

## **GERSTON POINT**

**Planning Application Ref:** **0042/19/FUL**

**Description:** **Retrospective application for change of use of land to domestic use with carport and storage building**

**Address:** **Gerston Point, West Alvington, South Devon TQ7 3BA**

### **Summary of an investigation made by West Alvington Parish Council in order to reach their decision on this application.**

Following the decision taken at its meeting on 7<sup>th</sup> March 2019, West Alvington Parish Council wishes to record its objection to this application.

This unapproved development, involving substantial disruption to the natural environment on farm land adjacent to a Site of Special Scientific Interest (SSSI), in order to build a large two storey 'carport and storage' building, a full sized tennis court and concrete skate park for the enjoyment of one family with no community benefit, is found to be disproportionate and unjustifiable.

Not only have the applicants failed to abide by planning laws, failed to mitigate the impact of what has been built and failed to give permission for a site visit by the local Planning Authority (the Parish Council). By their actions they have obstructed the law and made it impossible for the necessary ecological surveys and site inspections (e.g. for wildlife impact, drainage etc.) to take place to protect this highly sensitive area.

Based on the evidence to hand, West Alvington Parish Council finds that this development has already caused an unacceptable level of harm to the South Hams Area of Outstanding Beauty (AONB); the reasons are outlined below. The inappropriate over-development of the site, now that it contains the three unauthorised new structures, is clear from the limited amount of unbuilt space remaining. Owing to the over-sized 'carport and storage' building, with its eye-catching, solar panel clad roof and its position in the lower part of a bowl shaped estuary, it will be very difficult if not impossible to screen this eyesore from public view from roads and pathways in the surrounding hills.

West Alvington Parish Council finds no merits in what has been built without permission on this unique and iconic landscape which is protected in law. We find no evidence of actions by the applicant to mitigate the impact of the development even though such actions were possible. Further, we find that the Retrospective planning application recently submitted is flawed and misleading. The overall impression is that the owners have no respect for either the landscape in which they are privileged to live or the law.

It is therefore felt to be undesirable that this illegal development be allowed to remain as it would set a dangerous and unmerited precedent. The area should be returned to its prior state and the appropriate legal sanctions imposed. The Parish Council urges South Hams District Council (SHDC) to take the enforcement action which should have taken place in 2016 when construction began.

## **BACKGROUND TO THE APPLICATION**

1. The main dwelling was fairly recently constructed, starting in 2012, as per conditional planning approval (eventually granted by one vote in the SHDC Planning Committee after modifications) under ref: 59/1912/11/F. The plans for the new dwelling were contentious because of its large size within a comparatively small site previously occupied by a small, cedar clad bungalow. The land was previously conserved by its then owner, the well-known Naturalist, Tony Soper.
2. For the initial application to build the residential dwelling to be approved the applicants were instructed to scale down its footprint. Specifically, a separate carport was disallowed, which led to a carport being incorporated into the construction of the new dwelling.
3. It would seem likely that the owners, having not achieved their aims with the first planning application, waited until the new residence was complete and then went ahead regardless having acquired a further strip of land (land registry ref: DN657445). According to the retrospective application, work began in January 2016 to build the additional large carport and storage facility, with tarmacced access and apron, plus tennis court and skateboard park on agricultural land. The works were completed around June 2016.
4. In the signed Section 106 agreement between SHDC and the landowners dated 20<sup>th</sup> February 2012 relating to the construction of the residential dwelling, the applicants agreed:
  - To undertake 'an updated ecological survey' before the commencement of any works
  - To submit and have approved 'a scheme detailing all landscaping and habitat and species management on the Land and access track'
  - To not clear 'scrub, bramble patches, hedges rough grassland or other habitat ... between the period of 1 April to 30 September (inclusive) in any year' .. Etc.
5. Specific commitments to avoid damage to the SSSI were also included in the S. 106 agreement. Among the listed 'Operations likely to damage the Special Interest of the Salcombe to Kingsbridge Estuary SSSI' were activities evident in the current unapproved development are:
  - 13a. Drainage (including the use of mole, tile, tunnel or other artificial drains).
  - 21. Construction, removal or destruction of roads, tracks, walls fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground.
  - 22. Storage of materials.
  - 23. Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling.
  - 27. Recreational or other activities likely to damage features of interest.
6. In view of the above, the applicants cannot reasonably say they were unaware of either the need to obtain planning permission to carry out any works on this highly sensitive site, or the obligation to undertake environmental and ecological surveys. Worse, they have knowingly engaged in at least five activities identified as specifically damaging to the SSSI.
7. The Parish Council is aware that a complaint was made to SHDC in 2016 about this development. However, it does not appear that enforcement action was taken. The applicant was apparently

allowed to continue constructing the building unhindered and it has taken until now for a planning application to be made.

