

PLANNING APPLICATION REPORT

Case Officer: David Stewart

Parish: Stokenham **Ward:** Stokenham

Application No: 2268/23/VAR

Agent/Applicant:

Mr Mikael Armstrong
Hockham House
Hockham Road
Compton
Newbury
RG20 6QN

Applicant:

Mr Mikael Armstrong
Hockham House
Hockham Road
Compton
Newbury
RG20 6QN

Site Address: The Cove Guest House, Torcross, TQ7 2TH



Development: Application for variation of condition 1 (approved plans) of planning consent 1411/21/VAR (resubmission of 2110/22/VAR)

Reason for referral to Committee

Councillor Brazil has requested this application be placed before committee in order to examine the issues related to the balance between the fall-back position and the new application.

Recommendation:

Conditional Grant

Conditions

1. Accord with Plans
2. Update to structural report
3. Materials
4. Non reflective glazing
5. Restriction of PD
6. Soft and hard landscaping
7. Reptile mitigation
8. Parking
9. Contamination
10. Privacy screen
11. CMP
12. Restriction of PD (means of enclosure)
13. Renewable Energy

Key issues for consideration:

The effect of the amended scheme on the character and appearance of the area, with particular regard to the South Devon Area of Outstanding Natural Beauty (AONB), the Heritage Coast and the Undeveloped Coast designations.

Financial Implications (Potential New Homes Bonus for major applications):

As part of the Spending Review 2020, the Chancellor announced that there will be a further round of New Homes Bonus allocations under the current scheme for 2021/22. This year is the last year's allocation of New Homes Bonus (which was based on dwellings built out by October 2020). The Government has stated that they will soon be inviting views on how they can reform the New Homes Bonus scheme from 2022-23, to ensure it is focused where homes are needed most.

Site Description:

The site is situated to the south of Torcross, occupying an elevated position above the cliff face. Part of the site was historically occupied by a building previously used as a guest house. The building has since been demolished, with some hardstanding remaining; the site has an untidy appearance. Access to the site is via a steep driveway.

The site is located outside of the discernible built up area. It is within the South Devon Area of Outstanding Natural Beauty (AONB) and part of the designated Undeveloped Coast. The eastern edge of the site lies within Flood Zones 2 and 3 and the Slapton Ley SSSI. A Public Right of Way runs to the west of the site.

The site has an extensive previous planning history. In 2009 permission was granted for a replacement dwelling on the site. This was renewed in 2011 and further permissions were granted in 2014 and 2015 for a replacement dwelling. The 2015 permission was varied in 2017. At some stage between 2009 and 2011 the original building was demolished and in 2020 a

certificate of lawfulness application was made that sought to confirm that the 2011 permission was lawfully implemented and was capable of lawful continuation subject to adherence to the requirements of the relevant planning conditions. On that basis the certificate was issued.

Further applications to vary the scheme were submitted with the most recent approved variation being 1411/21/VAR. Two further variations were submitted but refused and later dismissed at appeal under 0043/22/VAR and 2110/22/VAR

The Proposal:

This application seeks to vary the approved 2021 variation on the design of proposed dwelling with the current amendments showing a two level timber framed, Huf Haus structure. The proposed building has a timber framed structure set on a concrete frame which is based on standard modular dimensions. The result is a 6 bay module on the east and west elevation extending into the site by 2 modules.

The building is also divided vertically into two layers. A projecting balcony is shown on the east elevation which is about 1.2m wide with the roof projecting out the same distance. A projecting roof is also shown on the west side of the building. The southern 'extension', comprising the raised pool and terrace, remains unchanged in dimensions from the approved scheme. This variation does not include the reduced height wall on the west side of the pool terrace which was shown in the previous dismissed proposal.

As it was original submitted, the outer face of the timber frame was shown to be exposed and the eastern elevation predominantly glazed. At the lower ground floor level there were solid panels shown on the east facing elevation to the utility room and a narrow solid panel adjacent to the stair module. At the upper level the elevation was almost wholly glazed with the exception of a panel adjacent to the stair module to match the lower floor. Changes made to the scheme now introduce more extensive stonework panelling to the lower floor.

On the north elevation there is a line of solid panels to the lower level with the exception of a door to the lower lobby. At the first floor, the elevation is glazed towards the east side but solid on the west side.

The south elevation is glazed at the upper levels but solid at the lower level. The west elevation, facing the hillside is predominantly solid render panels at the first floor level with two small opening at the lower level and two larger glazed panels at the upper floor level, one inset.

Consultations:

- County Highways Authority No highway implications
- Stokenham Parish Council Object

The Parish Council maintains its objections to the scheme but raises two particular points on this variation. The first is the difficulty of delivering pre-fabricated panels of this size to the site and the second questioning what works may be necessary to the sea wall at this location. The submitted objections from the PC to earlier proposals for the site related to the scale, massing and excessive glazing to the proposal.

