the south. As such, it is not considered that the provision of a dwelling on the site will harm the residential amenity of surrounding properties.

It is acknowledged that the land to the west of the site was previously used as a kennels/cattery and that such use could be resumed and would likely result in an increase in noise/disturbance to residents. However, Appeal Decision APP/K1128/A/08/2080898 (Application Reference: 15/0405/08/F) states that the kennels closed in 1997 and that new owners acquired the site in 2000. It is stated that '*there is a reasonable degree of uncertainty about whether the kennels and cattery would in fact reopen*'. From the site visit, the site does not appear to have been used for a significant amount of time.

Furthermore, Environmental Health were consulted and acknowledged that whilst the site is adjacent to kennels, which if still present could impact on new residents, residents would also be affected by noise from the boatyard. Such noises will have characterised this area and the live work occupier of the proposed development would be associated with the boatyard (this could be ensured by condition). No noise control measures are therefore recommended.

The development is considered to accord with DEV1 and DEV2 of the JLP.

Highways/Access:

The proposed dwelling would be accessed via the existing entrance to the wider site, with a driveway leading between the site and the existing workshop, gradually sloping up. Whilst there are a number of trees adjacent to the access, their spacing allows good visibility of Old Mill Lane, in both directions. If approved, occupancy of the proposed dwelling would be tied to someone employed at the boatyard. There is adequate parking within the site to serve the proposed dwelling.

Highways were consulted and raised no objections.

The development, subject to conditions, would accord with DEV29 of the JLP.

Drainage

The site lies within Flood Zone 1 and is not shown to be at risk of surface water flooding on the Environment Agency Maps. The foul water is proposed to be drained to an existing septic tank and drainage field and the surface water is to go to an attenuation tank to discharge to the stream. Environmental Health were consulted and raised no objections to the method of foul water disposal. Given the size of the proposed dwelling and wider site in the applicant's ownership, it is considered acceptable to secure full details of surface water drainage by condition.

Subject to conditions, the development accords with DEV35 of the JLP and Policy GE11 of the DNP.

Ecology

The application is located within 15 metres of an ancient woodland known as Sandquay Woods. Policy DEV28 of the JLP requires development that would result in the loss or deterioration of Ancient Woodland or impact on their immediate surroundings should not be permitted.

Furthermore, Paragraph 180 of the NPPF states:

'When determining planning applications, local planning authorities should apply the following principles:

...

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...'

Policy GE8 of the DNP reflects the guidance contained in Paragraph 180 of the NPPF.

The standing advice from central government on development impacting ancient woodlands states:

'A buffer zone's purpose is to protect ancient woodland and individual ancient or veteran trees. The size and type of buffer zone should vary depending on the scale, type and impact of the development.'

For ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance,

you're likely to need a larger buffer zone. For example, the effect of air pollution from development that results in a significant increase in traffic.'

A report by a qualified Arboricultural Consultant has been submitted, along with a Tree Protection Plan. The LPA's Tree Officer was consulted and raised no objections to the proposed, stating that they agree with the contents and conclusions of the Arboricultural Impact Assessment, noting modern era tree failures have lessened the aerial importance of the adjacent woodland and the robustly built aged boundary wall will prevent migration of beneficial soil biota to the main.

The Forestry Commission were also consulted and objected to the proposal as in their opinion, the development would cause disturbance to the woodland during construction and ongoing during the operational life of the development. Paragraph 180 of the NPPF states that development that will result in the loss or deterioration of irreplaceable habitats including ancient woodland, should be refused, unless "there are wholly exceptional reasons and a suitable compensation strategy exists". After further correspondence with the Forestry Commission it is considered that a report could be secured by pre-commencement condition which would be required to assess impacts of the development on the ancient woodland, including from noise, dust, vibration, and hydrological impacts that come from the construction phase and during the lifetime of the development, along with any required mitigation. The Tree Protection Plan shows the Magic Map Root Protection Zone for the Ancient Woodland, which the dwelling appears to lie outside of and the Forestry Commission stated that '*Looking at the nature of the application I would expect them to be able to successfully satisfy requirements. This might result in such things as directional lighting, the careful consideration of the placement of surface water drainage and septic tanks, vegetation to screen, etc. Also a significant issue is dust and vibration during construction from large machinery. The bigger the development the harder they need to work on mitigation, so a single dwelling that does not encroach would be ultimately low risk.*' Subject to conditions to secure the above information, it is not considered that the development will result in the loss or deterioration of the Ancient Woodland.

The site is located adjacent to the ancient woodland and in close proximity to the Dart Estuary County Wildlife Site. Given the features of the surrounding area, it was considered that there is potential for the proposed development to impact on protected species and/or their habitats. A Preliminary Ecological Appraisal was submitted with the application and concludes that the development would have no impacts on designated sites, that the loss of a small area of habitat is not ecologically significant, and that no mitigation measures are required for habitats. The report recommends precautionary measures in relation to impacts on slow worms and common toads, and also a number of biodiversity enhancement measures, including: enhancement of the habitat in the southern corner through planting of native shrubs; installation of an exterior bat box and two bird boxes. Such enhancement measures could be secured by condition.