## LOCATION

8. The application site lies in a highly sensitive area of the South Hams in an isolated location within rolling unspoilt countryside on a slope leading to the iconic Salcombe-Kingsbridge estuary shoreline. A private stone track runs along the northern edge of the adjoining field and forms the only vehicular access to the property.
9. The site lies at the corner of a sloping field running down to the western shore of the estuary. It is on a promontory of mainly undeveloped agricultural land that juts out into the waters. The site itself is rural in character and lies on part of what was an agricultural field.
10. Interestingly, and perhaps significantly, the application site at Gerston Point is depicted right in the centre of a photograph of Kingsbridge Estuary on page 16 of the Planning Guidance book for the South Devon AONB above the heading ‘Defining Natural Beauty in the South Devon AONB’. This is clearly a highly important site from a number of perspectives.

## GERSTON POINT’S UNIQUE CHARACTER AND MULTIPLE SPECIAL DESIGNATIONS

11. Gerston Point is situated within an SSSI, Local Nature Reserve, Devon Undeveloped/Heritage Coast and the Coastal Preservation area of the South Devon Area of Outstanding Natural Beauty (AONB). According to the latter:

‘The site - the Salcombe Harbour – Kingsbridge Estuary lies on the south coast of Devon. It is a ria-type estuary with seven main creeks through relatively steep-sided valleys. The inlet is sheltered from the open sea by a submerged sand bar at the entrance. The lower estuary is characterised by rocky shores and sandy bays while the upper reaches are predominantly intertidal mudflat. .. The entire inlet is a marine Site of Special Scientific Interest for its rich diversity of marine habitats and communities and lies within the South Devon Heritage Coast and AONB. Much of the inlet is a Local Nature Reserve and the adjacent coastal Special Area of Conservation and Marine Conservation Zone both extend into the inlet. It is an important feeding ground for over-wintering and passage wildfowl and waders. The inlet has a very long history of study, survey and sampling by the local Marine Biological Association and others’.<sup>1</sup>

12. According to Devon County Council’s own planning policies in relation to the Salcombe Kingsbridge Estuary, the area is ‘.. recognised for its high scenic quality; the coast is also designated Heritage Coast [which contains] Views across and up and down and across the estuary where the juxtaposition of water and land can be appreciated are distinctive [and a] Strong sense of place derived from open water and steep sided hanging woodlands, rounded slopes and dominant maritime influences.’<sup>2</sup>

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<sup>1</sup> <http://www.southdevonaonb.org.uk/coast-countryside/estuaries/salcombe-kingsbridge-estuary>

<sup>2</sup> See Under Special Qualities and Features at : <https://new.devon.gov.uk/planning/planning-policies/landscape/devon-character-areas/south-hams-area/salcombe-to-kingsbridge-estuary>

13. The site is immediately adjacent to an area defined as being a Site of Special Scientific Interest (SSSI) – the estuary - and therefore under the management of Natural England. It is also covered by the South Devon AONB's Estuaries Management Plan, 2016 - 24<sup>3</sup>. According to Devon County Council, it is part of – ‘... Internationally-important maritime and intertidal habitats including the Salcombe and Kingsbridge Estuary SSSI and extensive areas of CWS [County Wildlife Sites] including mixed farmland with bird interest’<sup>4</sup>.