Further submissions from the Parish Council have been received following a meeting between the case officer and representatives from the Parish Council which raise additional matters or further expand on earlier comments. These are set out below:

- The site is not only within the SSSI, but also within its Impact Risk Zone. Permission for planning proposals is required from Natural England.
- The site is within the Coastal Change Management Area (DEV36) of the Plymouth and South West Devon Joint Local Plan. This states that “inappropriate development, or any development that could add to the impacts of physical change to the coast, will not be permitted in the Coastal Change Management Area”. It further states that “any development that includes any form of sea defence will require the submission of a vulnerability assessment, showing how the sea defence will not be to the detriment of adjacent or any other sections of coastline”.
- The site is within the AONB, where great weight should be given to a buildings impact on its surrounding area. It is the overall impact on the surrounding area and particularly the beach that is a concern and in an AONB, this should be given priority. This is a sensitive site location. Although the principal of redeveloping the site for a single dwelling has been accepted, there have been material changes in policy over the last decade; for example, the AONB have reversed their view from no objections in 2015 to objecting in 2021, which reflect these policy changes. In an AONB, the conservation and enhancement of landscape and scenic beauty are matters which carry great weight. It could be argued that being in an AONB should be one of the primary deciding factors on what is material. This is a large, brightly lit house in an area of protected natural darkness and it will have quite an adverse impact, on wildlife and on the local character, particularly looking from the sea, and especially at night.
- The area of glazing is increased in the proposed scheme over the approved development affecting not only the dark skies policy but also the heat necessary to sustain the development which would require additional carbon emissions contrary to climate change policy
- The site is within the Shoreline Management Plan (SMP), which is managed by the Environment Agency – the SMP2 projects it will be under water in 20-100 years, and it also strongly intimates the current height of the seawall will be insufficient. Even if environmental concerns are ignored, the danger should be considered too great for the safety of the occupants. Other applications in nearby Beesands have been refused due to similar concerns. The coastal defence ‘line’ goes behind the site of the house, not including it.

Representations:

Comments have been received from 2 third party objectors and cover the following points:

- The High Court Case of *Armstrong v Secretary of State for Levelling Up, Housing and Communities & Anor* [2023] EWHC 176 (Admin) (27 January 2023, Case No: CO/1288/2022) is significant in that it frees up the LPA to consider the building on up to date planning policies and associated legislation, and with refreshed consultation from other interested bodies such as Natural England and the Environment Agency, who oversee the SSSI and the Shoreline Management Plan. It is fair to say the building has very few planning merits. The building is not substantially different in flavour from the two previous rejected designs, and in this respect the reasons for rejection by the previous officer and Inspector are valid on this design too. Based on current policies it is a gross overdevelopment of a small site in a sensitive area. Our own specific objections have been detailed in previous correspondence so we will not repeat them again here. We believe this situation may be an opportunity for planners to stipulate what is acceptable for this site going forward, in terms of size, bulk, materials, etc. Although the applicant has a recognised fallback position of two extant permissions, both of which are unsuitable for this site, he seems to have little appetite

to build them. His reluctance to build them is his own affair. This is an opportunity for guidance on what would be appropriate for this site in the future.

- Gross overdevelopment of a confined site
- The building does not meet climate emergency policies
- The site is vulnerable from coastal erosion
- A smaller traditionally built dwelling would be more energy efficient and suited to the location

The South Hams Society have also raised an objection.

- SHDC has declared a climate emergency with the recent Joint Local Plan adopted in 2019 and the Joint Local Plan Supplementary Plan adopted in 2020 (JLPSPD). The JLPSPD has been updated and continues to evolve to address current issues. Consequently it has to be questioned why the applicant continues to pursue a development that fits into a planning approval size box but fails to address climate change? No attempt has been made to address the requirements of JLPSPD DEV32.1, namely: Minimising natural resources in development states that the policy 'aims to minimise the use of natural resources in the development over its lifetime. The structure, layout and design of places can help reduce their resource requirements in terms of both construction and in use, including energy demands, water and land take, and help to sustain natural ecosystems'.
- The adverse effect of the amended scheme on the character and appearance of the area, with particular regard to the South Devon Area of Outstanding Natural Beauty (AONB) and the Undeveloped Coast. It is far from clear how the removal of an internal floor addresses the Planning Inspectors main issue. And with regards to climate change it is now necessary to produce a 'Sustainability Statement' for minor developments. The Society are of the opinion that the Case Officer needs to be satisfied as to the implication of excessive room volumes, both with regards to unnecessary heat energy use and loss, and the increased use of glass which has high energy requirements in manufacture, as a consequence of the noticeably increased ceiling heights. The applicant must be able to demonstrate that the move away from standard ceiling heights to a higher building comes with a carbon neutral outcome between the two ceiling levels. This statement from the applicant contained within their DEV32 assessment is unacceptable. 'We have not formally conducted a carbon calculation. However we have used the principle that minimising steel and concrete which do have high carbon costs have been minimised through the choice of a timber framed house'.

Relevant Planning History

Planning Application Ref: 53/3160/11/F

Description: Renewal of extant planning application 53/0136/09/F (demolition of guest house and replacement with single dwelling)

Address: The Cove Guest House Torcross Tq7 2th Torcross Devon TQ7 2TH

Decision Date: 03 February 2012

Conditional Approval

Planning Application Ref: 53/2609/14/F

Description: Erection of single dwelling on site of demolished guest house

Address: The Cove Guest House Torcross Kingsbridge Devon TQ7 2TH

Decision Date: 12 December 2014

Conditional Approval

Planning Application Ref: 53/3009/14/DIS

Description: Application for approval of details reserved by conditions 4, 5, 6, 7 and 9 of planning approval 53/2609/14/F

