

## PLANNING APPLICATION REPORT

**Case Officer:** Ian Lloyd

**Parish:** Salcombe **Ward:** Salcombe and Thurlestone

**Application No:** 1240/16/FUL

**Agent/Applicant:**

Mr Nigel Keen  
The Studio  
105 Southbroom Road  
Devizes  
SN10 1LY

**Applicant:**

King, Cooper & Payne  
Land Opposite Lyndale  
Onslow Road  
Salcombe  
TQ88AH

**Site Address:** Land Opposite Lyndale, Onslow Road, Salcombe, TQ88AH

**Development:** READVERTISEMENT (Further Revised plans) Proposed residential development of three detached dwellings

**Recommendation:** Refuse Permission for the following reasons:

1. The proposed development, due to its design, siting, height, scale, form, bulk and massing would result in an unduly overbearing, dominant and unneighbourly development, detrimental to the amenities of neighbouring occupiers by reason of an overbearing impact, increased sense of enclosure, overlooking, loss of privacy (direct and perceived) and overshadowing, contrary to Policy DP3 (1 and 2), paragraph 17 the NPPF, Planning Practice Guidance on Design including paragraphs 002 and 026 and emerging JLP Policy DEV 1(1).

2. The proposed development, due to the layout, form, scale, appearance and extent of built development and hard surfacing, absence of opportunities for the retention of natural features and limited capacity for mitigation planting, would result in a development of an inappropriate and overtly urban nature of incongruous appearance in the street scene and landscape, tantamount to an overdevelopment, and which fails to positively respond to local townscape, settlement and landscape character, fails to conserve or enhance the landscape and scenic beauty of the South Devon AONB (a landscape of national importance), or to protect or enhance local views, contrary to Policies DP1 (a, c & e), DP2 (1 b, c & d), CS7 (1) and CS9 (1), paragraphs 7, 8, 17, 61, 64 & 125 of the NPPF, Planning for the South Devon AONB: Planning Guidance Version 1 Supplementary Planning Guidance, advice in National Planning Practice Guidance on Design including paragraphs 006 & 007, 023, 026 & 040 and on Light Pollution including paragraphs 001, 002, 003 & 005, and emerging JLP Policies DEV 10 (1, 2 & 6) and DEV20 (2, 3, 5 & 7) and SPT11 (2).

3. In the absence of adequate drainage and ground stability details, the proposal fails to demonstrate that surface water can be adequately dealt with, in the absence of which the proposal could give rise to an increased risk of flooding elsewhere, and land instability, to the detriment of the safety and amenities of neighbouring occupiers and the area generally, contrary to policy DP4 (3 & 5), paragraphs 103, 109, 120 & 121 of the NPPF, advice in National Planning Practice Guidance on Land Stability including paragraphs 001, 003 & 006, and emerging JLP Policy DEV2 (1),

**Key issues for consideration:**

The main considerations are:

Principle of Development/Sustainability: Development Plan and sustainability considerations of small scale residential development within the development boundary, including issues of housing supply and housing need;

Neighbour Amenity Impacts upon neighbouring residential amenity;

Design/Landscape: Considerations relating to detailed design and layout, including impacts upon the townscape character of the site and the character of the surrounding area, an Area of Outstanding Natural Beauty (AONB) including issues relating to the protection or enhancement of local views;

Drainage/Flood Risk/Land Stability/Pollution: Whether it has been demonstrated that the site can be satisfactorily drained and prevent the increased risk of flooding elsewhere, prevent pollution and safeguard land stability;

Highways/Access: Impacts of access, parking and turning, including highways safety and convenience considerations.

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### **Site Description:**

The site lies within the development boundary of Salcombe and is within the South Devon Area of Outstanding Natural Beauty (AONB). The land, an area of approximately a little under 0.07 hectares (673 sq. m as advised in the Design & Access Statement) lies on the north side of Onslow Road. Presently undeveloped, the land appears to have been garden land in the past, in part for some period in connection with the bungalow 10 Knowle Road to the north and in part in connection with the property Lyndale to the south, the latter being physically separated from the application land by Onslow Road. The frontage has a hedge, within which there is a gap for pedestrian access and appears to have historically been used for parking, with a car and boat present at the time of the site visit, though no formal dropped kerb arrangement exists. Behind this relatively flat area, the land slopes sharply away northwards such that there is a fall in levels across the site, from the lowest point to the pavement in Onslow Road, of between 6.5m at the eastern end to 8.22m at the western end.

The land is irregularly shaped [narrower to the front (south abutting Onslow Road)/wider to the rear /north abutting neighbouring gardens]] with an area towards the western part of the site not directly fronting Onslow Road, having an intervening area of landscape planting between the road and the application site (some within the Council's ownership and some apparently unregistered land – which the applicants advise they have maintained in the past). A small public seating area occupies part of this land to the west of the site, adjacent to the public steps (known as Piggy Lane) with planting, which abuts the western boundary of the site and which is a pedestrian link between Onslow Road and Knowle Road/ the other residential dwellings to the north.

Along Onslow Road, which runs broadly west to east in the immediate vicinity of the application site, there is a pedestrian pavement on the north side, with street lighting and double yellow lines. A traffic warning sign advises motorists that the road narrows to the east as it falls downhill beyond the application site.

The northern and eastern site boundaries border residential gardens, serving properties set at a lower level, fronting Knowle Road, comprising bungalows immediately behind (north of) the application site and two storey apartments to the north-east. Some of the open land to the east may be unregistered (as advised by the applicants).

The topography of the area generally is steeply sloping, much of Salcombe being built on sloping valley sides and the site is not untypical in this regard. Properties on the south side of Onslow Road are set at a level elevated above the highway. The bungalows behind the site to the north and two storey flats in Knowle Court are set at a much lower level, though set higher than the level of Knowle Road. To the west, properties in Dell Court are two storey with additional accommodation in the roof and basement levels. The ground floor entrance level is set at a lower level than the public highway, served by an access parallel with Onslow Road. Set at a lower level below Dell Court, Mallards is a

detached property to the north-west. Locally buildings have developed incrementally over time mostly throughout the twentieth century and into the new millennium such that there is a wide range of building ages and styles, which is a positive feature of the area, as are the glimpsed public views of distant shoreline and green ridges, also a result of the undulating topography. Salcombe is a town, predominantly urban and suburban in character, where the built form does dominate, though there is a greenery locally, with green spaces and many properties having front and rear gardens and trees visible in public views as a result of the topography. Along this section of Onslow Road, the character changes from an arguably urban/suburban to more urban/suburban fringe at the application site. Properties on the south side are raised up above the level of the road behind front gardens. On the north side, Dell Court has a hedge fronting the road, with properties set at a lower level. Planting at Piggy Steps is in the public realm, which together with the application site and combined gardens of the properties fronting Knowle Road provide a green break in the built form as Onslow Road runs east where it narrows and falls downhill. Views can be had from along this section of Onslow Road and as it falls eastwards out to the coast and hills of the AONB towards Batson Creek. The entirety of the application site and its frontage is undeveloped and in conjunction with neighbouring vegetation to the north and east, forms a green wedge across this northern valley slope towards the coast, which provides welcome relief from the built form and makes a positive contribution presently to local character. This impact is particularly apparent in some views from the north.

Looking north across the valley from Onslow Road, properties on the upper valley slopes opposite have by and large been developed comparatively sympathetically, with space for planting and which do not break the tree line on the ridge above. To the north-west, where the land appears higher, buildings appear more densely developed, developed comparatively less sympathetically, with less greenery visible and which break the skyline, sometimes in a jarring manner.

The principal character views along Onslow Road are to the north east, towards Batson Creek. A public seat at the top of the steps takes advantage of these views when management of the vegetation permits (as it does presently). This is an area of contention about which more is said in the report below. Photographic evidence has been submitted which shows at times this bench is obscured by planting in the public realm and former greenery within the application site.

The site lies within Flood Zone 1, the lowest risk of flooding. However, having regard to the steep topography and extent of built development including hard surfacing, there are concerns surrounding the impacts of the development on the increased risk of flooding elsewhere and linked land stability issues, which are dealt with in detail elsewhere in the report below.

Some concerns have been expressed by objectors that the site location is not clear. Notwithstanding these concerns, the application has been advertised three times and it is evident to the LPA, supported by the number of responses received, that the site address is properly and adequately described.

### **The Proposal:**

The proposal seeks full planning permission for the erection of three detached dwellings, with associated access and parking.

The properties are contemporary in appearance, four storey at the rear, presenting two storey gabled elevations onto Onslow Road, with the first floor projecting forward of ground floor entrances. The ground floor incorporates integrated undercroft parking, with no garage doors proposed to increase the likelihood of use for parking. Balconies are proposed with terraces to the rear.

The properties are set back from Onslow Road in order to accommodate highway visibility, access, parking and turning requirements for three dwellings and have a shared frontage. The entirety of the site frontage is required to be open for highways safety and visibility reasons.

During consideration of the application the applicants have submitted successive iterative changes and drone surveys in an attempt to address some of the impact issues, notably overlooking and loss of privacy. The application has been re-advertised twice in addition to the initial advertisement.

### Consultations:

- **County Highways Authority:** In response to the latest proposals recommend conditions be incorporated in any grant of permission regarding visibility splays, parking and turning provision and avoiding debris on the highway. The Highway Authority noted the application demonstrates two parking spaces per dwelling in car ports and for unit 1 a separate space outside the property. It can be seen the applicant has shown areas where parking should not occur on site, so that on site manoeuvring can occur across the frontage of the three properties. This would in theory ensure that reversing and manoeuvring does not occur onto the classified road. However, the Highway Authority does have concerns that there would be some difficulty in ensuring these areas are kept clear in perpetuity so they can be used for that purpose. The Planning Authority have also confirmed there would be difficulties enforcing any condition or legal agreement.

The Highway Authority therefore considers in legal and practical enforcement terms there is insufficient space on site for turning. However, having regard for the properties in the nearby vicinity to the site and the fact that many of them don't have turning, consideration must be given to whether the proposals are likely to cause a material safety issue. Notably it is evident that there is a lack of any accident evidence in the last 3 years reported to the Police on Onslow Road, which is attributable to reversing out of driveways. The Highway Authority would therefore not wish to object as it is likely any objection would fall down at appeal. This comment supersedes previous objections to the initial scheme, which had also been overcome by subsequent iterative changes.

- **SHDC Drainage:** object to the current proposal on the grounds of insufficient information and recommend that the application is not decided until these issues have been overcome. Observations and comments - This minor development for 3 detached dwellings requires a workable drainage scheme that prioritises the use of infiltration drainage in accordance with best practice SuDS design, (CIRIA C753). Following an initial objection no further details have been provided to address the concerns raised previously. The site is small and the proposed development doesn't leave much space for the SuDS. Therefore a robust drainage scheme will be required to demonstrate that it can be accommodated on site. The site plans and elevations shows that the site is considerably steep and use of soakaways may lead to ground instability due to potential seepage of water. Therefore ground stability assessment will be required along with percolation testing and soakaway design. The Soakaway should be a minimum of 5m from all dwellings and highways in accordance with building regulations part H. It should also be a 2.5m from other site boundaries for best practice. SuDS should be designed to reduce or manage the surface water as close to source as possible. The drainage hierarchy should be followed with the top of the list as first choice. Evidence will be required to show each option has been explored and discounted.
  1. By infiltration, soakaway.
  2. Discharge to a water course, attenuation maybe required.
  3. Discharge to the public sewer, attenuation will be required and permission from SWW.Overcoming the objection:  
To overcome the objection the applicant will need to provide:
  1. Drainage assessment
  2. Percolation testing to DG 365 will be required. Provide test pit logs and calculate the infiltration rate in m/s.
  3. If soakaways found to be viable then ground stability assessment will be required.
  4. If the soakaways found to be unfeasible, then offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods.

5. SuDS to be designed for a 1:100 year event plus 40% for climate change, supported by calculations and testing.

6. A scaled plan to show full drainage scheme in private ownership. Any shared scheme, if need arise for, should be in public or shared space.

- **SHDC Environmental Health Section:** Are satisfied that information provided overcomes previous objections and can be replaced by the unsuspected contamination condition, in addition to the universal condition, or on sites where no contamination is known or suspected.
- **Salcombe Town Council:** In response to the latest proposals comment units 1 and 2 further up the hill have been reduced in size. No objection but it was noted that the bench currently situated above this property had a public view down the Creek and this development would remove this. This comment supersedes previous objections.