## ACCESS TO THE DEVELOPMENT SITE AND VISUAL INSPECTION

14. The applicant's Agent was asked to allow Parish Councillors facilities for inspection of the site to assist their assessment of what has been built on it without permission. By 22<sup>nd</sup> February 2019, no such approval had been forthcoming. The Parish Council therefore made an inspection from the adjoining field and access track having obtained permission from the field owner for access.
15. Visual inspection from outside the site is all that has been possible. From the neighbouring farmer's field, a large two (or three?) storey building is visible, with a pitched roof constructed of material with a white finish and, on its southern face, a large array of solar voltaic panels which serve to increase the roof's visual prominence. Next to this building is a tennis court and full size skate board park. The overall impression is of a leisure facility which might support tourist accommodation or similar. The roof line of the so called 'carport and storage' building is significantly higher than that of the nearby dwelling to which it is supposed to be ancillary.
16. The ground floor ceiling height of the new building would appear to be around 2.6m, giving an overall building height of around 5.5m and an estimated footprint of around 365m<sup>2</sup>. The southern slope of the roof extends well beyond its south-facing wall, presumably to accommodate the many solar panels fixed on it. No precise measurements are provided in the plans and what has been built should be checked to see whether it accords with the plans.
17. The new building has a height sufficient for substantially larger vehicles than of a normal residential type. The whole Gerston Point site now contains little unbuilt land, making it even more difficult to believe that additional space would be needed for large grass mowers or other maintenance vehicles. There is a large area of what appears to be tarmac outside the building on an apron providing access to it – please refer to first photo in the applicant's Design & Access Statement. In itself, such hard surfacing is a breach of the 2012 S. 106 agreement.

## PLANNING CONSIDERATIONS

### Damage to the AONB

18. The many special designations applicable to Gerston Point, described above, carry significant weight when considering development proposals. Sited as it is within the South Hams AONB, revised NPPF (2018) policy paragraph 172 relating to protected landscapes is applicable. This urges planning authorities to give – 'great weight to conserving and enhancing landscape and

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<sup>3</sup> Available online via: <http://www.southdevonaonb.org.uk/coast-countryside/estuaries/salcombe-kingsbridge-estuary>

<sup>4</sup> See: <https://new.devon.gov.uk/planning/planning-policies/landscape/devon-character-areas/south-hams-area/salcombe-to-kingsbridge-estuary>

scenic beauty of Areas of Outstanding Natural Beauty'. As such, any development in Gerston Point should conform to the guidance provided in the current AONB Management Plan<sup>5</sup> and AONB Planning Guidance<sup>6</sup>.

19. Relevant landscape character policies of the AONB Management Plan include:
  - Maintaining and enhancing the levels of tranquillity to further ensure this special quality is not further devalued, Policy Lan/P4;
  - The importance of the existing skyline and need to protect this against the visual intrusion of insensitive buildings and infrastructure, Lan/P5;
  - Protecting long uninterrupted views of the open undeveloped seascape, Lan/P6;
  - Help maintain the rural quality and character and the overall setting of the AONB Lan/P7.
20. AONB Planning Guidance, under Section 8.1, Coastal and Estuarine Development, paragraph 172 states that: 'South Devon's fine undeveloped coastline and open seascapes are defining features of the AONB. The qualities of wildness, natural scenery, tranquillity, and iconic wide unspoilt and expansive panoramic views are fundamental to the character of the area'<sup>7</sup>.
21. Specifically, the guidance states that: 'Proposals for development located at the coast, near-shore marine, estuary shorelines and waters that have the potential to harm the AONB include:
  - ... Developments that diminish the extent of undeveloped coast or intrude into open coastal views, including views from coastal and estuary waters;
  - Developments that intrude into remote, tranquil and undeveloped estuary areas and contribute to the cumulative impact of loss and disturbance to habitats and wildlife;
  - Developments which increase loadings of run-off and nutrients into estuary, or coastal waters'<sup>8</sup> ...
22. The South Hams Local Development Framework (LDF) 2010<sup>9</sup> states under DP2 that – 'Development proposals will need to demonstrate how they conserve and/or enhance the South Hams landscape character .... by ...
  - (b) Ensuring its location, siting, layout, scale and design conserves and/or enhances what is special and locally distinctive about the landscape character ...
  - (d) Avoiding unsympathetic intrusions into the wider landscape, such as ..... views from public vantage points ...

#### **General visibility of the site and its detrimental visual impact**

23. In terms of geography, the iconic and protected Salcombe-Kingsbridge Estuary, with its surrounding hills and slopes down to the water, acts much like a bowl. Within this setting the

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<sup>5</sup> South Devon AONB Management Plan 2014-2019. Available at: <http://www.southdevonaonb.org.uk/about-the-aonb/looking-after-the-aonb/aonb-management-plan>

<sup>6</sup> Planning for the South Devon AONB, Planning Guidance 2017. Available via: <http://www.southdevonaonb.org.uk/our-work/responding-to-planning/south-devon-aonb-planning-guidance-consultation>