Address: The Cove Guest House Torcross Tq7 2th Torcross Devon TQ7 2TH

Decision Date: 27 February 2015

Discharge of condition Approved

Planning Application Ref: 53/2267/15/F

Description: Erection of replacement single dwelling

Address: The Cove Guest House Torcross Kingsbridge Devon TQ7 2TH

Decision Date: 23 December 2015

Conditional Approval

Planning Application Ref: 1164/17/VAR

Description: Variation of condition 2 (approved plans) following grant of planning permission 53/2267/15/F

Address: The Cove Guest House Torcross TQ7 2TH

Decision Date: 09 August 2017

Conditional Approval

Planning Application Ref: 3446/20/CLE

Description: Lawful development certificate for existing commencement of development of works to comply with consent 53/3160/11/F

Decision Date: 18 February 2021

Cert of Lawfulness (Existing) Certified

Planning Application Ref: 0693/21/ARC

Description: Application for approval of details reserved by conditions 4, 5, 6, 7 and 9 for planning application 53/3160/11/F

Address: The Cove Guest House Torcross TQ7 2TH

Decision Date: 20 April 2021

Discharge of condition Approved

Planning Application Ref: 1411/21/VAR

Description: Application for variation of condition 2 (approved plans) of planning consent 53/3160/11/F

Address: The Cove Guest House Torcross TQ7 2TH

Decision Date: 23 December 2021

Conditional Approval

Planning Application Ref: 0043/22/VAR

Description: Application for variation of condition 2 (approved plans) of planning consent 53/3160/11/F (resubmission of 1411/21/VAR)

Decision Date: 26 April 2022

Refusal Appeal Dismissed

Planning Application Ref: 2110/22/VAR

Description: Application for variation of condition 1 (approved plans) of planning consent 1411/21/VAR

Decision Date: 26 April 2022

Refusal Appeal Dismissed

ANALYSIS

1. The table below shows the plans to be replaced by this new submission

Plan Title	Approved Plan	Replacement Plan
Site Location Plan	Received 04.05.21	Received 03.07.23
Existing site, location and block plans	1501-PL-00	TCGT-LAY-10-C rev C
Proposed landscape strategy and block plan	1501-PL-01	None submitted and approved plan no longer valid with current scheme
Proposed ground floor plan	1501- PL-02	TCGT-LAY-11-E rev E
Proposed first floor plan	1501- PL-03	TCGT-LAY-12-F rev F
Proposed roof plan	1501- PL-04	TCGT-LAY-10-C rev C
Proposed east elevation	1501- PL-05	TCGT-LAY-15-G rev G
Proposed north elevation	1501- PL-06	TCGT-LAY-14-G rev G
Proposed west elevation	1501- PL-07	TCGT-LAY-17-G rev G
Proposed south elevation;	1501-PL-08	TCGT-LAY-16-G rev G
Proposed south elevation / site section AA	1501- PL-09	TCGT-LAY-16-G rev G

2. However before a consideration of the submitted scheme is commenced it is first appropriate to comment on the High Court case referred to by the Parish Council and assess its relevance to this application. The case was for a very similarly located plot of land overlooking the sea in Cornwall where the applicant had sought to vary the approved scheme through a S73 application to vary condition 2 of the planning permission. The Council refused the proposal to vary the design of the dwelling and at the subsequent appeal the Inspector concluded that the application would give rise to such a fundamental variation to the permission that the application fell outside s.73 because it conflicted with the description of the development in that permission and was contrary to policy.
3. This was challenged in the high court. The judge concluded that the appeal inspector was incorrect. *"In my judgment there is more than sufficient doubt about that to justify quashing the decision on the basis that he misdirected himself by reference to the planning policy guidance and its concept of 'minor material amendments'"* There is no definition of what may be acceptable or otherwise in an application to vary a condition. The Inspector's dismissal of the case was therefore quashed.
4. Paragraph 91 of the judgement states, *"Neither the Inspector nor the Defendant contend that the Claimant's application involved any conflict with the operative part of the permission that permits construction of one dwelling on the Site. As I have already noted, there is no suggestion that this operative part of the amended permission (properly construed) was materially affected by the reference to the "plan(s)" or the "application" and it is accepted that the limitations on form and style arose only from the plans governed by condition 10. I can see that a decision maker might lawfully conclude that the proposed variation of condition 10 by substituting plans with a different form and architectural style could be described as a "fundamental variation" of that form and style. But there has been no change in the basic principle of what was being permitted on the Site, namely the construction of a single dwelling."*
5. In this case the same can be applied, that there is no fundamental difference in the basic principle of what is being requested, namely the construction of a dwelling. Therefore the

Council is entirely correct in considering a change to the design of the dwelling even if there are major changes proposed.

6. Such considerations must, of course, take account of adopted policies and in this respect the original 2011 permission was granted under a different policy regime. The decision on the certificate of lawfulness granted was based on matters of fact and not policy. The 2021 variation to the design of the building was made judging the proposal against current adopted policies. There has been no change to the adopted policies since 2021, however in November 2022, the Council in conjunction with West Devon Borough Council and Plymouth City Council adopted the 'Plymouth and South West Devon Climate Emergency Planning Statement', which is a material consideration. This is a matter that is picked up in the relevant section.
7. There is no Neighbourhood Plan covering this site.

