

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart

Parish: Kingsbridge **Ward:** Kingsbridge

Application No: 2030/23/CLP

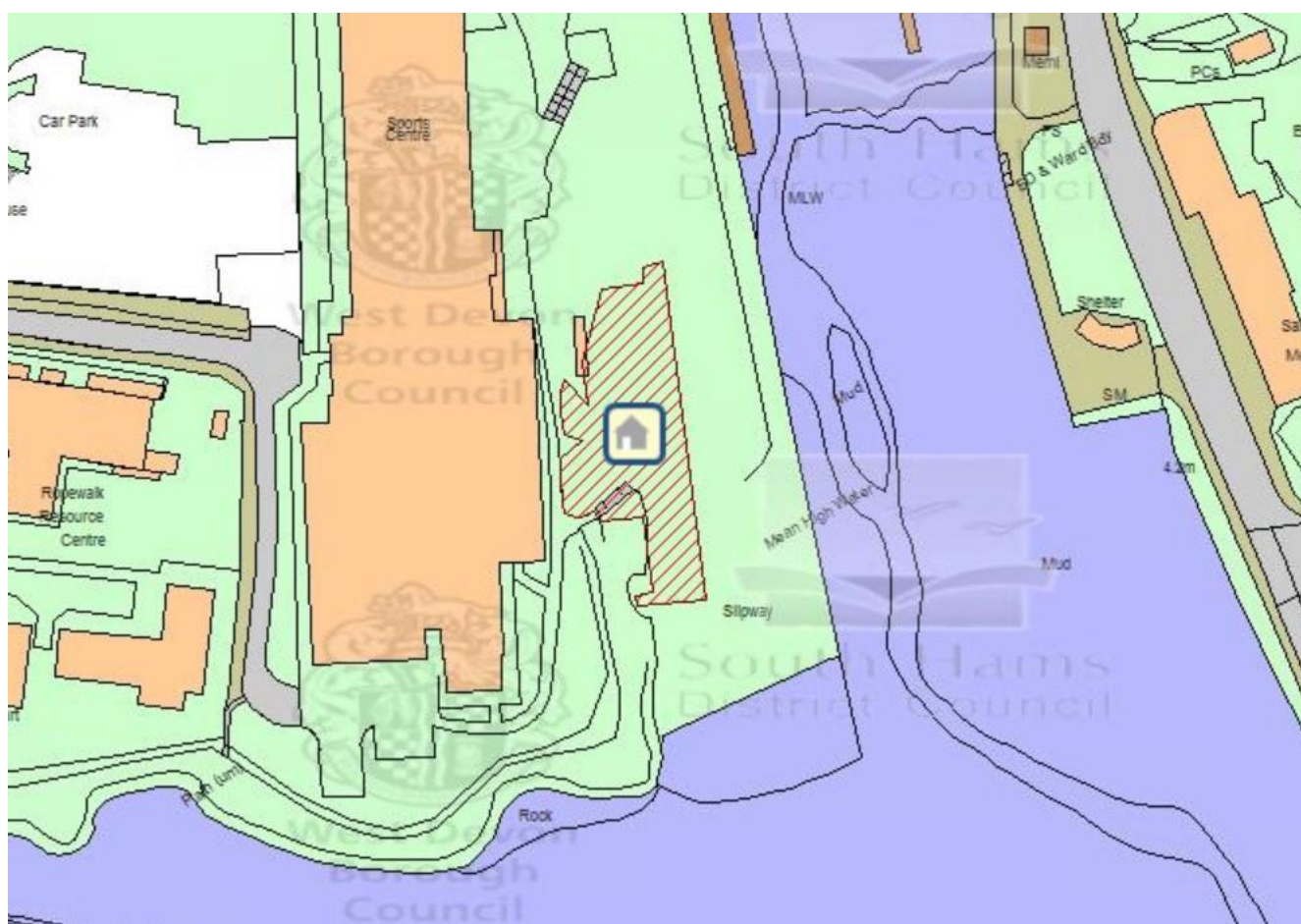
Agent/Applicant:

Mr Rob Sekula - South Hams District Council
Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE

Applicant:

Mr Rob Sekula - South Hams District Council
Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE

Site Address: Skate Park, The Quay Car Park, Kingsbridge



Development: Certificate for lawfulness for proposed removal of existing skate ramps, features and fencing, extension of skatepark footprint and construction of new sprayed concrete skatepark

Reason item is being put before Committee

SHDC is the Applicant and Landowner

Recommendation: Certificate of Lawfulness (Proposed) Certified

Key issues for consideration:

Whether or not the proposed development complies with Schedule 2, Part 12, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore permitted development.

Site Description:

The site is located within Kingsbridge at the southern end of the Square's Quay Car Park, close to a tree embankment that rises to the Leisure Centre complex immediately to the west. It benefits from an existing lawful use as a skate park, developed in 2010 following the grant of planning permission 28/0803/09/F.

The existing skate park comprises four ramps within a fenced enclosure. A public right of way runs to the west of the existing enclosure.

The Proposal:

The application seeks the issue of a lawful development certificate to certify that a proposed development can be carried out without planning permission (ie. it benefits from deemed permission by virtue of Schedule 2, Part 12, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Part 12 relates to development by local authorities.

The proposal would involve the removal of existing skate ramp features and fencing, extension to the existing footprint of the skate park and new ramps. The maximum height of the development would not exceed 4m and it would not exceed 200 cubic metres in volume.

The proposal would require the diversion of the adjacent public right of way, and result in the loss of up to 15 car parking spaces.

Consultations:

No consultations required for this type of application.

Relevant Planning History

- 28/0803/09/F READVERTISEMENT. Construction of a permanent skate park.
Conditional Approval: 04 Sep 09

ANALYSIS

1. Principle of Development

- 1.1 The Council is required to determine whether the proposed works constitute permitted development under Schedule 2, Part 12, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

1.2 The above allows for the following as permitted development:

*“A. The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of—
(a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;
(b) lamp standards, information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of people waiting to enter public service vehicles, electric vehicle charging points and any associated infrastructure, and similar structures or works required in connection with the operation of any public service administered by them.”*

1.3 The following interpretation within the Order is also of relevance:

“A.2 The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.”

1.4 Based on the submitted plans the proposal would be development permitted under Part 12 and would not exceed the thresholds. No Article 4 directions (which can remove permitted development rights) have been identified.

2. Other Matters

2.1 The proposal would require a public right of way diversion - Footpath diversions are considered under Section 257 of the Town and Country Planning Act 1990. The footpath diversion process is dealt with by the District Council but separately from the development management process.

The applicant will be required to apply to the District Council to divert the footpath, and will need to have confirmation that it can divert the path under s257 before the development commences. Granting of a lawful development certificate does not automatically mean that a footpath diversion application will be successful.

2.2 The application form states the proposal would require the loss of up to 15 parking spaces – this is not a material consideration for the determination of this lawful development certificate application, which is required to be assessed against the GPDO only.

3. Conclusion

3.1 Based on the information submitted, the proposal is considered to be permitted development under Schedule 2, Part 12, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The development can therefore proceed without further reference to the Council as Local Planning Authority.

This application has been considered in accordance with Section 192 of the Town and Country Planning Act 1990 (as amended).

Planning Policy

The application requires a legal determination of whether the proposed development is permitted development. It is therefore not necessary to consider the planning merits of the application.

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.