<sup>7</sup> See page 90 of the AONB Planning Guidance, available online at: [http://www.southdevonaonb.org.uk/uploads/files/AONB\\_Planning\\_Guidance\\_version\\_1.pdf](http://www.southdevonaonb.org.uk/uploads/files/AONB_Planning_Guidance_version_1.pdf)

<sup>8</sup> Ibid. Page 91

<sup>9</sup> See page 15. The LDF is available online via: <https://www.southhams.gov.uk/article/3868/Local-Development-Framework>

application site, whilst not being generally *accessible* to the public is nevertheless very much *visible* from the surrounding hills and roads at its higher edges. The area is home to some of the most beautiful and valued views in the South Devon AONB.

24. The application states that the site is not visible from a public road, public footpath, bridleway or other public land. This is a highly questionable statement. Although the site is not visible from any nearby public roads or footpaths (the site is accessed over a private track across the edge of an agricultural field) and views of it from the estuary are somewhat restricted to the east, by the new dwelling and nearby trees, the same is not true for views from other directions.
25. To be clear, the unapproved development is clearly visible from public places, both roads and foot paths, around the area of the Estuary to the north and west and south. Due to time constraints, it has not been possible to see whether the development is also visible to those sailing on the estuary but this is also quite possible.
26. The fact that a solar panels cover the new building's southern roof slope, together with its white painted northern roof slope, significantly increases its intrusion into the natural landscape from all viewpoints. As evidence, photos have been taken from some of these publicly accessible points – please refer to the attached Annex.
27. The applicant does not own the adjoining agricultural land and therefore cannot guarantee that the public might not in future be granted access to a path running around this beautiful stretch of the Salcombe-Kingsbridge estuary. An example of this is the public path which has been created on nearby Snapes Point. Indeed one of the main aims of Natural England's Coastal Access scheme<sup>10</sup> is to – 'improve public access to, and enjoyment of, the English coastline by creating clear and consistent public rights along the English coast for open-air recreation on foot'. So expanded future public access to the area is a realistic prospect.
28. The supposedly ancillary building at Gerston Point has been constructed on rising ground to the west of the dwelling and the roof line is significantly higher. Had planning permission been sought in the normal way, at least two important mitigation measures could have been used. The first is that there could have been a requirement for the building to be constructed in an excavated area in order to reduce the roof ridge height and hence its visual impact on the AONB. The second is that a Section 106 condition could have been imposed – as was with the approval of the initial dwelling - requiring an enhancement of the natural screening provided by existing trees and hedges to limit the development's visibility.

### **Impact on Devon's Undeveloped Coast**

29. The Devon Landscape Policy Group (DLPG) sets out a series of principles to help maintain the character of Devon's Undeveloped Coast (DUC), of which Gerston Point forms part. They state that the DUC should be treated as a designation and be defined on policy maps within Local, Neighbourhood and Neighbourhood Development Plans.
30. In the applicant's Design and Access Statement, it is stated that – 'For the owners, to live in this location is an extension to this large family's passion for outdoor activities and sports devoting

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<sup>10</sup> See: <http://publications.naturalengland.org.uk/publication/5327964912746496?category=50007>

time for making use of the surrounding estuary and its rural location'. By striking contrast, DLPG guidance states that Devon's Undeveloped Coast<sup>11</sup> – '... should be regarded as a finite resource for the enjoyment of everyone now and in the future.' [italics added]

31. Further, the DLPG guidance states that – 'Local, Neighbourhood and Marine Plans should therefore include strongly-worded planning policies that establish a presumption against development within or affecting Devon's Undeveloped Coast unless it can be successfully demonstrated that it satisfies all of the following criteria:

- Maintain the intrinsic character of the landscapes affected;
- Protect and enhance valued landscapes affected, giving great weight to conserving landscape and scenic beauty in National Parks, AONBs and Devon's Heritage Coasts;
- Cannot be accommodated reasonably outside the undeveloped coast; and
- Take opportunities available, where reasonable, for improving public access to and enjoyment of the coast.'