## **Representations:**

### **Representations from Residents**

A significant number of responses have been received both objecting to and supporting the proposals.

Some instances of multiple responses have been received from the same addresses and such responses/the number of responses from separate addresses is recorded to give an accurate reflection of the extent of consultee responses. This is perhaps unsurprising as the application has been subject to re-consultation and respondents have reiterated objections or support. Multiple responses have also been received from the applicants, countering third party submissions. Some online responses were received without attributable addresses before the requirement for respondents to provide an address was amended. Such responses are no longer necessarily accepted, but given that this requirement changed during consideration of the application, responses received without an addresses are recorded and identified separately. One unaddressed response objecting has been received recently and this is posted for consistency and the applicants have responded to it (also posted online)

Concerns have been expressed that a template letter has been used by some respondents in support of the application. Template letters are afforded the same consideration as other submissions.

Some respondents suggest that unaddressed submissions or non-local submissions should not be afforded the same consideration as local views. For clarity, representations received local to Salcombe, from within Devon, from elsewhere and unaddressed are identified. All representations are considered on the same basis.

Some of the representations and applicants' responses include photographs and other material intended to illustrate the points being made. The representations received can be viewed in full on the website. The issues raised in the responses are summarised below:

The following representations objecting have been received:

62 objecting from 26 separate parties local to Salcombe

3 further objections have been received, 2 from out of County and one unaddressed

2 representations have been received from consultants on behalf of the objectors

Objections cover the following points, summarised as:

- Concerns that much of the support is from out of County and will have no effect on respondents; local residents comments should be taken seriously under the Localism Act
- Concerns that many support letters are on the same template/from out of County
- No drainage report; drainage issue not resolved; run-off a concern; neighbours have commissioned a drainage consultant's report which concludes drainage proposals would not satisfy current guidance, there is no evidence land stability has been considered and adequate investigations into issues is required.
- Amended plans change little
- Significant overbearing impact on neighbouring properties; huge blocks built within close proximity of boundaries with no capacity for screening other than that which already exists within neighbouring gardens and which screening is already too high, detrimental to amenities and

requires substantial cutting back; unneighbourly; equivalent to 7 storeys on flat terrain; only approx. 15% green space retained; excessive density

- Loss of long standing public view from bench seat at Piggy lane and elsewhere along Onslow Road; Vegetation managed by SHDC (inherited from previous authority); public bench shown incorrectly angled;
- No indication of geological effects, land stability concerns; evidence of land stability problems locally in Drake Road; Site is very steep, rocky and unstable and no assessment of the impact of rainfall run-off on the site and its subsequent drainage from the proposed soakaways has been undertaken (reference John Grimes report); geological survey is vital; Geological difficulties – bedrock likely to cause difficulties
- Misleading site address
- Proposed baffles to windows do not ease the problem of loss of privacy or light; baffles could be removed in future.
- Significant overlooking and loss of privacy; Inadequate screening; screening is within neighbouring property, not in the applicant's control; huge windows and balconies
- Roof line 13m high will cause Overshadowing; Loss of sunlight for much of the year; loss of daylight
- Additional traffic will cause problems; entrance/exit onto Onslow Road is dangerous; inadequate visitor/delivery parking; visibility splay hampered by vegetation outside applicant's control; numerous accidents locally over the years; traffic speeds higher than assumed; reversing onto highway;
- Obtrusive development; overdevelopment; out of keeping with the character of the area; dwellings excessive in size, scale and over domination impact on neighbouring streetscape and residents; mass and quantum of proposal excessive and disproportionate to the size of the plot and not keeping with the proportions of neighbouring properties; high density;
- Not low cost, but open market housing for profit; not low cost due to size and construction costs; need for legal agreement for low cost/ affordable; need for covenant for local housing
- Access to and along Piggy Lane would be compromised
- Loss of long-standing public views from seat at top of Piggy lane and along slow Road; Photos provided of views in the past and maintenance of bench and vegetation
- Drainage/water engineering; not possible to use soakaways
- Land has natural springs; former reservoir between Drake Road and Piggy had several springs feeding it - area known as the "Buddle" and running water can still be heard locally;
- Design and materials out of keeping; unattractive
- Building / Work Site Safety Considerations
- Misleading in terms of the context of the setting, inaccurate in terms of landscaping / impact on neighbouring properties and provides no correlation between the sectional views and the actual levels / heights of the outlined development.
- No LVIA
- Light pollution
- Disturbance and disruption during construction
- Criticism of submitted plans including no block plan to explain where the context plan/section has been drawn; plans omit extension to no 9 Knowle Road; screening effect of vegetation exaggerated;
- Contrary to Policies DP1, DP3, (inadequate reference in application);
- Affects setting of Conservation Area;
- Breaks skyline from Batson Creek;
- Excessive site coverage compared to average locally: 2 to 3 times more dense;
- Build costs may lead to pressure for more dwellings; site more suited to two smaller dwellings;
- Additional pressure on sewage system;
- Design is architecturally out of keeping;
- Environmental impact of Loss of vegetation;

- If sold as holiday homes, second homes then will have no economic benefit;
- Alter skyline
- Infrastructure is crumbling and under pressure
- Never been a dropped kerb at the site and road narrows – increased danger to pedestrians; interfere with emergency vehicle access

The following representations in support have been received:

3 in support local to Salcombe

7 in support from 4 separate parties from within Devon

10 in support from 6 separate parties from out of County

17 in support unaddressed

The applicants/ Agent have submitted approximately 15 representations in support/ to counter objections including drone surveys. All of the objections are refuted by the applicants. Relevant issues are addressed in the report.

Supporting comments cover the following points, summarised as:

- Commend design, imaginative & sits politely alongside adjacent properties; materials are sympathetic to the local vernacular (unusually so compared to recently built properties in Salcombe);
- Enhance vacant infill plot and excellent use of land;
- Opportunity for the 3 applicants whose family have resided in Salcombe for many generations, over 300 years;
- Vehicle access is long-standing
- Infill is preferable to building on greenfield; makes best use of land, least obtrusive way to develop; outweighs environmental impacts;
- Proposal been under review for most of the year; revised plans accommodate all the changes requested by the council;
- Properties in keeping with the town;
- Provide much needed lower cost housing;
- Significant number of re-developments and new build properties under way in the immediate vicinity of this wasteland and disappointed planning permission has been disputed for so long and no reason for further delay;
- Good use of waste ground;
- Coastal homes being built for local people;
- Construction opportunities for young people in the area to develop a career in the field;

### **Relevant Planning History**

No relevant formal planning history.

Pre-application advice is private and provided without prejudice. Part of the reason such advice is provided on a without prejudice basis is that it is not possible to give proposals the level of scrutiny required of planning application and also it is not possible to enter third party land to evaluate pre-application proposals and therefore responses are qualified. The applicants have made some of the advice public. The LPA confirms the pre-application advice was positive. However, having had the opportunity to consider the submitted plans and make a detailed assessment, when weighed in the planning balance, the development is not now supported. The applicant considers the advice therefore to be inconsistent. The LPA accepts that there is inconsistency in providing positive feedback at pre-application stage and considering an application to be unacceptable and this is regrettable. However, the LPA has a duty to ensure planning applications are determined on the basis of detailed evaluations which it is simply not possible to undertake as part of a limited pre-application assessment.

## ANALYSIS

Principle of Development/Sustainability: The starting point for consideration is the development plan and the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development which for decision making means approving development proposals that accord with the development plan and where the development plan policies are out-of-date, granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole or specific policies in the NPPF indicate development should be restricted.

The site lies within the development boundary for Salcombe and the proposed development is considered to accord in principle with Policy CS1 of the South Hams LDF Core Strategy which advises that residential development is acceptable in principle in Salcombe. Moreover, there is a need for housing to meet local need.

Importantly, there is currently no 5 year supply of deliverable housing land as required under Guidance and in circumstances where the development plan is not able to demonstrate such a supply, Policies are deemed to be out of date. Having regard to the provisions of NPPF paragraphs 47 and 49, this weighs heavily in favour of the application in the planning balance.

However, while there is no Policy objection in principle to a sustainable residential development on this site within the settlement boundary, particularly in circumstances where there is presently no 5 year supply of deliverable housing land, and the development plan is out of date, the 'presumption in favour of development' for development in or affecting AONBs is removed by the application of footnote 9 to NPPF paragraph 14.

Furthermore there are concerns about the proposed development conflicting with other requirements of the NPPF and Policy, which also form part of the planning balance exercise. These issues are explored in detail in the report.

NPPF Paragraph 7, promotes the three dimensions to sustainable development: economic, social and environmental. Under paragraph 8 these factors cannot be disaggregated. It is considered that a development of three dwellings would make a positive contribution in social and economic terms, particularly where there is a shortfall in housing supply, through meeting housing need, providing construction jobs and from increased spending in the local economy, which in turn can help support services. However, it is the environmental dimension to sustainable development which gives rise to the greatest cause for concern. More will be said in detail about such impacts, notably on the nationally protected AONB landscape, in the report below. The social and economic benefits of three dwellings are valuable but limited and ultimately it is the conclusion of this report that these benefits are not outweighed by the environmental harm.

The benefits of housing provision where demand is high and a shortfall in supply exists are clear and compelling, supported by the aims of the NPPF, including paragraph 47, requiring a 5 year supply of deliverable housing land.

When considered against other impacts, Policies and Guidance in the NPPF taken as a whole, there are serious concerns that these issues would outweigh any presumption in favour of sustainable development where the development plan is out of date (notwithstanding that this requirement is removed in any case under footnote 9 to paragraph 14 as advised above).

Under retained Local Plan Policy SHDC1, within development boundaries, development will be permitted where this is compatible with the character of the site and its surroundings, and where there would be no significant adverse effects in relation to traffic and parking, road safety, drainage, the landscape, wildlife and historic interests or local amenity. The report considers these issues in detail.

While there is no objection in principle to development within a settlement boundary, this does not mean every garden or undeveloped plot is a potential development site.

Design, local character and landscape setting issues are particularly important considerations in this sensitive nationally protected AONB landscape. More is said about impacts under Design/Landscape below.

The proposal has amenity impacts and these issues are addressed under Neighbour Amenity below.

Looking in more detail at the benefits of the proposal, the scheme would provide a small but valuable increase to the local housing stock. The units are three bedroom 6 person family units. Presently housing demand is high and housing supply falls below the required 5 year supply. Family accommodation, if occupied as such, can support services and positively impact the local demographic. This weighs in favour of the application in the planning balance.

The submissions of the applicants and supporters and those of objectors dispute the relative benefits and alleged impacts of the proposals. The applicants advise they are a local family of long-standing and the scheme is advocated by those in support as providing much needed affordable accommodation for local families with connections to Salcombe extending back many generations. Such provision is supported by the thrust of Policy and Guidance, including in emerging Policy. Objectors consider that as the scheme is for open market dwellings, it is neither affordable nor guaranteed to meet local needs. No legal agreement is offered, nor is one required on a site for this number of dwellings. In these circumstances, the proposal is considered in the context that the application is for three open market dwellings. If approved, built and retained by the applicants, it could enable occupation by three families with strong local connections. However, there are no planning controls in the current circumstances where the application is for open market dwellings and the proposals must be considered as such, with any future occupation by the applicants a matter entirely for them.

Paragraph 17 of the NPPF describes a set of 12 core land-use planning principles which should underpin both plan-making and decision-taking. A number of these are considered relevant to the proposals and addressed at the appropriate juncture of the report.

NPPF paragraph 32 requires decisions to take account of whether safe and suitable means of access can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. However, it has been established that should not be taken to mean that the safety impacts should only be severe and this is consistent with the requirement (2nd bullet point of paragraph 32) that safe and suitable access to the site can be achieved for all people. This forms part of the highway considerations.

Paragraph 115 of the NPPF on conserving and enhancing the natural environment requires great weight should be given to conserving landscape and scenic beauty in AONBs, which has the highest status of protection in relation to landscape and scenic Beauty. This is an important environmental consideration in assessing the impacts of this proposal, having regard to the duty of responsibility imposed on the LPA and considered in detail as part of the planning balance under the Landscape/Design section below.