Principle of Development/Sustainability:

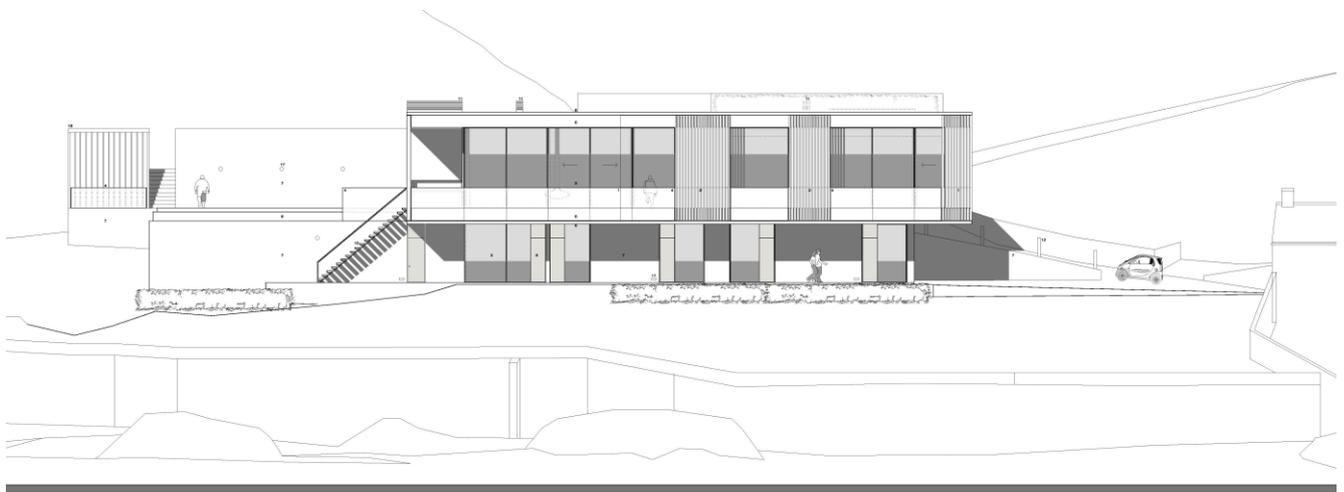
8. The principle of a replacement dwelling on the site has already been established. The certificate of lawfulness granted in 2020 confirmed that a material start had been made to the scheme approved in 2011. Furthermore the Council has adjudged that the works of demolition constituted a commencement of development in issuing the Certificate of Lawfulness and that the owner can complete the development permitted in 2011 as amended by the later approved variation.

Design/Landscape:

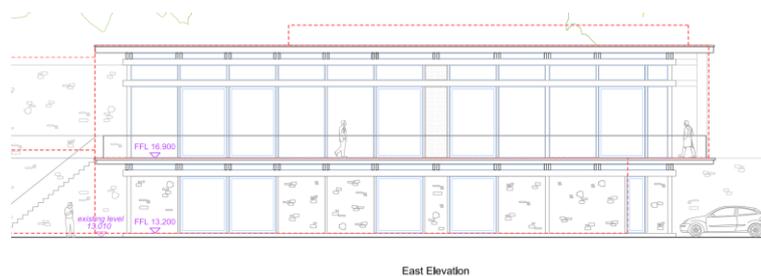
9. A starting point for a consideration of the amended design is the approved scheme under 1411/21/VAR and with the recent appeals on the site (ref: APP/K1128/W/22/3309553 and APP/K1128/W/22/3309554). Both appeal decisions gave significant weight to the fact the site is within the AONB. The decisions for the 3 applications are material considerations in relation to the assessment of the current proposal.
10. Paragraph 176 of the National Planning Policy Framework (the Framework) requires that great weight should be given to conserving or enhancing the natural beauty of the area and that the AONB has the highest status of protection regarding these issues. This protection is carried through in local policy by DEV25 of the JLP. The adopted South Devon AONB Management Plan is also a material planning consideration.
11. The site is also located within a locally designated area of Undeveloped Coast where DEV24 applies. Paragraph 174 of the Framework requires that decisions should contribute to, or enhance, the natural and local environment by protecting or enhancing these valued landscapes.
12. JLP policy DEV25 seeks to ensure that development is designed to conserve, enhance, protect or maintain the special qualities and natural beauty of the unique landscape of the AONB. Further, policy DEV24 seeks to conserve the unspoilt character of the Undeveloped Coast and requires development proposals to be designed to prevent the addition of incongruous features, maintain an area's distinctive sense of place, or reinforce local distinctiveness. Alongside policies DEV24 and DEV25, policies SPT1, DEV10, DEV20, DEV21 and DEV23 of the Local Plan seek to deliver, amongst other things, high-quality sustainable housing that contributes positively to the townscape and landscape. This policy background provides the measures and criteria that the development must meet.

13. The approved variation provides a design that officers assessed as acceptable. The officer's report stated that the linear design provided a building of acceptable proportions which, set with the rising ground behind its scale was acceptable.

14. In design terms the approach taken to break up the massing of the development on the principal elevation was also considered acceptable. At the lower level the use of panel material in the form of natural stone and metal panels gave a solid appearance to the building. The first floor of the east elevation contains large, glazed areas with sliding vertical timber panels attached to the front of the balcony. The balcony projection and overhang above was considered to reduce the impact of the large-glazed area by creating shadow. All the glazing was to be of a low reflective specification. The officer who assessed that case considered that the mix of traditional and contemporary materials and building patterns was well conceived and if built to an appropriate standard this development could enhance this area of the AONB which currently has an untidy, abandoned appearance. The east elevation of the approved scheme is reproduced below.