### **Damage to the SSSI**

32. In relation to the SSSI, another highly relevant South Devon LDF (2010) policy is DP5<sup>12</sup>: Biodiversity and Geological Conservation, which states that -  
*'1. Development will conserve, enhance and/or restore the biodiversity within the South Hams ...*
2. Where development is likely to have an adverse effect on a Site of Special Scientific Interest (SSSI), as shown on the Proposals Map, planning permission will not be granted.  
*An exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts on the site that make it of special scientific interest and any broader impacts on the wider network of SSSIs.* [italics added]
3. Development likely to have an adverse effect on the nature conservation or geological interest within Strategic Nature Areas, National Nature Reserves, County Wildlife Sites, County Geological Sites, Ancient Woodland or sites/features identified as having similar substantive interest, including veteran trees, will not be permitted, *unless the benefits of the development clearly outweigh the identified biodiversity or geological value of the site/feature.*' [ditto].

### **Water run-off and drainage**

33. This is an area of significant concern as the application plan shows drainage from the large 'carport' building discharging into the estuary/SSSI. Given the size of the new building and the sports facilities recently constructed next to it, it seems possible (likely?) that a washing or toilet facility has been included in the building. If not already included, such facilities could well be added in the future. It is important to know whether the building does contain such facilities and, if so, how drainage and/or foul water are being handled.

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<sup>11</sup> DPLG Advice Note No. 3: Principles of defining and maintaining the character of Devon's Undeveloped Coast. Available online at: <http://www.devon.gov.uk/landscape-policy-guidance>

<sup>12</sup> Ibid, page 24

34. SHDC's Drainage Guidance<sup>13</sup> acknowledges that size of a development, proximity to a watercourse and insufficient space for a soakaway are factors which increase risk. The retrospective application is unclear on this. Also, as the unapproved development falls outside the residential curtilage of the property, it is not clear to the Parish Council which drainage guidance would apply.
35. In terms of water run-off, a number of issues need to be addressed. It is important to know whether the surface of the tennis court is porous or not. Also, the sizeable parking apron and access area to the new building appear to be made of tarmac rather than a porous surface. If so, this means that the surface water could well become contaminated by oil and other vehicle or diesel particulates which could well find their way into the waters of the SSI. No details are included in the application of the steps taken to prevent this happening.
36. It is also important to know how water run-off is being dealt with for the (apparently) concrete skate park. Concrete structures need to be cleaned regularly to prevent the build-up of algae and moss, which raises the question of which chemicals (if any) are being used and where the grey water runs off to. Given the natural slope of the land from the unapproved site down to the estuary, it seems highly likely that at least some if not all water run-off from the whole site will be discharged into the SSSI. This is a matter which needs urgent investigation.
37. The Parish Council is aware that it is an offence for any public body to approve a planning application for construction likely to affect an SSSI without evidence that the proposal has been first submitted to and approved by Natural England, the body responsible for the management of SSSIs within England<sup>14</sup>. West Alvington Parish Council has therefore requested Natural England's advice in writing.

#### **Potential increased use of the informal access road**

38. In addition to the above, the presence of an outsized building with huge storage capacity could lead to an undesirable intensification of the number and size of vehicles travelling along the rough track which leads to the site. The track is itself highly visible, and so would any vehicles be, to members of the public boating or sailing on the Estuary and also those using the cycle track, footpath and travelling on the main A381 Road.
39. Any increased use of the rural access track across the field would be detrimental; first, to the isolated and essentially rural character of the site and, second, to the wildlife within the nearby Nature Reserve and SSSI.

#### **OVERALL PLANNING CONCERNS**

40. West Alvington Parish Council considers that the extensive unauthorised development at Gerston Point has caused harm to the AONB and SSSI in relation to:
- The negative visual impact caused by an unnecessarily large and visually prominent development constructed

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<sup>13</sup> See: <https://www.southhams.gov.uk/article/4224/Drainage-Guidance>

<sup>14</sup> See: <https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>

- Potential damage – yet to be assessed - through the lack of legally required ecological surveys and environmental checks (see below under Wildlife Trigger report)
- In relation to the SSSI, the evidence points to a lack of site-appropriate drainage and water run-off arrangements
- In addition, the hard surfacing of parts of the lower part of the access track as well as the evidence of other SSSI violations clearly point to a detrimental impact on the SSSI
- There is also concern about the overall lack of mitigation for this unapproved development.