The emerging Plymouth & South West Devon Joint Local Plan (JLP) is at an advanced stage of preparation, was submitted to the Planning Inspectorate on 31 July 2017 and the Inspectors have confirmed the Examination in Public (EiP) will commence very shortly on 30 January 2018. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out in the report. When the new development plan is confirmed, there will be a 5 year deliverable supply of housing land. The application site remains in the settlement boundary in the emerging JLP. As such, the general thrust of existing and emerging Policies are similar.

The Salcombe Neighbourhood Plan process is not considered to be sufficiently advanced to form a material planning consideration.

Having regard to the principle of development and sustainability considerations, a development of three family dwellings within the development boundary of this sustainable settlement is supported in principle by Policy and in Guidance in principle. The absence of a 5 year supply of deliverable housing land weighs heavily in favour of the application. The site is within the AONB and the presumption of allowing sustainable development where the development plan is out of date is removed by footnote 9 to NPPF paragraph 14. Having regard to other considerations, notably the environmental impacts (both AONB and drainage), and neighbour impacts, the proposal is not considered to be in accordance with the NPPF when taken as a whole. This weighs strongly against the application in the planning balance. The relative weight afforded to these and other material issues is considered below.

#### Neighbour Amenity:

The proposal has given rise to objections from neighbours about amenity impacts and impacts on the well-being of neighbouring occupiers, notably the occupiers of those properties bordering the application site and in particular impacts to the rear (north) are a cause for concern. Many representations have been received about the perceived adverse impacts on neighbouring amenity.

The applicants are adamant that the scheme as revised has no undue impacts on the amenities of neighbouring occupiers and this view is reflected by the many supporters of the scheme. All of the objections are refuted.

Policy DP3: Residential Amenity advises development will be permitted provided it does not have an unacceptable impact on the living conditions of occupiers of nearby properties. Unacceptable impacts will be judged against the level of amenity generally accepted within the locality and could result from loss of privacy and overlooking, overbearing and dominant impact, loss of daylight or sunlight, noise or disturbance, odours or fumes.

JLP Policy DEV2 (1) Policy seeks to prevent harm from development proposals by limiting the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation.

Among the 12 core principles for sustainable development under NPPF paragraph 17, is that development proposals should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is a key area of contention between applicants/supporters and objectors.

Planning Practice Guidance on Design (Para. 002) advises good design should consider amongst other things the impact of development on well-being.

Much of Salcombe is built on valley sides, where an element of overlooking occurs as a natural consequence of the landform. As such there is an understanding and acceptance that in taking advantage of some of the fantastic views and in seeking to achieve an optimum balance between housing development attempting to make the best use of land and safeguarding local character and amenities, levels of privacy may be lower than is perhaps the case in other suburban environments.

The size of individual buildings and the elements which make up their design requires careful consideration as these factors, including height, bulk, massing, materials, siting, topography, levels, aspect and orientation, screening and opportunities for mitigation will affect issues of overshadowing, overlooking, loss of privacy and increased sense of enclosure.

The following measurements of the proposed buildings are provided to inform the likely impacts of proposals:

The proposed buildings are circa 13m high from the lower rear floor level to the apex of the roof;

The floor level of the rear terrace areas at level -1 are circa 2.8m above the proposed garden level;

The floor level at level 0 is circa 5.5m above the proposed garden level;

The floor level at level 1 is circa 8.4m above the proposed garden level;

For the purposes of evaluating overlooking and privacy impacts, eye level will be correspondingly higher than the floor levels above e.g. balcony eye level at Level 1 will be circa 9.5-10m above proposed garden level.

The upper level, level 1, is to be set back and the roof hipped in an attempt to reduce impacts. The extent of the balcony has also been reduced.

At the rear, the development is four storeys in height. Unit 1 incorporates the following accommodation:

The lower level, -2, has a snug and a bedroom with openings facing north towards the Knowle Road properties. At its closest point, Unit 1 is 3.8m from the common boundary. No inter-visibility would exist.

At level -1, the corner of the terrace is 2.1m from the northern boundary at the closest point, due to this level projecting out over the garden. In the latest revisions, the development is even closer to the boundary than previously proposed, through the introduction of a bay projection which has high level windows and side-facing windows to one of the two bedrooms in an attempt to limit overlooking impacts. Brise soleil to these windows and to the terrace limit direct overlooking to a degree, with close up views north-eastwards only possible from close quarters through the brise soleil (subject to detail), and directly east/west from the side windows.

Level 0, with high level lounge windows is the same distance from the boundary as level -1, including the new projecting bay element. This level contains the undercroft parking for one car.

Level 1 is set further back (south) from the rear north wall of unit 1 at level 0 by 2m, with the rear lounge windows facing north. A large open balcony area is proposed to the east, but now which now longer extends 1m further north than the level 1 bedroom in an attempt to limit impacts.

Due to the proposed dwellings being staggered, units 2 & 3 are located slightly further away from the northern boundary, 5.2m at the closest, 6.6m at the furthest point. Impacts are therefore correspondingly potentially slightly less. However, no similar iterative change has been made to the rear (north) elevations of units 2 and 3 as have been proposed to units 1 and large expanses of glazing are proposed at levels -1 and 0. This is on the basis that the applicants consider the screening on the common boundary with No. 9 Knowle Road to be more adequate further east than is the case at No.10 further west. There are minor differences between units 1 and units 2 & 3, such as a very small extended balcony area in front of the lounge at level 1. Also the undercroft parking accommodates 2 cars, not 1 as in unit 1.

The LPA has carefully considered all representations and independently evaluated the impacts of proposals. The conclusions drawn are based on this evaluation, not on the weight of representations.

The applicants consider they have addressed all neighbour amenity impact concerns, advising they seek the retention of existing boundary vegetation and potentially its augmentation. The details of the submission are considered to be at odds with this statement (proximity of retaining walls, need for drainage etc. addressed elsewhere in this report). Impacts have been assessed and are addressed below. Drone surveys and other material have been submitted to reinforce the applicants' case and have been considered.

Much is made in the representations received by both the applicants and objectors about how impacts are illustrated, depicted and assessed and allegations made of misleading and inaccurate representations have been made amid claim and counter claim (see representations online for full details).

Numerous and forceful objections have been received including from the neighbouring occupiers affected, fearful of the impacts of the development on their amenities, detailed in full in representations available to view online and summarised under the representation section.

The applicants and supporters equally forcefully reject the interpretation of impacts made by third party objectors (a claim also levelled by objectors against how the application impacts are represented), considering the revised scheme to have addressed all amenity concerns satisfactorily, including overlooking and loss of privacy issues.

In relation to how the applicants and their supporters and third party objectors have sought to make representations, despite allegations that submitted application plans may inaccurately depict impacts, there is nothing to suggest the red line submission plans are inaccurate. In relation to criticisms of the third party illustrations made to represent points being made, the points made by third party objectors, regardless of how they are illustrated, are fully understood, including notably that the proposed four storey rear elevation will not be viewed as such from any point which exists in reality close to the application site. This is accepted and the LPA understands the objectors' position that they will be looking up at the building from within their homes and gardens from a lower level and the building will appear higher from this perspective.

For their part, the applicants are critical of the representations submitted by third parties in an attempt to counter the scheme proposals and illustrate their concerns, considering them to be 'cartoon' representations of proposals. These representations were redacted at the request of the applicants as third parties had initially sought to make their points using copies of the submitted plans, which the applicants considered breached copyright and who objected to their use. The applicants have since clarified they do not object to the reproduction of their images per se, but to the manipulation of them i.e. in photomontage attempts.

The LPA is not the adjudicator of copyright. If submission plans are used to depict impacts, they are likely to be more accurate and/or easier to compare than those created independently by third party objectors. The LPA accepts third parties may not necessarily have access the resources applicants do. On this basis the submissions of all parties are accepted in good faith, but evaluated by the LPA.

Notwithstanding the details of the submission and respective representations, it falls to the LPA to evaluate impacts. This is undertaken, taking account of all representations in favour and against, not based on the volume or strength of representations, but drawing conclusions independently, and which is only one part of a much wider evaluation process including assessment of the plans and visiting the site and surroundings.

South - No significant neighbour amenity issues are considered to arise with properties opposite to the south. They are set in an elevated position, due south, set back behind small front gardens and with Onslow Road in between. The frontage to frontage distances are in no way unusual or unacceptable, notwithstanding changes in level. The future occupiers would be overlooked to a degree by the higher properties, but this is across a road and front to front separations distances are better than many locally and not unacceptable judged against the level of amenity generally within the locality.

West - Adjacent to the west, separated from the application site by the public access way, are properties fronting Dell Court. These properties are not dissimilar in overall scale to the proposed development, set at a lower level than Onslow Road, incorporate accommodation within the roof, are set behind a hedge fronting Onslow Road, accessed via a private drive. The eastern-most of these has flank windows facing east towards the application site, but its principal outlook is north-south.

Planting exists adjacent to the Piggy Lane steps, much of it in municipal control, outside the applicant's ownership. Very limited capacity exists within the site with the proposed layout and form of development, to retain any screen planting or for mitigation planting. No. 1 Dell Court is separated from the application site by the pedestrian steps/planting. Notwithstanding that considerable objections have been raised to the proposed relationship on amenity grounds, the LPA considers this relationship would be in no way unusual or impact unduly upon existing amenities of Dell Court occupiers to any extent considered to be unduly or unusually unneighbourly. In coming to this view, the LPA has considered how many examples of other properties locally (and generally) are separated, i.e. the flank to flank distance. In this case, the intervening steps provide an acceptable degree of separation such that there is considered to be no undue impact on the amenities of occupiers to the west which would be in any way unneighbourly, unusual or conflict with Policy or Guidance.

East - To the east, the eastern-most proposed dwelling has a side terrace facing east in close proximity to the boundary of the gardens of the adjacent apartment properties fronting Knowle Road. This gives rise to the potential for issues of increased sense of enclosure, overshadowing, overlooking and loss of privacy. Objections have been received. Issues are limited to an extent by the existence of mature planting within the rear gardens of these neighbouring properties. There is very limited capacity (if at all) within the application site for screen planting and the development is therefore reliant on the neighbouring properties not only for much of its outlook and amenity, but for screening as well. The proposed development is set close to the boundary with the garden of these adjacent properties which extend uphill towards Onslow Road. The apartments themselves fronting Knowle Road are off-set such that the potential for direct overlooking is oblique. Though very close to the common boundary, the closest proposed dwelling, unit 3, is staggered closer to Onslow Road and therefore further from Knowle Road. The separation distances are therefore correspondingly slightly greater and off-set. The proposal will be visible from the rear of the Knowle Road apartments and from their gardens in particular. These neighbouring gardens will be visible from the proposed external terrace above the garage. Elevated balconies and terraces are a feature of the area, with occupiers wanting to take advantage of the terrific views. Due to the topography, the levels of overlooking are greater than is perhaps the case in other settlements of comparable size on more level ground. The application impacts are considered in this context. The building is four storey close to this boundary. The apartments are located to the north-east of the nearest proposed dwelling and the rear apartment garden located to the east and north-east of the application site. Overshadowing of the garden will occur during afternoons. While elevated balconies are not by any means unusual locally, noise will be audible from an elevated position from the proposed balcony and terrace areas in close proximity to the garden boundary. Given the lack of other useable amenity space and the shortcomings of it, it is considered that the balcony areas will be the primary external amenity areas, reinforced by the primary reason for their inclusion - to take advantage of the views. The nearest proposed building (unit 3) will be highly visible and imposing when viewed from the existing neighbouring apartment block garden. In conjunction with overshadowing from a four storey building to the west/ south-west, impacts are considered to be at the margins of acceptability

It would be possible to mitigate some impacts, for example through a requirement for privacy screening on balconies to prevent direct overlooking and loss of privacy directly downward into neighbouring properties and gardens and obscure glazing of windows as necessary. While such issues would further detract from the amenities of future occupiers, this would not be to a great degree and they are nevertheless considered necessary to safeguard neighbouring residential amenities by minimising impacts. Noise and overshadowing nevertheless remain issues. However, on balance, given the precise circumstances of the scheme, though at the margins of acceptability, impacts could be mitigated by conditions and no objections are raised on amenity grounds in relation to the Knowle Road apartment properties.

North - The most severe neighbouring amenity impacts are considered to arise on the occupiers of the two bungalows due north of the application site fronting Knowle road. Due to the particular circumstances of the proposed siting directly behind these dwellings and the existing levels of

screening, impacts on Nos 9 & 10 are comparable, through on No. 10 perhaps slightly greater than on No. 9.