In respect of bats, the report states that '*Although there will be a degree of light spill from the windows associated with the proposed building, the building will be set below the Victorian wall and hedge line. Were light sensitive bats such as horseshoes to be present within the site, commuting on the opposite side of the hedge line or wall would still be possible. Bats are therefore not considered further within this assessment.*'

DCC Ecology were consulted and recommended conditions to ensure that the measures set out in the report are followed, that no works are carried out in nesting season and that no external lighting is installed. However, in respect of light spill from the proposed development, DCC Ecology advised that further information is required as the new dwelling has a large

amount of glazing, especially on the north-west elevation. The comments from the applicant's ecologist regarding the levels and Victorian wall were noted, however, the amount of glazing present onsite would introduce light spill in what is an intrinsically dark area, with woodland present to the east. DCC Ecology requested clarification as to whether the amount of glazing can be reduced further on the north-western elevation in order to reduce impacts from internal light spill.

Whilst light spill and the amount of glazing is raised as a concern, given the findings of the applicant's ecology report, it is not considered to be a reason for refusal.

If the application were to be approved, it is also considered that, given the proximity of the site to the Dart Estuary, the Devon County Wildlife Site, and the Ancient Woodland, a Construction Environmental Management Plan would be required prior to commencement of the development. This would ensure that the development does not harm the quality of the river, the ancient woodland, or the surrounding wildlife habitats.

Subject to conditions, the LPA are satisfied that the development will not harm protected species/habitats or result in the loss/deterioration of the Ancient Woodland, in accordance with TTV26 and TTV28 of the JLP, and Paragraph 180 of the NPPF. The development would accord with Policies GE2, GE5, and GE8 of the DNP.

Low Carbon Development

A DEV32 checklist has not been submitted with the application. However, the Design and Access Statement states that the proposed building will be fully insulated to comply with current requirements, that a heat pump system will be provided for hot water and heating, that photo voltaic solar panels will be installed for electricity, and that the building will meet full passive house standards. Additionally, grey water is to be piped into an attenuation tank but is also to be harvested for washing of boats.

Whilst finer detail is required in respect of a number of the measures specified, which could be secured by condition, it is considered that ways 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, have been identified, in accordance with the requirements of DEV32 of the JLP and Policy GE9 of the DNP.

Conclusion

Officers do not consider that the functional need for a dwelling to serve this enterprise has been adequately justified to warrant development in this countryside location. Furthermore, it is considered that the extensive glazing on the northern elevation would result in an intrusive and harmful amount of light spill into what is an intrinsically dark landscape. The proposal fails to conserve and enhance the local landscape character, visual quality and setting of the AONB.

The development is considered to be contrary to SPT1, SPT2, TTV1, TTV26, DEV23, DEV24, and DEV25 of the Plymouth & South West Devon Joint Local Plan 2014-2034, and Policies GE1, GE6, GE10, and GE12 of the DNP.

This application has been considered in accordance with 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 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 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

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV26 Development in the Countryside

DEV1 Protecting health and amenity

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

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built 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

DEV33 Renewable and low carbon energy (including heat)
DEV35 Managing flood risk and Water Quality Impacts.

Neighbourhood Plan

Dartmouth Neighbourhood Plan:

The Local Planning Authority must have regard to the Dartmouth Neighbourhood Plan, as an Examiner was appointed in April 2022 and their draft report has been received.

The PC/TC are yet to formally agree the recommendations. If such is agreed, the plan will move to referendum stage.

The application has been considered with regard to the DNP, and any amendments/recommendations in the draft examiners report.

Relevant Policies Include:

Policy DNP GE 1 Impact on the South Devon Area of Outstanding Natural Beauty (AONB) Undeveloped Coast and Heritage Coast

Policy DNP GE 2 Safeguarding the biodiversity and Green Infrastructure throughout the Parish

Policy DNP GE7 Actions to mitigate against climate change and carbon reduction

Policy DNP GE 8 Promotion of tree planting

Policy DNP GE 9, Encouraging renewable energy

Policy DNP GE 10 Prevention of light pollution;

Policy DNP GE 11 Prevention of Flooding

Policy DNP GE12. Settlement Boundary and the avoidance of coalescence;

Policy DNP ST2: Car Parking and Coach Parking

Policy DNP TE2: Design Quality throughout the Parish

Policy DNP H1 - Market Housing

Policy DNP H2- Exception Sites outside the settlement boundary

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

- Plymouth and South West Devon Joint Local Plan Supplementary Planning Document
- South Devon AONB Management 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.