### **Lack of mitigating measures**

41. It is noticeable that the retrospective application contains no information about avoidance, mitigation or enhancement actions, which the applicants are obliged to undertake.
42. In relation to the specific landscape qualities of the Salcombe-Kingsbridge Estuary, Devon County Council planning policies include the following guidance<sup>15</sup> -  
Under ‘Forces for Change and Their Landscape Implications’:  
‘... Growth of main settlements (Kingsbridge and Salcombe) onto higher land, becoming more visually prominent from surrounding landscape and from the water ... Conversion of traditional agricultural buildings and *attached land for domestic and leisure uses with associated unsympathetic boundary and surfacing treatments.*’ [italics added]
43. A ‘future force for change’ – precisely as seen at Gerston Point - is identified as ‘Significant pressure for further built development along estuary shorelines, with *cumulative impacts on landscape, habitats and water quality*'. [ditto]
44. Under ‘Protect’ the guidance urges developers to - ‘Conserve the open, expansive views across the estuary, and the area’s coastal and sea views.’  
Under Plan .. it says – ‘Plan to enhance and restore rural character and tranquillity through careful siting of any new development *avoiding prominent locations such as valley sides and shoreline*, with enhancement of hedgerows, woodlands and roadside planting to major road corridors.’ [italics added]
45. The Neighbourhood Plan for Kingsbridge, West Alvington and Churchstow, the area within which the site falls geographically, is in the early stages of development. When that plan is made, it will likely contain specific provisions for the protection of the undeveloped coastal areas which fall within it. The Salcombe Neighbourhood Plan contains provisions to ‘Maintain the character of the estuary’ and policy SAL ENV 6, Locally important views, may well be relevant to this case.
46. Given its concerns about the damage already caused to the AONB and the SSSI, the Parish Council requests SHDC to ensure that the relevant environmental checks, including the following, should be completed as soon as possible:
  - A Wildlife Report and/or Preliminary Ecological Appraisal (PEA)
  - An Ecological Impact Assessment (EIA) - if indicated by the PEA

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<sup>15</sup> See: <https://new.devon.gov.uk/planning/planning-policies/landscape/devon-character-areas/south-hams-area/salcombe-to-kingsbridge-estuary>

- Surface Water Drainage assessment
- Foul Drainage Assessment.<sup>16</sup>

47. If indicated by a PEA, the aim of an EclA is to propose mitigation, compensation or enhancements to wildlife, applicable during both construction and operational phases. Such a scheme, together with the appropriate Landscape Scheme, should demonstrate net gain in biodiversity. The absence of such protective measures in a highly sensitive site like Gerston Point is considered to be material damage to both the AONB and SSSI.

## **MISLEADING INFORMATION**

Review of the documents belatedly submitted by the applicants indicate that they contain misleading and/or wrongful statements in at least **SIX** important areas. Although some may or may not be material planning considerations, they provide an insight into the importance attached to the need to abide by planning law and guidance on the part of the applicants. They include:

## **SCOPE OF THE RETROSPECTIVE PLANNING APPLICATION**

48. The Retrospective Planning Application form submitted only covers the construction of the 'carport and storage' building; there is no mention of the full size tennis court and skate park which have also been built and require planning permission. All the new structures have been built on agricultural land that has not undergone a change of use so they therefore fall outside of the residential curtilage.
49. The Design and Access statement mentions that a skate 'ramp' has been built. No photographs have been provided but the visual inspection (by members of West Alvington Parish Council) confirmed the presence of a full sized concrete skate park, as would be seen in a town, of a permanent nature. Skate parks, when built as fixed structures, need planning permission.
50. The new building appears to have a brilliant white roof on its northern elevation. On its southern elevation there are a large number of solar panels which are also not mentioned in any of the application documents. These solar panels, whilst normally welcome, reflect the sun and therefore significantly increase the overall visibility of the whole industrial sized building. Since a change in legislation in April 2008, the installation of solar panels has been deemed 'permitted development' and therefore planning permission is not normally required. However, the setting for these panels is not a standard one since, as set already set out, the site falls into a number of protected categories (AONB, SSSI, LNR etc.).
51. The site location plan submitted wrongly includes the estuary foreshore adjoining the site within the site's boundary. The relating HM Land registry map clearly excludes the foreshore.

## **THE SIZE AND VISIBILITY OF THE UNAPPROVED DEVELOPMENT**

52. The Design and Access statement states that - 'the building's footprint and scale were limited' and the application states that the site is not visible from a 'public road, public footpath, bridleway or other public land'. In reality, this large unapproved development, consisting of a

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<sup>16</sup> If the new building is found to contain toilet facilities

large new fitted with solar panels, full sized tennis court and skateboard park, is visible from numerous public viewpoints within the AONB, please refer to the map and photographs contained in the Annex.