The properties to the north are bungalows, set above Knowle Road, but due to the steeply sloping topography, are still substantially lower than the application land. Sections have been provided to demonstrate application impacts. The neighbours dispute the accuracy/interpretation of the submission (a claim also levelled by the applicants against how the application impacts are interpreted and represented by the third parties – about which disputed claims the report addresses). The particular concerns surround how levels and sections are shown/interpreted (and also rear elevations) and the extent to which these can be relied upon. Levels within third party land have not been surveyed, including the thickness of vegetation illustrated within the sections (5.5m wide in some sections). Having seen the site from within these rear gardens, levels appear generally to reflect the change in level between the application site and the bungalows. The thickness of vegetation varies, though the overall heights, again while varying, generally reflect the circa 5m high bamboo recently measured within No. 9 for example. During a previous site visit, it was possible to view the telegraph wire and gable roof of the property on the south side of Onslow Road from a position adjacent to the back wall of No. 9 Onslow Road. A number of different sections have been submitted. A recently submitted section through No. 9 section shows this view not to be possible. However, it is appreciated that the section is one position and not necessarily the position from which I viewed the scene. The point is that the representation in the application documentation is considered accurate in so far as it depicts the red line site (and the basis on which the application proposal would be determined is the red line plans and drawings) and sections are helpful in evaluating potential impacts. They cannot though accurately address every viewpoint. It is appreciated that the sections are intended to provide some context for assessment and are helpful in this regard. They are not irrefutable fact. Having found I could see the gable of the Onslow Road dwelling from a position adjacent to No. 9, and having considered the application submissions and all third party representations in support and against, and having re-visited the site, I feel I am able to make an evaluation of the impacts. The applicants' assertions are effectively interpreted that no overlooking is possible because it is not shown to be possible in the submitted sections and from drone images, and this is not accepted and not borne out by the evidence of the site visits. Nor are trees impermeable or permanent features. Nor are the trees in question within the application site or applicants' control. Notwithstanding this the development is predicated almost entirely on their existence and retention.

Detailed topographical information is provided for the site, which includes reference points both within and outside the site on the pavement and highway and properties in Onslow Road and also the ridge heights of Dell Court properties and there is sufficient and accurate information for the LPA to discern the likely impacts that the development would have on the amenities of neighbouring occupiers.

The site is not deep, and in order to attempt to meet visibility splay, off street parking, access and turning requirements for three family dwellings, notwithstanding how close this forces the development towards the common boundary to the north, the dwellings are proposed to be four storeys in height at the rear. The LPA does not support this approach for reasons including impacts on amenity.

Along Onslow Road the application dwellings are designed to step down the site with the natural fall in levels eastwards and are staggered across the site not for aesthetic reasons but in an attempt to account for the narrowing of the site at the western end and the efforts to provide a workable parking solution, while maximising the dwelling footprint and internal accommodation. The Design & Access Statement (D&AS) ascribes the positioning of the dwellings to be to take account of views towards Batson Creek and this is understandable given the stunning views to north-east. The result is that, while iterative changes have sought to reduce impacts by hiping the rear roof slopes and other changes explored, including to windows and balconies and the use of devices to limit overlooking impacts including high level windows, side-facing windows and wooden slatted directional brise soleil balcony screens, the LPA does not consider that fundamental issues of concern have been addressed. Drone surveys have been undertaken in an attempt to demonstrate the local objections and LPA's concerns were unfounded. However it is considered that impacts are severe, reinforced by

the drone surveys, and that the iterative changes are tinkering at the edges of a scheme which is unacceptable at a more fundamental level.

The fundamental concerns relate to the overbearing impacts, increased sense of enclosure, direct and perceived overlooking and loss of privacy and direct overshadowing of neighbouring gardens arising from the proposed north-facing four storey development in such close proximity to the common boundaries. Iterative changes don't address these concerns.

The basis for the assertion inherent in the application documentation that this scheme of the scale proposed is acceptable, is predicated to a significant degree/entirely on the existence of screen planting within the neighbouring gardens, which the application documentation, supported by drone survey photographs, purports to justify as effectively screening the development from visibility from the neighbouring properties/gardens. While existing planting within neighbouring gardens does achieve a screening effect, (which will vary from season to season) it is not considered adequate/within the applicants' control and inadequate capacity exists within the application proposals for protection or within the application site for mitigation. Building so high, so close to the boundary is not justified.

The reality is that development of this scale, situated directly south of the nearest most affected properties, located excessively close to the common boundary, would be oppressively dominant, giving rise to serious issues arising from an overly dominant and overbearing development resulting in an increased sense of enclosure and direct overshadowing. Further issues arise relating to loss of privacy and a perception of being overwhelmingly overlooked and dominated to degree considered to be significantly unneighbourly. The proposal is considered to be contrary to Policy and Guidance in this regard and not reflective of the majority of, or average circumstances locally, the yardstick by which proposals are evaluated under Policy DP3.

The applicants strongly dispute these impacts and draw attention to numerous circumstances elsewhere where they consider relationships and impacts are similar. These impacts are addressed under 'Other Matters' below. However, notwithstanding other developments, this proposal falls to be considered on its own individual merits. While isolated instances may be found of tall north-facing development in close proximity to the boundary with neighbouring properties, the most notable nearby example being the rear of nearby Dell Court, such instances are the exception rather than the rule and amenity protection policies and guidance cannot be set aside and justified by any such examples. Furthermore, they seek to demonstrate the unacceptability of impacts, not act as justification to create comparable/more severe impacts.

Importantly, the application circumstance differ from the Dell Court circumstance. As far as can be established, the Dell Court properties preceded the erection of the property below at the lower level, Mallards (possibly erected on the site of a former reservoir). Where the property below is intended to be constructed where impacts from higher ground already exist, to an extent it is a case of 'buyer beware'. However, in the circumstances of the application site, the properties below are long-standing and have enjoyed a level of amenity for many years. In imposing development with the impacts proposed, not only is this unacceptable, it is not directly comparable with the circumstances described above.

Judging the scheme against the levels of amenity generally available between buildings locally, the proposed scheme has a far greater impact on the amenities of neighbouring occupiers than is the norm, or indeed the exception.

The plans appear to show retaining wall structures will be built around the entire perimeter of the site, including the northern boundary. The rear gardens would be raised and levelled and levels vary slightly west to east across the site (higher to the west). How this construction is practical without damaging the roots of trees in neighbouring gardens, upon which the development is predicated and relies on entirely for screening, has not been demonstrated and is not known. It would be necessary to have a tree survey and for root protection zones to be established in accordance with BS 5837:

2012 in order to establish areas within which development might be permissible. In answer to Q.15 on the application form: 'Are there 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 answer provided is 'No'. In circumstances where the application relies so heavily on the retention of such existing screen planting, the reason for this answer is unclear. The application forms go on to advise that if the answer given is 'Yes' a full Tree Survey, at the may be required. The nature of foundations, drainage requirements etc. are also important considerations if intended in close proximity to these trees as is indicated.

While no such information is available (nor has been sought given the LPA is not mindful to approve the development), and root systems vary between species, building a retaining wall and raising/levelling the ground in such immediate proximity to the trees in neighbouring gardens could impact adversely upon the health and possibly ultimately the survival of nearby trees. While impacts will vary based on individual tree species and the levels changes/method of construction and foundations proposed, it is not considered feasible in circumstances where the development relies entirely on the retention of these trees for screening that the form of development proposed will not undermine these trees and these aims.

The screen planting relied upon is not within the control of the applicant and the proposed rear garden amenity areas not of an adequate size to accommodate all the competing demand made of it: alternative/ supplementary structure screen planting (and certainly not without further reducing daylight and outlook within principally north-facing accommodation, thereby diminishing the amenities of future occupiers - already compromised through successive iterative changes made in an attempt to reduce overlooking impacts), providing amenity (recreation, drying washing, storage of lawnmowers, cycles etc.), a sustainable drainage solution and containing/retaining land without impacting on flood risk and land stability on this sloping site. Even if all the other demands were able to be met, a requirement for significant screen planting would come under future pressure from future occupiers as a result of amenity implications of planting so close to north-facing dwellings and the lack of light/ poor outlook in rear rooms and to the gardens. It is symptomatic of a development which has not been well planned, paying insufficient regard to site constraints.

Notwithstanding that there is an existing element of overlooking of the neighbouring Knowle Road gardens bordering the application site from public and private vantage points arising from the public right of way and from distant views, the amenities of neighbouring occupiers in Knowle Road derive largely from the quiet enjoyment of their homes and gardens as they are currently able to enjoy them and have for some considerable time. The level of overlooking and other impacts would be at much closer quarters and significantly greater in intensity, with impacts from high level external amenity areas, increased sense of enclosure, overshadowing, overlooking and perception of loss of privacy arising from large expanses of glazing and balconies. The amenities of future occupiers would be dependent upon and derived from, to a considerable extent, also from across these same private gardens and homes of the neighbouring occupiers to the north, particularly Nos. 10, 9 and to a lesser extent the apartments to the east. Reliance on this and reliance for mutual privacy on the retention of existing screen planting not within the applicant's ownership is not considered acceptable (or necessarily achievable for the reasons outlined above). This conclusion is formed, fully understanding the applicants' position, being that they consider impacts to have been addressed, and the views sought are over and across the neighbouring properties and gardens, not intended to be down into them.

The applicants have raised concerns about some works of tree felling and removal of vegetation which has taken place at No. 10. The applicants have drawn attention to a claim that they may legally own and are pursuing a legal claim on part of this land (currently within the rear part of the garden of No. 10) which they consider has encroached upon their ownership. The occupiers of No. 10 in turn refute this, considering the land to be within their ownership and that they are entirely entitled to fell any trees within their own garden. Red line issues are considered under 'Other Matters' below.

This is a civil matter and it is not for the LPA to arbitrate. It does not affect the current red line boundary of the application site or certificates and the application can be determined accordingly.

Neighbours at No. 9, concerned at privacy in their home and garden, have expressed a desire to reduce the height of their boundary planting and limit overshadowing, but are currently fearful of doing so with the proposed development under consideration. The planting is at the southern end of these private gardens and the higher and thicker it is, the more it shades the remainder of their garden, keeping it darker and damper for longer. The bamboo which acts as a hedge screen is approximately 5m high at the common boundary at present. This was established through a recent site visit.

It is precisely because of the existence of this planting in the neighbouring gardens that the applicants feel it is acceptable to build so close to the boundary. They consider that the latest revisions to the scheme, notably the changes to unit 1 with the introduction of high level windows and louvre screen brise soleil to the terrace at level -1, now overcome overlooking and privacy problems to no 10 Knowle Road. They consider comparable amendments to units 2 and 3 to be unnecessary due to the extent of the existing screen planting at no 9. Some of this planting is evergreen, including conifer and bamboo.

The applicants consider they have fully addressed all impacts on all neighbouring occupiers, including the occupiers of Nos. 9 and 10.

While it is the case to some extent that with higher development, direct overlooking and loss of privacy may diminish as the higher views become principally outward and upward, not directly downward (unless occupiers are stood close to a window/ terrace/balcony and are able to look directly down), given the intended circumstances, the actual and perceived overlooking would have a considerable overbearing and oppressive impact on the amenities of neighbouring occupiers to the north to a degree considered to be wholly unacceptable and contrary to the aims of Policy and Guidance to protect existing amenities.

In summary, the reality is that the application relies entirely on screen planting outside the red line boundary of the site for all screening impacts. The applicant's consider the proposals to be acceptable on this basis.

There is no compunction for neighbours to retain this planting, the trees are not the subject of a Tree Preservation Order (TPO), though neighbouring occupiers have expressed concerns about being fearful of impacts from development proposals if planting is removed or reduced. If the scheme is reliant upon the planting for amenity, then the LPA must consider how this can be safeguarded and retained, through planning conditions. It is not within the red line boundary of the application site and not demonstrably in the legal ownership of the applicant. Therefore there are no means by which the LPA can require its retention i.e. through planning conditions.

It has not been demonstrated that the site can be properly drained and land stability secured, which might potentially further impact the trees in neighbouring gardens bordering the boundary on which the scheme is ostensibly reliant. In these circumstances, where the scheme is not supported, the LPA has not requested details.