15. The proposed revisions made to the approved scheme follows in scale, massing and design the approach adopted in the approved variation scheme. There is a commonality between the two with a framed building which, at the lower level has solidity provided by the stonework. At the upper level the framing of the upper floor is split by a purlin running the whole length of the building. The position of the sub division of this part of the elevation has been moved to provide an acceptable division of the glazing at this level. The proportions now sit comfortably with a smaller 'fanlight/clerestory' section between the purlin and the roof.



16. The removal of the sliding vertical panels, which provides relief to the upper floor glazed areas does change the appearance of the upper floor but not to the extent of harming the overall appearance of the building. The solidity to the lower ground floor, helps 'anchor'

the scheme to the site and provides a degree of sophistication to the overall appearance that was lacking in the originally submitted design.

17. The other elevations show greater parity with the approved scheme and officers have less of an issue with the south, west and north elevations although it is considered that the changes on these elevations also diminish the sophistication of the design of the approved scheme.
18. It should be noted that the proposed footprint and massing of the building is slightly reduced over the approved scheme. Most importantly the floor to ceiling heights shown match those of the approved scheme.
19. In design terms, officers consider that the current proposal represents no diminution in design quality from the approved variation and makes the proposed changes acceptable and accords with the principles set out in DEV20. In reaching this conclusion, account has been taken of the earlier appeal decisions relating to a variation of design of the proposed dwelling. In those cases the proposal involved adding an additional floor to the development. Whilst the overall mass of the building did not change much, the additional floor led to a fussy design that was not considered to be acceptable. The inspector's findings related to a consideration of that matter. It does not arise in this case.
20. One matter raised in objections relates to the increased glazing in the dwelling now proposed which would give rise to the potential for light pollution and requirement for increased heating inputs. (I deal with the latter issue later). It is estimated that the area of glazing in the current application increases the glazed areas by about 16% with the biggest change occurring on the west side, that facing the cliff. The changes to glazing areas on the north and south elevations are marginal. There is also a modest change on the east elevation, the principal elevation. Whilst I do not agree with the total calculated, there is an increase in glazed area overall. The question is whether the change is significant. Officer conclude that it is not and that the use of low emissions glass which can be controlled by a suitable condition ensures that it is no worse than the approved development where there is no control on the type of glazing to be used.
21. In landscape terms the similarity of the design between the approved design and the current scheme will not lead to a greater impact on the landscape or the character of the AONB and the changes therefore accord with DEV23, DEV24 and DEV25.

Neighbour Amenity:

22. This matter has been assessed in the previous approved schemes, and considered acceptable. The revised scheme does not raise any concerns regarding neighbour amenity.

Highways/Access:

23. One of the reasons put forward by the Parish Council in objecting to the scheme is the poor access for large vehicles delivering prefabricated material to the site. This applies to all development schemes along this section of coast with narrow road widths and often single lane widths through the nearby villages. However, the road is not width or weight restricted and abnormal loads have to be licensed by the County Highway Authority with set routes to and from the site. The matter is dealt with by them and is not a planning matter.

24. As with the extant consent, a construction management plan is requested via condition and to address the requirements the onus will be on the applicants to explain how the contractors would deal with the restricted access. It will also have to address a range of other issues including measures for the protection of the SSSI which abuts the site on the seaward side and protection to the trees lining the access which overhang the drive.

Structural Issues:

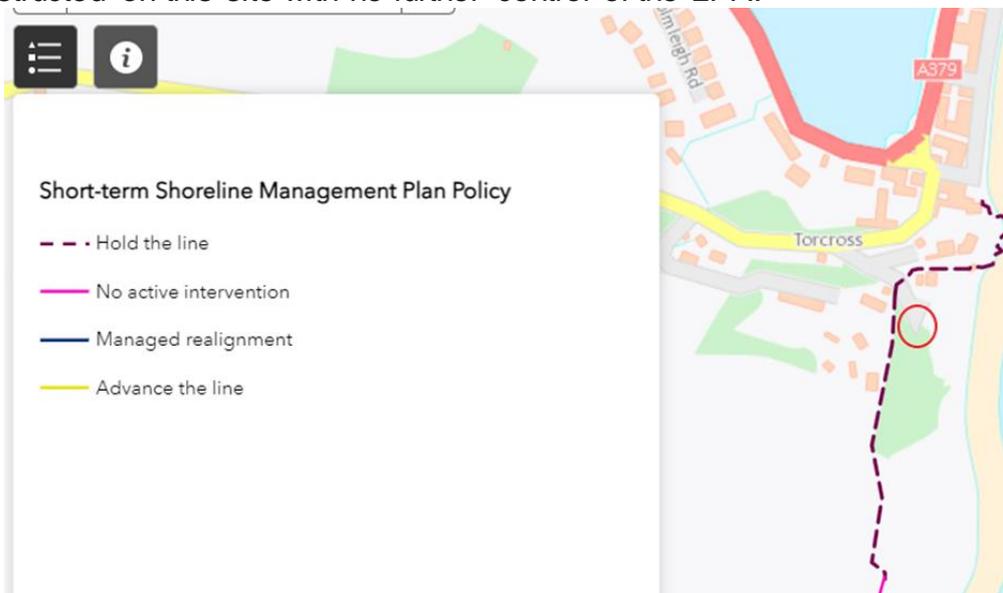
25. The Parish Council had raised the issue of the instability of the cliff and the sea wall below, which was damaged by Storm Emma in 2018. No works are shown to either. The PC indicates that no remedial work had been carried out, either to the damaged wall or to the access from the site to the beach, which they indicate had been badly undermined, leading to the partial collapse of the neighbouring property's wall. The Parish Council also point to increasingly energetic storms had taken their toll on the cliff behind, which was unstable and crumbling at regular intervals. This is a material change in site-specific circumstances since the previous permission was granted and should be a point of reflection for planning officers.