## TREES AND HEDGES

53. In answer to Q.10 (Trees and Hedges) of the retrospective planning application, the applicant states that there are no trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character. The Parish Council do not consider this is correct.
54. In reality, the new building lies close to a large and visually striking tree which is subject to a TPO (reference TPO815 T1). This tree can easily be seen by viewing Page 16 of the document "Planning for the South Devon AONB". Although the tree appears to be intact, the large new building has been built very close to it and, most likely, not in accordance with the relevant policy (BS 5837). By failing to submit the legally required planning application, under which the necessary investigations would have been made by the SHDC Trees Officer, this is a further way in which the landowner has failed to take into consideration the site's natural setting.
55. In relation to the potential screening of the site, a deciduous hedge runs along the northern boundary of the field immediately to the north of the access track. The hedge is not stated to be part of the site and therefore appears not to belong to the applicant. It is currently the only means of (partial) screening the development site when viewed from Kingsbridge from, for example, Embankment Road and New Bridge. It is the trees on the south of the field alongside the creek that largely screen the building from views from those boating on the estuary.
56. For views towards the site from the south east and south of the estuary, the only screening provided is by the hedging and trees along the shoreline, also situated on land owned by others. If these natural screening assets were to disappear, the industrial sized building with its shiny roof would be even more prominently visible.

## BIODIVERSITY AND GEOLOGICAL CONSERVATION

57. In response to Q. 12 in the (retrospective) planning application, the applicant stated that there was 'No' reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site:

Designated sites, important habitats or other biodiversity features ...
58. In reality, and as the applicants well know following the lengthy approval for the new dwelling on the site (2011-12), Gerston Point is situated:
  - Next to a Local Nature Reserve
  - Adjacent to an internationally recognised SSSI
  - On Devon's Undeveloped/Heritage Coast area, and
  - Within the South Devon AONB.

## WILDLIFE TRIGGER REPORT

59. All planning applications – even retrospective ones - which have a potential impact on wildlife must be accompanied by a completed Wildlife Trigger Table. If the proposal results in a ‘yes’ to any of the questions, applicants **must** include a Preliminary Ecological Appraisal (PEA) with their application. These applicants have apparently avoided doing a PEA by submitting incorrect information (by answering ‘No’) in the report as follows:

#### PART A

- (a) That the application site (red line) is greater than 0.1 hectares.
  - *‘No’ was ticked despite the Retrospection application stating that the site has an area of 2275 m<sup>2</sup> (0.1 hectares = 1000 m<sup>2</sup>) which is greater than 0.1 Ha.*
- (b) That the proposal involves works to a quarry or built structures such as bridges, viaducts, aqueducts, tunnels, mines, kilns, ice houses, military fortifications, air raid shelters, cellars and similar underground ducts and structures.
  - *Visual inspection confirms that a full size tennis court and skate park have been built, both of which also needed planning permission.*
- (c) That the proposal impacts on a watercourse, intertidal area or standing open water (e.g. ponds, reed beds) excluding ornamental garden fish ponds.
  - *The site lies directly adjacent to an intertidal area.*
- (d) That the proposal involves removal of tussocky (rough) grassland, wet grassland, flower rich grassland or heathland (heather/gorse present).
  - *The development site is on agricultural land, the field adjoining is now ploughed arable. No change of use has been made. As the work was carried out without permission it is difficult to be sure whether the land was previously pasture land or rough grassland. An earlier aerial photograph of the location appears to show grass where the new structures now are.*
- (e) That the proposal may impact directly or indirectly (via a watercourse or air pollution pathway) on a designated wildlife site (Special Areas of Conservation, Special Protection Area, Sites of Special Scientific Interest, County Wildlife Site, Local Nature Reserve, Special Verge).
  - *The site is adjacent to the Salcombe-Kingsbridge Estuary SSSI and a Local Nature Reserve.*

#### WATER RUN OFF AND DRAINAGE

60. The importance of adequate arrangements for such a sensitive site have already been covered above. Within the applicants plans these ‘surface water drainage to existing watercourse’. At the same time, the application states that the site is not within 20 metres of a watercourse.

The Parish Council is aware of no watercourse other than the SSSI. Without being allowed access for inspection the Parish Council cannot verify the arrangements for either water run-off or drainage but both are matters of great concern.