The applicants have drawn the LPA's attention to the existence of covenants on the land. The covenants, which are understood to largely pre-date the neighbouring occupier's ownership and indeed the applicants' ownership are civil matters and as such do not have a direct bearing on the planning process. My understanding is that the applicants interpret the covenants as meaning that neighbours are not entitled to object to the planning application. I am not a lawyer, but my interpretation of the covenants is that, if lawfully obtained planning permission is acquired, then the owners may not then oppose the development of the land in accordance with that planning permission. This is considerably different from not being able to object to a planning application and I cannot foresee a covenant being able to remove a third party's legitimate right to comment on a planning proposal. Lawfully obtained planning permission has not yet been secured – that is the

purpose of the planning application. The neighbours who are fearful of reducing their own screen planting to a more acceptable height to them are aware of this covenant and which is part of their considerations in not reducing the height of their trees. I agreed to include reference to these matters at the applicants' request and have done so. Nevertheless, this is a civil matter as advised above, separate from the planning process.

In summary, amenity impacts arise, as has been described above. The existing screen planting lies outside the control of the applicants. In these circumstances, compounded by the probability that to implement the proposed development would adversely impact upon the health and perhaps ultimately the survival of these trees, further direct overlooking cannot be ruled out. The siting and height of the building, height and proximity of windows and position of terrace and balconies is such that the development will give rise to a significant perception of overlooking and loss of privacy. The perception of being overlooked has been held to be a material planning consideration.

The development would tower above the bungalows and their rear garden areas at close proximity to the common boundaries and have an overbearing impact, result in a significant increased sense of enclosure, cause significant overshadowing of the gardens for significant periods of time and be unduly unneighbourly.

Neighbourliness is a yardstick by which developments can reasonably and pragmatically be judged. Notwithstanding that the applicants consider they have addressed amenity concerns, for the reasons outlined above, the impacts this development would have on the amenities of neighbouring occupiers of the properties fronting Knowle Road to the north and their right to the private and quiet enjoyment of their homes and gardens would be negatively impacted by the proposed development to an extent considered to be unacceptable, in conflict with policy DP3, Guidance in the NPPF and planning Practice Guidance. This weighs significantly against the proposal in the planning balance.

#### Design/Landscape:

The site lies within the South Devon AONB and Undeveloped Coast. The application is assessed with regard to the potential impacts of the development on local character, including impacts on the AONB. The LPA has a duty under The Countryside & Rights of Way Act 2000 which provides a statutory framework for all policy, plan-making and decision-taking affecting the AONB by all public bodies, including local planning authorities and government agencies. Section 85(1) in particular is relevant to decision making in relation to the duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB.

The site lies outside Salcombe Conservation Area and beyond the Conservation Area setting boundaries. There are no Listed Buildings or Ancient Monuments nearby whose setting could potentially be affected by the proposals and no significant heritage impacts are considered to arise. This view is reached notwithstanding objections on the grounds of impacts on the setting of the Conservation Area.

Guidance in the NPPF requires great weight be afforded to conserving the landscape and scenic beauty of the AONB. Policies DP2 and CS9 address local character and visual amenity considerations. The LPA is required to take the necessary action to ensure that the natural beauty of the AONB is conserved and enhanced. The recently adopted South Devon AONB Partnership Planning Guidance for the South Devon AONB is a material consideration.

Policies DP1 and CS7 require good design. Policy DP1 sets criteria for high quality design including the need to respect and respond to the South Hams character in terms of its settlements and landscape.

New development should also be based on a good understanding of the context of the site, and contribute positively to its setting by enhancing the local character, taking account of the layout, scale, appearance, existing materials and built and natural features of the surrounding area; and protect

local and strategic landmarks and buildings, and enhance views and skylines. The proposal is considered to be in conflict with the requirements of Policy DP1.

Policy CS7 requires development proposals to include and promote good design which respects local distinctiveness and the character of the site and its surroundings in order to protect and enhance the built and natural environment. The proposal is considered to be in conflict with the requirements of Policy CS7.

Policy CS9 affords great weight to the conservation and enhancement of the AONB. For the reasons detailed below, conflicts are considered to arise.

Planning for the South Devon AONB: Planning Guidance Version 1 contains a number of Policies relevant to considerations aimed at safeguarding the natural beauty, tranquillity and character of the AONB. Policies LAN/P1 to LAN/P6 and Objectives LAN/02 and LAN/03 are particularly relevant.

Policy DP2 of the DPD seeks to safeguard landscape character and includes a number of criteria requiring development proposals to demonstrate how they conserve and/ or enhance the local landscape character by: reflecting the needs and issues set out in identified landscape character areas; ensuring its location, siting, layout, scale and design conserves and/or enhances what is special and locally distinctive about the landscape character; retaining, integrating and enhancing distinctive features; avoiding unsympathetic intrusion in the wider landscape, such as detrimental impact on the character of skylines or views from public vantage points and light pollution; and respecting the unspoilt nature and tranquillity of the area.

Policy CS9 of the Core Strategy advises that within the AONB, conservation and enhancement of the natural beauty of the area will be afforded great weight. Para 6.21 advises South Hams is renowned for its high quality, scenically attractive landscape and coastline, much of which is designated AONB.

Policy DEV24 of the emerging JLP addresses landscape character and requires developments conserve or enhance landscape, townscape and seascape character including through criteria aimed at ensuring developments respect scenic and visual quality and maintain an area's local distinctiveness, conserve and enhance views and be of high quality design.

Policy DEV27 of the emerging JLP seeks to safeguard nationally protected landscapes from inappropriate development through criteria including: affording great weight to natural beauty; assessing direct, indirect and cumulative impacts; encourage small scale proposals to conserve, enhance and restore protected landscapes; seek opportunities for enhancement; and specifically within the AONB, further criteria to: conserve and enhance the natural beauty of the area; be designed to prevent the addition of incongruous features and remove or ameliorate existing incongruous features; be located and designed to respect scenic quality and maintain an area's distinctive sense of place, or reinforce local distinctiveness; further the delivery of the relevant protected landscape management plan, having regard to its supporting guidance documents; and avoid, mitigate, and as a last resort compensate for any residual adverse effects.

NPPF paragraph 115 advises Great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important.

The application site is undeveloped land and its greenery and vegetation contribute positively as part of this green hillside, which, in combination with adjoining gardens and vegetation, provide a welcome green backdrop/ foreground to the surrounding built development and which has made a long-standing positive contribution to the local townscape. Lying within the AONB, landscape character is a key consideration.

Landscape characterisations include the following:  
Devon Character Area 51 Salcombe to Kingsbridge Estuary

Landscape Character Area (LCA): Salcombe to Kingsbridge Estuary  
Landscape Character Type (LCT): 5A: Inland elevated undulating land

A Landscape Character Assessment for South Hams and West Devon Draft Report Prepared by LUC February 2017 is the latest landscape appraisal for the area. While not adopted, it forms part of the evidence base for the JLP.

Under this latest classification, Salcombe is LCT 7 Main town/village, with bordering land LCT 3G. River valley slopes and combes.

LCT 3G is located across the district on the banks of the numerous rivers along the south including the Salcombe-Kingsbridge Estuary where rounded hills and steep undulating slopes overlook the river valleys.

While the site is within the settlement boundary, views into and out of the area are important. Views and perceptual qualities relevant to this part of the surrounding AONB include:

- deeply incised valleys enclosed by woodland, tall hedgebanks and mature hedges provide a sense of enclosure and seclusion;
- a strong visual and topographical link with the rivers and estuaries on the south coast. Outstanding views from higher ground along valleys and across the estuaries contrasts with constrained views along the valley bottoms;
- a strong sense of tranquillity and experience of dark night skies except in areas impacted by light pollution from larger settlements;
- the LCT forms part of the South Devon AONB which recognises the peaceful rolling hills and wooded incised valleys, with their colourful hedge banks, green lanes and orchards, as part of the protected landscape.

Identified forces for change include the expansion of towns within the LCT onto the upper slopes where they would be visible in the wider landscape. While this proposal does not expand the town at the edge, it does involve the erosion of part of an existing green wedge of undeveloped land which makes a positive contribution locally in terms of providing relief from the built form, but also has a positive benefit through views within, into and out of the AONB.

The application proposal seeks permission for three detached family dwellings of modern design. The area has developed incrementally, primarily through the mid to late twentieth century and into the new millennium, and designs are varied, with no one strong dominating character or aesthetic.

The applicants consider the site to be redundant infill scrubland, albeit surrounded by mature planting which they consider effectively screens the proposals. They wish to point out they are not removing any existing mature planting, but providing supplementary planting. It is though clear from past aerial imagery and photographs that previous mature planting has already been removed from the site. The applicants consider there to be generous breaks between the buildings and consider there has never been any public view over the site. Nor, do they point out, would the development break skyline views. This latter point is addressed below. The properties on the south side of Onslow Road are elevated and already break the skyline in views from Knowle Road and elsewhere from the south. The development would break the skyline, appearing larger and higher as a result of being closer in these views, but it is acknowledges that it does not break an established green ridge line. The applicants are adamant there are no negative landscape impacts arising from the development proposals.

Objectors are concerned with the loss of public views, impacts on the environment through loss of greenery and the scale and appearance of the development t, as detailed under the representations section.

The application site has previously been undeveloped and long played a role in the character of this part of the AONB. However, development in the form proposed will have an adverse impact.

Decision-takers must be mindful of AONB issues throughout any decision-taking process including notably the duty to have regard to the conservation and enhancement of the AONB.

When the Local Plan is out-of-date, as is the case here in relation to the 5 year supply of deliverable housing land, the 'presumption in favour of development' for development in or affecting AONBs is removed by the application of footnote 9 to NPPF paragraph 14.

Considerations of harm to the AONB should be distinct from those on harm to landscape generally and there is an emphasis on the LPA to conserve and enhance the character and scenic beauty of the AONB.

A number of key considerations arise in this regard. While Salcombe is heavily developed, the green areas provide important relief from the built development and contribute positively not only to local character but to the character of the wider AONB, including views into and out of the AONB. The application site is part of a series of linked green spaces, mainly comprising gardens, but also the planting adjacent to the pedestrian steps, at the top of which there is the seated area.

Having regard to the current contribution the site makes to the character of the AONB and the extent to which the site would be dominated by both substantial built development and significant hard surfacing, which will almost completely negate opportunities for any substantial planting by way of mitigation anywhere on the site including the site frontage, either side of and between dwellings and also severely limit the potential for greenery of any substantial height in the rear garden areas given their size and orientation, the need to protect the root systems of trees and vegetation to the north and the need for an appropriate drainage solution which safeguards land stability, the proposal would not enhance and would fail to preserve the character of the AONB.

The character of Onslow Road would alter radically in the event the application were to be allowed. The site is at a transition between the more urban character of the town and the emerging character of the coast. The long-established greenery and open aspect the site affords is a positive feature of the character of the area at this transition as the road narrows and falls under a green canopy towards the coast.

Impacts on a public view can be a material consideration.

Views can (at the time this report is written) presently be had outwards from this public seating area towards the estuary. The applicants dispute that such views have ever existed previously or are important. Objectors refute this and evidence to support the relative positions provided. The vegetation has recently been cut back and views out to the coastal estuary are presently available. This is also partly because the application site has had much of the former vegetation which previously existed removed (as is evident from past aerial photographs).

Google photographic street view and aerial imagery (including aerial imagery dating back to 2002), the submitted photographs, drone images and site visits reflect the area within this green wedge to be green and undeveloped, but which was more heavily vegetated at times in the past. A bench may have been situated here to afford rest to users of the steep steps. It may have been located here because of the view or a combination of both. How often long-ranging views have been available is a matter of disagreement locally. The public view is presently available and a positive feature of the area. Such views are increasingly rare. The view is to a degree dependent upon the Council keeping vegetation trimmed. It is though, also partly dependent on the application site, and an intervening area of unregistered land, over which any long-ranging views are effectively borrowed. If trees are allowed to grow back on the application land, public views could once again become obscured over time.

It is not just the long-ranging public view from the seat, but the experience of pedestrians and road users which is important. The land and neighbouring undeveloped land provides welcome relief from built development as can readily be appreciated by walking along Onslow Road, and the change in

character evident in contrast with nearby built development locally. Views from Onslow Road out to the undeveloped coast and hills are important, not just over the application site, but wherever they may be found. The importance of these to the experience of users and to local character cannot be underestimated.