26. The issue of structural stability of the cliff was the subject of a condition in 2011 that stated the, "*The development shall be constructed in accordance with the recommendations conditioned within the geo-technical consulting engineers report BC6986 dated 18 January 2007 contained within consent 53/0136/09/F*". That report was updated in 2015. However that too is now dated and in the event that the current application were to be recommended for approval it would be appropriate for a condition requiring an updated report to be submitted for approval together with details of any stabilisation now required to render the cliff safe. Such a condition would ensure the stability of the cliff during construction. It should be noted that the applicant owns the cliff face up to the line of the coastal path and so can implement works of stabilisation. Members should also note that any works to the cliff, and to flood defences, would require planning permission and in the case of the latter also an MMO license as well as approval from Natural England as consultee for works abutting or within the SSSI. Both issues have been discussed with the Council's principal Civil Engineer who has agreed that this approach is satisfactory and appropriate to deal with these matters.

27. The site falls within the Slapton Lines policy area where coastal erosion is an ongoing issue. A Slapton Line Partnership comprising a number of public and private official bodies was set up and they have produced a 'Strategy for Adaptation' (2019) which is currently in the process of being updated. The strategy document does not cover this site, concentrating on the coast between Torcross and Strete, north of the SW coastal path at Torcross. Coastal management initiative appear to concentrate on this area rather than the protection of this site which Officers understand to be the responsibility of the owner.

28. The sea wall protecting the site has suffered some storm damage. From comments received from residents living nearby this appeared to come from the backwash of waves over the sea wall flowing back to the sea. There is some rock protection below the wall. The construction of the dwelling will create a platform that is part lifted above existing ground level and part cut into the lowest part of the cliff to the rear. Obviously the platform created will to some degree protect the dwelling and the site. However if the lower existing sea wall is compromised then the site could be affected in the medium to long term. This is a planning matter when examining new development but in this case the ability to build out a dwelling here is a major consideration and by granting permission for this variation there are no greater risks arising from the development.

29. Policy DEV36 states that inappropriate development, or any development that could add to the impacts of physical change to the coast, will not be permitted in the Coastal Change Management Area as designated on the Policies Map. The site falls within this designated area and the policy seeks to direct development to a less vulnerable area. DEV36.5 states that if it is a replacement proposal, the gross volume of the replacement building or structure is no larger than the one it is to replace.
30. However, whilst there is no question that a new dwelling here would be contrary to DEV36, the extant permission and the material start made on an earlier consents is a significant material consideration. This application does not make the situation worse and therefore there is no ground of refusal based on DEV36.
31. Within the Coastal Change Management Area a shoreline management plan is operative. This identifies that in the vicinity of the site there is a hold the line policy that lies to the rear of the site. The 'Hold the Line' follows the predicted line of coastal erosion over the next 100 years estimated using a worst case scenario. The shoreline management plan does not currently propose additional coastal protection in this vicinity. However such matters do not influence consideration of the key factor in this case which is that a dwelling can be constructed on this site with no further control of the LPA.



Climate Change

32. Policy DEV32 of the JLP explains that the need to deliver a low carbon future for the plan area should be considered in the design and implementation of all developments. In particular, the policy requires that developments should be considered in relation to the energy hierarchy and identify opportunities to minimise the use of natural resources in the development over its lifetime, such as water, minerals and consumable products, by reuse or recycling of materials in construction, and by making best use of existing buildings and infrastructure. This approach is complemented by the NPPF which indicates that local planning authorities should usually expect new development to comply with any development plan policies on local requirements for decentralised energy supply. In general, this could include for a single dwelling, as a matter of principle, to incorporate such matters as PV panels or heat pumps.

33. It was against the policies of the adopted JPL that the earlier 2021 approval to a variation of the design was approved. There is no indication whether there was any consideration of DEV32 or matters relating to climate change in the officer's report and there were no conditions requiring any details of renewable energy measures to be approved by the LPA. Thus the scheme that has been approved and could be built out could do so without adopting any climate change measures or other proposals to minimise scarce natural resources.
34. Commentary within the adopted SPD with regards to policy DEV32 requires the provision of a supporting energy statement for all major applications. This is not a major application and therefore does not require the submission of details. However the Council does require a Climate Change Compliance form to accompany all applications and one has not been submitted by the applicant.
35. In addition to the policy the Council adopted a Climate Emergency Planning Statement in November 2022. This set out a number of aims and policies that will be given additional consideration and increased emphasis which are summarised briefly below :
- CES01: To deliver development that contributes less to and mitigates the impacts of climate change and adapts to its current and future effects through a range of measures: *This scheme does seek to meet a number of the criteria set out in the policy. Most importantly it does reduce the carbon impacts over the approved scheme through measures incorporating renewable energy sources.*
 - M1 – Onsite renewable energy generation. For major and minor planning applications, adopted JLP policy DEV32.5 will apply in order to secure an equivalent 20% carbon saving through onsite renewable energy generation: No detailed evidence to confirm whether a 20% saving is achieved through the proposed measures. *The only way to calculate the saving in this case is at the detailed working drawing stage to calculate the energy consumption of the approved development and compare it with the proposed energy consumption with the renewable sources of power in place. As there are no measures required on the previous approval officers consider that the saving will be more than 20% but that a condition requiring a detailed calculation of the Target Emissions Rate based on the renewable sources of power to be installed would be appropriate.*
 - M2 – Energy storage: *Details of this can be controlled in an overall condition requiring detailed of the solar panels and ASHP or water based Heat Pump*
 - M3 – Low and zero carbon space and water heating systems: *Confirmed*
 - M4 – Resilient and low carbon building materials: *Confirmed in part although concrete foundations and retaining structures will be required. These are already present on the approved scheme*
 - M5- Not relevant
 - M6 – Electric Vehicle Charging Points: *Confirmed*
 - M7 – Active and Sustainable Travel: *This is not possible to achieve in this case However it should be remembered that the original approval was for a replacement dwelling*
36. This application is accompanied by a DEV32 compliance statement which states that the building will incorporate Solar PV and Thermal panels. In addition an air source or possibly water source (from the sea) heat pump. It is intended that the property would be installed with at least one or possibly two electric vehicle charging points immediately. It meets the requirements of DEV32 and the supplementary guidance and also meets many of the requirements of the Climate Emergency Planning Statement.

37. On one final point, it is noted that the current proposal intends the use of triple glazing which will ensure greater heat retention in the building than the approved development.
38. Given the lack of any conditions relating to this matter on the previous approvals and on the schemes that could be built out I have to conclude that the current scheme offers significant improvements over them and therefore they comply with policy requirements.

Other Matters:

39. None relevant to a consideration of this case

Planning Balance

40. The NPPF, at paragraph 12, states that the starting point for decision-making is the development plan. It goes on to state that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
41. I think that it would be universally accepted that a new dwelling on an undeveloped site in this location would, as a matter of principle, today be refused as being contrary to policies SPT1, SPT2, TTV1, TTV26, DEV1, DEV2, DEV25 and DEV36. Policy TTV29 does provide for a replacement dwelling provided that it is not substantially larger than the dwelling it replaces. The development proposed is, almost certainly, much larger than the original and again as a matter of principle is contrary to the policy.
42. However, there are significant factors that are material to take into account. The first is that the principle of a dwelling on this site has been clearly set by the previous planning permissions and the fact that the development has been implemented. I attach very great weight to this in the planning balance.
43. I also give very great weight to the ability of the applicant to construct the dwelling approved under 1411/21/VAR in the style and appearance of the dwelling now under consideration. In design terms the development has no lesser merit in architectural terms than the approved scheme. It therefore accords with DEV20 of the JLP.
44. I give significant weight to the inclusion of renewable energy features that accord with DEV32 and a number of the policies in the Council's Climate Emergency Planning Policy and also to the likely carbon emissions reduction over the approved development that is capable of implementation.
45. I conclude that although the development conflicts with a number of adopted policies its accordance with DEV20 and the weight given to material considerations is sufficient to outweigh any policy contraventions and I therefore recommend approval of the application.

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 14th January 2022 the Department for Levelling Up, Housing and Communities 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 5.97 years at end of March 2022 (the 2022 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2022 (published 19th December 2022).

[*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
SPT3 Provision for new homes
SPT9 Strategic principles for transport planning and strategy
SPT10 Balanced transport strategy for growth and healthy and sustainable communities
SPT12 Strategic approach to the natural environment
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV25 Development in the Sustainable Villages
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
DEV32 Delivering low carbon development

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 & South West Devon Joint Local Plan SPD
- South Devon AONB Management Plan
- Plymouth and South West Devon Climate Emergency Planning Statement

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.

Proposed Conditions

1. The development hereby approved shall in all respects accord strictly with drawing number(s):

TCGT-LAY-11-E rev E

TCGT-LAY-12-F rev F

TCGT-LAY-10-C rev C

TCGT-LAY-15-G rev G

TCGT-LAY-14-G rev G

TCGT-LAY-17-G rev G

TCGT-LAY-16-G rev G

TCGT-LAY-16-G rev G

Received by the Local Planning Authority on 23rd August 2023 and

TCGT-LAY-10-C rev C received on 11th August 2023 and

1501-PL-00 – Existing site, location and block plans and 1501-PL-01 - Proposed landscape strategy and block plan approved under 1411/21/VAR

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates and ensure the development accords with DEV20 of the Plymouth and South West Devon Joint Local Plan.

2. Prior to the commencement of further works on site details of an update to the Geotechnical and Geo-environmental Desk Study Report (Red Rock Geoscience Ltd, July 2015) as received in relation to planning permission reference 53/2267/15/F shall be submitted to the Local Planning Authority for approval and thereafter works carried out in accordance with recommendations in the report. Any works of stabilisation arising from the recommendations of the report will require a separate planning permission.