Given the siting, height, scale, massing and form of development proposed, its location, and lack of opportunities for mitigation, the proposed development will have a considerable negative impact on the public view and outlook from the bench adjacent to the public footpath, the character of this part of Onslow Road and the experience of pedestrians and users of Onslow Road. The availability of public views contributes to the quality of the environment and the day to day experience of residents and visitors alike. It is the overall townscape and landscape and AONB character impacts of the development proposed, of which the local viewpoint issue is one element, which is of serious concern.

Not only does the development negate the green contribution presently made, the urban form of development is considered inappropriate and would appear an incongruous addition in the street scene at this important position. If the development in the form proposed is permitted it will inevitably obscure this public view north east to Batson Creek and beyond to a significant degree. The replacement development has a dense urban form with extremely limited capacity for mitigation planting. This strong urbanising impact, combined with the loss of public view weighs negatively in the planning balance. The development does not take account of or reflect the change from urban/suburban to a more rural character of this transition point in the local environment and where greenery and views have long dominated, not the built form and hard surfaced parking/turning areas proposed.

It is the case generally and a factor locally that where built development on sloping topography is set within green spaces, with gardens and breathing space surrounding development and opportunities for planting, the overall quality of the environment will better reflect the positive characteristics of the area and natural beauty of the AONB. Good and bad examples exist locally. The applicant has cited a number of examples, addressed under 'Other Matters' in this report below. Some break the skyline in distant views, overlook and overshadow neighbours and are considered to be poor examples of development, having negative impacts. Rather than acting as a precedent for allowing this development as the applicants suggest, these should be used as examples to justify why it is important to avoid the repetition of such negative impacts and to strive for higher quality, consistent with the thrust of Policy and Guidance and the duty of care imposed on the LPA by Section 85(1).

The varied topography plays a part in design. Often properties on one side of a road are elevated and on others set down and/or incorporate under build accommodation at the rear. The application site is no exception in this regard. The development is on the lower side of the road, is proposed to be set below the level of the road and incorporates under build accommodation at the rear. Two storeys front Onslow Road, but the extent to which the development is set back and the extent of under build proposed, resulting in a four storey rear elevation, are key concerns.

The application site is irregularly shaped, with an area of 672 sq. m. measuring circa 34m across at its widest point and circa 24m at its deepest point. Density equates to 44.96 dwellings per hectare. The fall in land levels varies across the site, with a difference between the lowest levels and the pavement in Onslow Road being circa 6.5 m to the east, 7.3 m centrally and 8.2 m to the west.

The development proposed is for three detached dwellings fronting Onslow Road, two storeys at the front, four storeys at the rear.

Due to the constraints of the site, to accommodate the access, visibility, parking, turning and other requirements (e.g. refuse storage/cycle storage) for three family dwellings, the units are forced to be set back to allow for the frontage area proposed. To a great extent, this dictates the siting and gives the fundamental problems arising from the overdevelopment of this site. In relation to design, landscape and character considerations, impacts include the localised effects of the extent of hard surfacing to the frontage and lack of capacity for mitigation, the extent and form of development,

impacts on views and the change in local townscape character as a result, including views from the north, and these are also explored in detail below.

The size, siting and aspect of the proposed buildings are important considerations. Though four storeys, only two storeys project above street level in Onslow Road. Like the Dell Court properties adjacent, the ground floor levels are set lower than the pavement in Onslow Road. Unlike Dell Court, they present gables to the road. The properties are detached, with steps at the side to access the lower levels. Each has a balcony amenity area above the undercroft parking and would appear detached viewed direct on from Onslow Road. The properties do not sit parallel to the road, as with other properties opposite and adjacent (as is the usual form of development), but are off-set and also staggered. This is because the entirety of the frontage is required to be hard surfaced and unencumbered to afford adequate parking, turning and manoeuvring space for cars and service vehicles in addition to safe pedestrian access. The Design & Access Statement (D&AS) advises this is to take advantage of Batson Creek views. Whatever the reason, the consequence is that the dwellings would appear slightly incongruous in the street scene and obscure more of the views from the western approach than if they were set in line parallel with and fronting Onslow Road.

The front gables have large triangular glazing panels. This form of development is becoming increasingly common in modern dwellings, to maximise daylight and sunlight. On this south-facing elevation, it will bring light into the building and compensate to an extent for the lack of light from only one other first floor window providing outlook from a habitable room on the south elevation and lack of light to northern rooms generally. Light pollution is becoming increasingly of concern, particularly in the AONB where dark skies and tranquillity are essential components of the character. The South Devon AONB Unit has produced guidance seeking to highlight concerns and address issues. The roofs also have roof lights. While these features will bring much light into the building and benefit occupiers it will impact on light pollution and contribute to sky glow. The particular difficulties with these high level windows is that often they are not curtained at night as windows often are after it gets dark, for privacy reasons, increasing impacts indirectly. The needs of occupiers must be tempered with and balanced against light pollution impacts. It is appreciated that this is a town location, where impacts are potentially not as evident as they are in the countryside. However, with increasing awareness of the problems comes a greater responsibility. The night time character of the South Devon AONB is important and the opportunity to see the night sky because of the low levels of light pollution are a significant part of its attraction. Having identified impacts on night time tranquillity and dark skies from similar gables in countryside and coastal locations, there is a recent increased attention towards greater protection. It is appreciated that this is a settlement and not a countryside location and the glazed gable does not face directly towards the undeveloped coast. These elements of the design, including the large expanses of glazing in other elevations, are though symptomatic of affording too little consideration to these important issues and impacts.

This site is south facing and designs should seek to address issues of solar gain. The glazed gable and roof lights achieve this to a limited extent, but with the drawbacks identified above. In other regards, with much of the outlook and the garden space north-facing, solar gain opportunities are not maximised. This is considered to be a consequence of seeking too much development on the site, which limits design options.

If the site were to be considered demonstrably capable of supporting development in principle, two storey height above Onslow Road would be considered entirely appropriate in design terms, having regard to the form, scale height of development locally. This conclusion is reached separately from and notwithstanding considerations surrounding the concerns and objections raised in relation to the public seating area at the top of the pedestrian steps on Onslow Road and wider public views. While in the majority of instances gables are not presented to the road, there would be no objection in principal, subject to other considerations. The extent of development, how far back it extends and the extent of under build are primary concerns.

Setting aside the above concerns for the moment and looking at the detailed appearance of the buildings, while distinctly contemporary in design and in no way reflecting the characteristics of

nearby development, the area has developed incrementally, with a variety of building ages and designs evident, largely from the post-war period through the mid to late twentieth century and beyond into the new millennium. With no strong overall aesthetic or design features locally from which to take positive cues, the external contemporary approach advocated is, in isolation, considered to be acceptable in principle, subject to detailed issues surrounding fenestration, notably the extent of glazing, and materials. This is reinforced by other examples of modern developments locally including at Bonfire Hill, visible from the application site. This view is reached having regard to what is said above about gables and night time impacts.

Taken out of context and completely disregarding for the moment the unacceptable frontage layout and inadequate space around the buildings, when considered in a vacuum, the original design of the proposed buildings of modern appearance, with gables, tiered and with interesting fenestration and some use of materials, has design merit and some appeal. There are reservations about some elements of the design, such as the large glass gables to the frontages and glazing proportions (for reasons explained). The height, form and appearance of the four storey rear elevation perhaps lends itself more readily to an urban waterfront wharf-side setting than to the setting for which it has been designed

The design has though been compromised at the rear by successive iterative changes, made in an attempt to mitigate neighbour amenity impacts through hiping the rear gable, elevational changes including high level windows and louvered brise soleil (most notably to unit 1), not intended to improve the design and appearance, but devices to offset negative impacts – and which struggle to work aesthetically and detract from the original design.

The difficulty however, is that the scheme cannot be viewed in a vacuum, it must be considered in the context of the site and surroundings, an AONB, a nationally protected landscape, at a transition point in the local environment.

The attempt to fit three detached family dwellings on the site is unsuccessful, forcing the dwellings to be sited further north of the Onslow Road frontage than is desirable in landscape and townscape terms (not to mention neighbouring amenity impacts), staggered and with frontages not parallel to the road. Furthermore, in proposing four storey development at the rear, so close to the northern, western and eastern boundaries, not only is the entire site frontage required to be hard surfaced (and leaves limited capacity for waste/recycling, bike storage and screen planting) but very limited rear space to fulfil all the functional requirements (as identified elsewhere in the report), and has far reaching environmental implications.

NPPG Design Paragraph 007 advises development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development and the successful integration of new development with its surrounding context is an important design objective, irrespective of its location. When considering new development, the site's land form should be taken into account and seek to reinforce and sustain local distinctiveness, reduce its impact on nature and contribute to a sense of place. Views into and out of sites should also be carefully considered from the start of the design process. The existing land form is totally negated by this development and would be unrecognisable/indiscernible after the development. Similarly views into and across the site are severely impacted.

Paragraph 007 goes on to advise the opportunity for high quality hard and soft landscape design that helps to successfully integrate development into the wider environment should be carefully considered from the outset, to ensure it complements the architecture of the proposals and improves the overall quality of townscape or landscape. The lack of any significant potential for mitigation does not reflect the character of Onslow Road properties generally in the vicinity of the site, which predominantly have gardens or green screening to the frontages. Adequate regard has not been paid to such required considerations, to the detriment of local townscape.

In considering the proposed development, the relationship of buildings and the spaces between them are important considerations and the following issues identified as being of importance (NPPG Paragraph 023):

- layout – the way in which buildings and spaces relate to each other
- form – the shape of buildings
- scale – the size of buildings
- detailing – the important smaller elements of building and spaces
- materials – what a building is made from

The proposal is driven by the applicants' need/ desire for three detached family dwellings on the site. This starting point for consideration on a site with challenging issues of size, configuration, topography, highway safety and visibility among other considerations, raises the particular problems identified and limits options for solutions.

Much of Salcombe is built on steeply sloping valley sides and development has evolved iteratively historically, including to take advantage of some of the fantastic views available, site circumstances permitting. Multi-level buildings are an established and effective way of optimising development on steeply sloping sites and Salcombe is no exception in this regard in accommodating this form of development.

In considering all of the elements that make up good design, it is a combination of a number of factors which give rise to overall concerns.

To the west of the site, 1 Dell Court is a mid to late twentieth century dwelling, two storey at the front, set back from and at a lower level than the highway, part of a small development of four similar dwellings with their own shared private access, screened partially from the street by hedge planting. The layout of this development is not dissimilar to the application proposals as illustrated by the submitted figure ground plan. Levels are available from the topographic survey of the eaves and ridge of 1 Dell Court, from which some of the potential impacts of the proposed development can be gauged and assessed. The ridge of No. 1 Dell Court, higher up the hill, west along Onslow Road, would be marginally higher than the ridge height of the proposed nearest dwelling unit 1 as revised. No significant relationship issues arise between the proposed development and Dell Court from Onslow Road. The impact of the rear of the Dell Court properties on local character is negative. This is precisely a reason to resist this proposed development, not support it.

Knowle Road is lower down the valley slope. To the north are houses fronting Coronation Road at a lower level again. Properties on Bonfire Hill and other roads rise up the opposite valley side and those on the upper slopes currently visible from the application site don't break the tree line above, when viewed from street level outside the site in Onslow Road. Regrettably this is not the case towards the high ground to the north-west of the site, where, when viewed from Onslow Road, modern and some older development is more urban in character and does break the skyline in a jarring manner. Viewed from Knowle Road, properties on the south side of Onslow Road already break the skyline, as do the Dell Court properties. The development would be closer and appear substantially more prominent viewed from Knowle Road. Though it would not break a green ridge line, in combination with the urbanising impacts of the four storey development and the lack of planting opportunities/ erosion of open character, its impact in wider views is of far greater landscape concern.

Having visited the site and surroundings, it is clear the true rear elevation as depicted in the submitted plans will not be visible in any view point which exists in reality close to the site boundary. The issue is how the development will appear to near neighbours and in public views from nearby and further afield. These are among the issues objectors are attempting to illustrate.

From lower ground in Knowle Road and higher ground to the north, e.g. Bonfire Hill, the extent and impacts of the proposed development are readily appreciable. The rear dividing fence between the application site and No. 1 Knowle Road is clearly visible and impacts can be gauged in relation to this and to No. 1 Dell Court.