Reason: To ensure a satisfactory form of development and in the interests of public health, and where the document cited is now dated and requires updating to account for more recent storm events and consistency with the development now permitted in accordance with DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan

3. The stonework to be used in the development shall accord with those details previously approved under application reference 0693/21/ARC. The new stonework shall be laid on its natural bed and pointed in a mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used in the wall or for quoin stones.

Reason: To ensure that the development displays good design practice and to ensure that a high quality development is maintained and in accordance with DEV20 of the Plymouth and South West Devon Joint Local Plan

4. Details of triple glazing shall be submitted to the Local Planning Authority for approval prior to its installation. Such details shall investigate the use of a combination of low reflective glazing (in accordance with those details previously approved under application reference 0693/21/ARC) and also low e glazing to reduce heat loss. Such details as may be approved shall then be installed in accordance with the approved details and under no circumstances shall it cause light pollution nor shall external illumination be operated on the site other than in accordance with the approved scheme.

Reason: To prevent excessive glare and heat loss from the windows, in the interests of amenity, nature conservation and carbon emissions reduction in accordance with DEV23, DEV24, DEV25 and DEV32 of the Plymouth and South West Devon Joint Local Plan

5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-

(a) Part 1, Class A (extensions and alterations)

(b) Part 1, Classes B and C (roof addition or alteration)

(c) Part 1, Class D (porch)

(d) Part 1, Class E (a) swimming pools and buildings incidental to the enjoyment of the dwelling house and; (b) container used for domestic heating purposes/oil or liquid petroleum gas)

(e) Part 1, Class F (hard surfaces)

(f) Part 1, Class G (chimney, flue or soil and vent pipe)

(g) Part 40, Class A & B (Installation of domestic Microgeneration Equipment)

(h) Part 1, (h) Including those classes described in Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (and any Order revoking and re-enacting this Order).

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality in accordance with DEV20, DEV24 and DEV25 of the Plymouth and South West Devon Joint Local Plan

6. No further development shall take place until a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the site; details of biodiversity enhancements on the site; details of any trees / vegetation to be retained, together with measures for their protection in the course of development has been submitted to and approved by the Local Planning Authority. The landscaping scheme shall include a specification of works for the repair of the existing sea defences within the site and timetable for the completion of such, to be carried out prior to first occupation of the new dwelling.

All planting, seeding, turfing or hard-surfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of the buildings or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.

Reason: To ensure the provision of an appropriate landscaping scheme the interests of the visual amenities of the locality and to assimilate the development into its surroundings in

accordance with DEV20, DEV23, DEV24 and DEV25 of the Plymouth and South West Devon Joint Local Plan

7. No further development within the site shall take place until a revised Reptile Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Mitigation Strategy shall accord with the recommendations set out in the Statement by George Bemment Associates dated 5 September 2015 submitted in association with planning permission reference 53/2267/15/F. Development shall take place in accordance with the agreed Reptile Mitigation Strategy.

Reason: In the interests of wildlife conservation and DEV26 of the Plymouth and South West Devon Joint Local Plan

8. The parking and manoeuvring area hereby approved shall be provided in accordance with the approved plans prior to the first occupation of the dwelling and thereafter retained solely for the parking and movement of motor vehicles only and shall be retained as such.

Reason: To ensure there is adequate parking and turning within the site in the interests of amenity in accordance with DEV29 of the Plymouth and South West Devon Joint Local Plan

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

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

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately in accordance with DEV2 of the Plymouth and South West Devon Joint Local Plan

10. Prior to occupation of the dwelling hereby approved a privacy screen shall be erected on the northern end of the first floor east facing balcony and along the northern side of the roof terrace, in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the neighbouring property in accordance with DEV1 of the Plymouth and South West Devon Joint Local Plan

11. No further development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority and shall include the following:

- (a) The timetable of the works;
- (b) Daily hours of construction which shall not exceed between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and at no time on Sundays and Bank/Public Holidays or during the Easter and Summer Devon School Holidays.
- (c) Any road closure;

- (d) Hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays or during the Easter and Summer Devon School Holidays.
- (e) The number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) The compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) Areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) Hours during which no construction traffic will be present at the site;
- (i) The means of enclosure of the site during construction works; and (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site (k) details of wheel washing facilities which shall then be provided in accordance with the agreed details
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

Reason: In the interests of highway safety, residential amenity, wildlife conservation and tree protection and in accordance with DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan

12. Prior to the commencement of development details and locations for the air source heat pump, battery storage and solar/pv panels shall be first approved by the Local Planning Authority and thereafter installed in accordance with the approved details. The solar /pv panels to be submitted for approval shall use low reflective glazing and on being life expired shall be replaced with newer products of a similar or better specification.

Reason: In order to reduce the carbon emissions arising from the development in accordance with DEV32 of the Plymouth and South West Devon Joint Local Plan and the South Hams Climate Emergency Planning Policy.

13. Details of any external lighting (including security lighting) to be erected, placed, or sited within the site shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The work shall thereafter be carried out in accordance with the approved details and under no circumstances shall it cause light pollution nor shall external illumination be operated on the site other than in accordance with the approved scheme.

Reason: In the interests of the amenities of the occupiers of neighbouring residential properties and to protect the area for excessive light pollution in accordance with policy DEV2 of the Plymouth and South West Devon Joint Local Plan