The LPA is required to take the necessary action to ensure that the natural beauty of the AONB is conserved and enhanced. The recently adopted South Devon AONB Partnership Planning Guidance for the South Devon AONB is a material consideration. While the site is a separate entity, it is also part of a linked number of undeveloped gardens and other green space. Together these form a green wedge on the hillside which extends into and separates areas of built development. There would appear to be limited capacity for vehicular access from Onslow Road to the undeveloped land immediately to the east and the likelihood of the site bordering the application site being developed is considered to be low. This is of benefit to the application site. It is fully recognised that the site is within the town and is not in the undeveloped part of the AONB, but the positive character of this suburban part of the AONB derives in part from the character and appearance of the immediate built development and topography, from the relationship of open greenspaces including gardens, to the built form, and to the views available from various points along Onslow Road out to the undeveloped part of the AONB. The proposal fails to pay sufficient regard to the importance of these relationships, particularly with regard to the lack of retained open space, the height, and bulk of the built form, extent of hard surfacing, overbearing impacts and loss of view. The impacts of the proposed development are considered to neither enhance nor conserve the character of the AONB. It is considered that the impacts on the overall character of the AONB would not be positive or neutral, but would be negative. Given the importance placed on the protection of nationally significant landscapes, development which fails to conserve or enhance the character of the AONB cannot be supported and the LPA must have regard to the provisions of legislation, Policy and Guidance in affording due weight to such considerations.

The conclusions drawn are that in some views, considered to be important, the impacts of this four storey development when viewed from the north are detrimental to local landscape character and the character of the AONB. Extending development eastwards, encroaching on the existing green wedge to such an intensely urban extent is considered unacceptable and conflicts with Policy and Guidance. In distant views, from higher levels on the opposite side of the valley, the dwellings would not break any green ridge, as other Onslow Road buildings already break the skyline. The development would though appear higher, closer and significantly more prominent. In some views, parts of the development would be seen in the context of the Knowle Road rear gardens and some of the planting adjacent to the footpath. Though the proposed three dwellings are detached, they have steps to the side serving the lower levels and there is no capacity for substantial planting between the dwellings and similarly very little at each end. Overall, this development fails to take adequate account of issues of local distinctiveness, including the long-standing open green character of the site and its surroundings and the positive contribution it makes itself and in conjunction with other greenery, to the character of the area and quality of this part of the AONB. It is four storeys with very limited space for the softening and screening of impacts and is considered to be an overdevelopment, with overbearing impacts, including an overtly urbanising effect, harmful to the character of the AONB.

In relation to detailed housing design issues, NPPG (Para. 40) advises well-designed housing should be functional, attractive, sustainable and adaptable to the changing needs of its occupants. Consideration should be given to the servicing of dwellings such as the storage of bins and bikes, access to meter boxes, space for drying clothes or places for deliveries. Such items should be carefully considered and well designed to ensure they are discreet and can be easily used in a safe way. Unsightly bins can damage the visual amenity of an area. Carefully planned bin storage is, therefore, particularly important. Local authorities should ensure that each dwelling is carefully planned to ensure there is enough discretely designed and accessible storage space for all the different types of bin used in the local authority area (for example landfill, recycling, food waste).

Given turning and visibility requirements, all owned frontage is effectively shared and has to be kept free for neighbours and all deliveries to egress the site safely, and the development is not considered to be well planned. Nor is this external environment conducive to any enjoyment and is purely functional as well as being visually sterile (no space for mitigation screen planting, not suitable for play/recreation). Issues are compounded by the security issues identified above. This is not good design, may lead to conflict and does not make for harmonious living conditions.

Designing out crime has long been an aim of Government Guidance. The main entrances face the street which is positive, but thereafter, the front door serves only hallways and any front window on the ground floor is obscured to serve a WC or a hall (unit 1), not a ground floor habitable room. At first floor, the only window from which outlook is available serves the principal living accommodation, but is shown to be located above a sink, limiting natural surveillance to very close proximity to it. There are balconies at first floor level which will increase natural surveillance and security when in use and may act as a security deterrent as the opportunity exists for occupiers to come out onto balconies at any time. The overall lack of natural surveillance of the private and public areas to the site frontage is limited. This is of particular concern with undercroft parking and no safe storage of cycles etc. will be practical.

Having regard to the identified issues relating to good design, the competing demands on the frontage, lack of capacity for cycle and other storage, absence of opportunities for planting to soften the visual impacts of the development, more successfully integrate the proposed development into the street scene and wider landscape, and the lack of natural surveillance, in combination these are symptomatic of an overdevelopment.

Overall, driven strongly by the intention of securing permission for three large detached family dwellings, the proposal is considered to fail to take account of good design advice in the NPPF and PPG and is in conflict with Policies DP1, DP2, CS7 & CS9 as well as other Guidance and emerging JLP Policies. In summary, what is special and locally distinctive about the landscape character in the vicinity of the application site is the relief from built development it affords, arising from the combined impact of the green space formed by the application site and neighbouring undeveloped gardens. This is an attractive feature of Onslow Road, adjacent to a public seating area. This combined land forms a green wedge, also a positive element in views from the north. Retaining, integrating and enhancing distinctive features, avoiding unsympathetic intrusion in the wider landscape, such as detrimental impact on views from public vantage points and respecting the unspoilt nature and tranquillity of an area are among the aims of Policy and Guidance. Such aims are disregarded in attempting to maximise development on the site at the expense of such considerations. Views and perceptual qualities identified as important in recent landscape assessments include a strong visual and topographical link with the rivers and estuaries on the south coast. The erosion of the contribution this site makes to these aims is not supported. Having regard to the Council's duty under Section 85(1), these issues are afforded great weight in the planning balance.

#### Drainage/Flood Risk/Land Stability/Pollution:

A key consideration is whether it has been demonstrated that the site can be satisfactorily drained and prevent the increased risk of flooding elsewhere and safeguard land stability. Excessive run-off can also contribute to pollution issues.

Policy DP4 (3, 4 & 5) seeks to ensure development is sustainable through avoiding or mitigating:

- any increased risk of flooding on site and elsewhere;
- any risk from contaminated land, erosion or instability;

JLP Policy DEV2 (1) Policy seeks to prevent harm from development proposals, including through water and land instability will not be permitted.

Paragraph 103 of the NPPF advises that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

NPPG on Flood risk and coastal change is also relevant to considerations.

The applicants have attempted to address concerns about how the site may be drained. The applicants have clarified that what is intended is provision of soakaways to the south feeding an attenuation tank in the north-west corner of the site. They refer to an agreement with the LPA not to

request drainage details where the scheme is not supported. They also consider the scheme could result in an improvement over current conditions.

Neighbours commissioned a drainage consultant's report which concludes drainage proposals would not satisfy current guidance, there is no evidence land stability has been considered and adequate investigations into issues is required. The applicants refute the findings of this report.

The difficulties of developing on steeply sloping land are well documented. That it is possible to develop in theory is accepted, borne out by the many other development locally on similarly steeply sloping land. However, there are concerns about whether this can be achieved through a sustainable form of development, having regard to the strong reliance upon retaining screen planting within gardens bordering the site and the issues identified inherent in the proposals which are counterproductive to the retention of trees adjacent to the site boundary.

The key challenges surround how the extent of development proposed can accommodate all the competing demands of the development (as described earlier in the report).

The plans show retaining walls around the entire perimeter. The construction of these walls, and levelling land for gardens will impact tree root systems and altering land drainage, affecting neighbouring land. This, together with the extent of construction and hard surfacing, will drastically alter run-off and may potentially impact land stability. SHDC's specialist has provided advice to the effect that it is not practical to build soakaways so close to the proposed buildings and boundaries as it would not be permissible under other legislation. A workable sustainable drainage solution that prioritises the use of infiltration drainage in accordance with best practice SuDS design, (CIRIA C753) is sought. The drainage hierarchy should be followed with options evidenced in order of priority:

1. By infiltration, soakaway.
2. Discharge to a water course, attenuation maybe required.
3. Discharge to the public sewer, attenuation will be required and permission from SWW.

On such a steeply sloping site, the use of soakaways may lead to ground instability due to potential seepage of water. Therefore a ground stability assessment will be required along with percolation testing and soakaway design. The Soakaway should be a minimum of 5m from all dwellings and highways in accordance with building regulations part H. It should also be a minimum 2.5m from other site boundaries for best practice. Root protection distances might be greater. This is simply not considered possible within the layout proposed.

To overcome the objection the applicants have been advised by the specialist through the response to this application they will need to provide:

1. Drainage assessment
2. Percolation testing to DG 365 will be required. Provide test pit logs and calculate the infiltration rate in m/s.
3. If soakaways found to be viable then ground stability assessment will be required.
4. If the soakaways found to be unfeasible, then offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods.
5. SuDS to be designed for a 1:100 year event plus 40% for climate change, supported by calculations and testing.
6. A scaled plan to show full drainage scheme in private ownership. Any shared scheme, if needed should be in public or shared space.

In view of the other concerns, as the scheme is not supported, no formal request has been made for the information, as it would not overcome fundamental concerns and objections to the scheme.

The proposals for foul sewage involves connection to the public system and is acceptable.

In the absence of a demonstrably sustainable drainage solution, flood risk and land stability concerns remain and conflicts with Policy and Guidance arise. This weighs negatively against the proposals in the planning balance.

#### Highways/Access:

Access, highways safety, parking and turning are all important considerations in assessing the impacts of this development. While the site currently has no formal direct access for vehicles from Onslow Road, with no dropped kerb, the applicants advise the land has been used for many years for the parking of a vehicle and boat without accident. This was witnessed on the site visits.

Policy DP7 Transport, Access & Parking requires development should provide priority to pedestrians, cyclists and users of public transport, over the private car through means including providing for safe, easy and direct movement for those with mobility difficulties, have safe and adequate means of access, egress and internal circulation/turning arrangements for all modes of transport relevant to the proposal, not materially impair highway safety or traffic movement and not detract or conflict with the transport function of the road. The level of car parking provided should be in accordance with the parking standards set out in Appendix 5. These, together with residential parking and the level of cycle parking, will be assessed on a flexible site by site basis depending on the provision of public transport and access to local facilities.

The thrust of emerging Policy in the JLP does not depart significantly from Local Plan Policy aims.

NPPF paragraph 32 requires decisions to take account of whether safe and suitable means of access can be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. However, it has been established that should not be taken to mean that the safety impacts should only be severe and this is consistent with the requirement (2<sup>nd</sup> bullet point of paragraph 32) that safe and suitable access to the site can be achieved for all people.

Objectors have raised a number of highway related concerns, outline in the representations section. Concerns relate to the likelihood of reversing on a busy road with high traffic speeds, where the road narrows.

The applicants' consider the proposal makes adequate provision for the parking of 6 vehicles and point to traffic restrictions preventing on-road parking provision in Onslow Road. They consider the application demonstrates adequate provision for the manoeuvring of six vehicles such that all can enter and exit the site in a forward gear. It is also pointed out it is not a new highways access (addressed below). And that they consider visibility is better than elsewhere on Onslow Road and complies with Manual for Streets requirements, advising they consider there to be no danger to all users of the road consistent with paragraph 32 of the National Planning Policy Framework

Presently there is an uninterrupted pavement along the northern side of Onslow Road across the application frontage. Yellow lines prevent parking and motorists are advised by signage that the road narrows downhill to the east. The nearest vehicular accesses are to Dell Court to the west, on the north side of Onslow Road and to the east leading to Bonaventure Road (and higher land to the south) on the south side, before Onslow Road continues east where it falls more steeply downhill.

The design of the development is very heavily influenced by the access, parking, turning and visibility splay requirements of the proposal for three family dwellings. In particular the development is necessarily pushed back northwards into the site to accommodate all the necessary highways parking and safety requirements.

Highways Diagram A-004 REV B shows a 33m X 2.4m visibility splay is achievable in both directions. The open frontage will extend the full circa 19.6m of the site width where it abuts Onslow Road. Pedestrians will have to exercise care when traversing this open frontage. No development would be allowed to interfere with the visibility splays for highways safety reasons.

During consideration of the application the frontage layout has been amended in response to highway concerns and the visibility splay improved to achieve the maximum possible within the constraints of the site. The visibility splay plan indicates that guest parking is possible without compromising visibility. A more detailed parking and manoeuvring plan (drawing A-002 Rev E) shows how unit 1 would also have an allocated parking space on the courtyard as it only has one undercroft space, unlike units 2 & 3 which have two. This pre-dates other changes to the buildings, but remains relevant for consideration as to the intentions behind the operation of the shared forecourt.

In response to the latest proposals the Highway Authority recommend conditions regarding visibility splays, parking and turning provision and avoiding debris on the highway in the event permission is granted. The Highway Authority noted the two parking spaces per dwelling in car ports and for unit 1 a separate space outside the property. The application submission also indicates where parking should not occur on site, so that on-site manoeuvring can occur across the frontage of the three properties. In theory this ensures that reversing and manoeuvring does not occur onto Onslow Road, a classified road. However, the Highway Authority has concerns that there would be some difficulty in ensuring these areas are kept clear in perpetuity so they can be used for that purpose. In the circumstances of the proposed parking arrangements, where manoeuvring must take place across the forecourt directly in front of neighbouring properties in order to safely enter and leave the site in a forward gear, and all residents are reliant upon their neighbours to keep the entire forecourt free for this purpose, the LPA share concerns about the enforceability of any condition seeking to keep the forecourt and unencumbered.

The Highway Authority therefore considers in legal and practical enforcement terms there is insufficient space on site for turning. However, having regard for the properties in the nearby vicinity of the site and the fact that many of them don't have turning, consideration must be given to whether the proposals are likely to cause a material safety issue. The Highway Authority note the accident evidence in the last 3 years reported to the Police on Onslow Road, which is attributable to reversing out of driveways. The Highway Authority would therefore not wish to object as they consider any such objection would fall down at appeal. These comments from the Highway Authority, as reproduced under the representations section of this report and referenced here, supersede previous Highway Authority objections to the initial scheme, which had also been overcome by subsequent iterative changes.

The applicants consider adequate arrangements are made for access, visibility, parking and turning. Cars have parked on the land in the past without a dropped kerb and without being able to enter and leave in a forward gear and with appropriate visibility splays, apparently without incident. However, the level of traffic associated with three family dwellings is different to the lesser historic use.

The ground floor incorporates integrated undercroft parking, with no garage doors proposed to increase the likelihood of use for parking. While this has the support of the Planning and Highway Authorities, the site has very limited space for the storage of refuse (though bin storage is shown), recycling, bicycles etc. The design of the frontage is heavily car driven.

The successful operation of the development so that vehicles may enter and leave the site in a forward gear, maximising the available visibility and minimising risks to all road users, will depend on the co-operation of all residents.

To comply with Policy and Guidance, the site should be safe for all users. There is a wide frontage so pedestrians will need to take care. Also, virtually the entirety of the frontage is given over to parking and turning requirements so care will also need to be taken by occupiers when exiting their homes, especially with young children, where manoeuvring by other household occupiers may be taking place across the frontage of their respective homes. This is not an ideal scenario, particularly where access is onto a classified road. The frontage is on a gradient, sloping north away from Onslow Road and this also has a bearing on safety.

Notwithstanding the concerns, while issues are indicative of an overdevelopment, ultimately the highway authority do not object and no objections are ultimately raised to the development on highways safety grounds. This must be factored into the planning balance.

Other Matters:

It is recognised that many issues are raised in the 200 plus representations received in response to this application in total, including representations made by the appellants in response to third party objectors, and comments from objectors on such responses. While it is not practical to give space to all of these issues in the report, they have nevertheless all been afforded consideration and are available to view in full on the website.

Ecology & Biodiversity: A wildlife Survey by Butler Ecology dated 28th January 2016 Report was submitted. Abundant potential for nesting bird habitat and typical slow worm habitat was encountered at the time of the survey and a precautionary approach recommended to site clearance. Areas of the site have since been cleared.

NPPF paragraph 115 advises the conservation of wildlife is important in the AONB. Local Plan and emerging JLP Policies reflect these aims. Linked green spaces are important in this regard. While impacts on ecology and biodiversity are limited and localised, linked gardens and green spaces in particular do make a positive ecological contribution and the extent to which the proposed built development and hard surfacing erodes open space must inevitably have a detrimental impact. However, while the majority of green space is removed, some limited opportunities remain and there is no breakage in green continuity as a result of the proposal. There is also opportunity for biodiversity enhancement through requiring bat roosting and bird nesting provision. When weighed in the planning balance, this negative impact is limited and does not weigh heavily against the proposals, supported by opportunities for biodiversity enhancement. Light pollution is a factor of the design. Impacts could be controlled through planning conditions, including requiring changes to fenestration (notably glazed gables) and limiting external lighting.

Nearby Developments: The applicant has referred to a number of developments elsewhere nearby which they suggest set a supporting precedent for their proposals. Each planning application is required to be determined on its own individual planning merits. Nevertheless the sites referred to by the applicant have been all been reviewed as requested.

3723/16/FUL is an application for a new garage/store and terrace over at 7 Knowle Court, Knowle Road, Salcombe, TQ8 8EH. This is for a garage at road level, with terrace above to the front of an existing two storey development set in an elevated position above the road, the relationship of the proposed development to neighbouring development differs considerably from the application proposals and the circumstances are not considered to be comparable to the application site.

0178/17/HHO is a householder application to extend an existing bungalow with single storey extension on the east elevation, to infill below the decking and front steps and new front door, to demolish the existing garage and excavate to create space for new double garage and off street parking at: 3 Rockmount, 3 Knowle Road, Salcombe, TQ8 8EQ. This is for a terrace above a garage at road level, with side extension to an existing bungalow set in an elevated position above the road. Reference is made to the absence of mitigation screen planting. However, the current application site has inadequate space for mitigation screen planting and relies upon screen planting within neighbouring properties. The circumstances are not comparable to the application site.

41/1631/15/F is a householder application for a proposed garage and landscaping works Ash Tree House, Knowle Road, Salcombe. This is a proposal for a road level garage with terrace and store to a two storey dwelling with accommodation in the roof set in an elevated position. It is a significant distance from the properties across Knowle Road and has no neighbours to the south. This is an extension to an existing dwelling, with the garage at a lower level and as such amenity and drainage impacts are not comparable to the application proposals.

0947/16/HHO is a householder application for alterations and extension to an existing dwelling at Hembury, Coronation Road, Salcombe, Devon TQ8 8EA. This is for a two storey side extension to an existing dwelling and in the circumstances of the incremental changes proposed to an existing property, is not considered to be comparable to the application site.

1815/17/HHO is a householder application for renovations and extensions as per approved scheme 3081/15/ HHO with proposed modification of two first floor balconies at St Nicholas, Coronation Road, Salcombe TQ8 8EA This is for the remodelling and extension of a detached dwelling set in an elevated position above the road and neighbouring properties potentially affected by overlooking from balconies lie across the road and the circumstances are not considered to be comparable to the application site.

2637/17/HHO is a householder application for extensions and alterations to a dwelling including new balcony/terrace and decked area, new perimeter retaining wall and fence at Mallards, Drake Road, Salcombe, TQ8 8EG. This is for extensions, including balcony development, to an existing dwelling, First floor level 1.8m balcony screening panels are proposed to prevent overlooking. The issues are similar to the application proposals in that development is proposed close to the boundary with neighbouring properties and includes balcony development. While issues are the similar, the precise circumstance and impacts are not considered to be directly comparable to the proposed four storey development in close proximity to the boundary, with limited capacity for screen planting within the application site.

Having regard to the requirement for each application to be determined on its individual merits, despite the applicant's assertions that the above cases which they consider set a sound supporting precedent for their proposals, none of the cases are considered to be directly comparable to the site circumstances such that the concerns and identified harm arising from the development can be set aside.

41/1041/13/F is a proposed garage and widening of existing parking bay and 41/2153/06/F for an extension to the dwelling at 10 Knowle Court, Knowle Road, Salcombe, TQ8 8EH. These are for a garage at road level, with terrace above and to the front of an existing bungalow set in an elevated position above the road and for an extension to the bungalow. The relationship of the proposed development to neighbouring development differs considerably from the application proposals and the circumstances are not considered to be comparable to the application site.

41/1217/13/F is the demolition of an existing dwelling and construction of replacement dwelling at High House, Frobisher Lane, Salcombe, TQ8 8AQ. This is for a replacement dwelling. That the drainage is conditioned, and details not required upfront is unsurprising in circumstances where this is a replacement dwelling, not three new dwellings on a previously undeveloped site and circumstances are not comparable. The screening issues are not considered to be directly comparable.

41/2602/14/F is the demolition of an existing dwelling and erection of replacement dwelling at Hinemoa, Frobisher Lane, Salcombe, TQ8 8AQ. Again, this is for a replacement dwelling. That the drainage is conditioned, and details not required upfront is unsurprising in circumstances where this is a replacement dwelling, not three new dwellings on a previously undeveloped site and circumstances are not comparable. The screening issues are not considered to be directly comparable.

41/0354/15/F is the demolition of an existing dwelling and construction of replacement house and associated works at Bingley, Onslow Road, Salcombe, TQ8 8AH. This is for the replacement of a bungalow with a modern two storey dwelling. That the drainage is conditioned, and details not required upfront is unsurprising in circumstances where this is a replacement dwelling, not three new dwellings on a previously undeveloped site and circumstances are not comparable. The screening issues are not considered to be directly comparable.

0383/17/HHO is a householder application for a new garage at 4 Dell Court, Onslow Road, Salcombe, TQ8 8BW served off a private drive and the circumstances are not considered to be directly comparable to the application site.

41/1787/78/4 is a change of use from one dwelling to two flats at 1 Dell Court, Onslow Road, Salcombe, TQ8 8BW. No decision was issued and the application would appear to have been withdrawn. The issue raised is the existence of multiple windows in a building of comparable height and position in relation to Piggy Lane and neighbouring dwellings. All the windows are considered by the applicant to impose overlooking issues to many properties. The north-facing windows of this property do overlook development to the north in close proximity. This change of use application in 1978 clearly pre-dates the erection of the Dell Court properties, although it has not been possible to ascertain exactly when they were constructed. It is assumed they may have been erected for some time before the change of use application was received. Mallards below was authorised in 1974.

Permission was granted for the 4 houses adjacent in 1974 and again in 1977. Where properties are constructed at a lower level, with the existence of the higher properties known, buyers have a choice.

In the present circumstances, the higher development would be imposed on existing dwellings whose occupiers would have no choice, who oppose the development, and where there are clear and substantial amenity impacts. The circumstances are not considered comparable to the application proposals for these reasons.

Developments at Ember Road, Bonfire Hill and Batson Cross on the outskirts of the town are referenced as having density, massing, overlooking and neighbour amenity issues worse than the application proposals:

Ember Road shared ownership development;

41/2301/05/F erection of 43 dwellings on land at Bonfire Hill, Salcombe

41/2193/08/F 13 dwellings at Bonfire Hill

None of the above dwellings are 4 storey or located to the south of neighbouring dwellings. Very few existing dwellings are affected by the development proposals and not on a way comparable with the application site impacts.

3941/17/NMM is an application for a non-material amendment for proposed dwellings reference 41/1915/13/F in relation to the design and appearance of the units at: Bonfire Hill, Salcombe. The original scheme was a full Application for the erection of 44 dwellings (27 private dwelling houses, 17 affordable units) and creation of 269m<sup>2</sup> (internal floorspace) of office/workshop space' on Allocated Site Ra3 on Land At Bonfire Hill, Main Road, Salcombe. This greenfield development of 2, 3 and one 4-storey house on an allocated site is not considered to impact neighbours in a way comparable with the application proposal. The four storey development referenced is at the north of the site and borders open countryside, with no existing near neighbours.

0362/16/FUL is the demolition of the existing stone boundary wall and the redevelopment of the site to form a 400 sq. m retail convenience store (Use Class A1) and 6 residential dwellings above, with new vehicular access and parking at the former Gas Works, Gould Road, Salcombe, TQ88DU. The entirety of the site was encased in a concrete base that previously supported the gas holder and drainage issues are not comparable to this greenfield site. Issues of overlooking from terraces were addressed and the site circumstances, where the former gas holder development would have significantly impacted neighbouring development, is not considered to be directly comparable with the application proposals.

1042/17/HHO is a householder application for amendments to existing windows, including proposed dormer, and change of external handrail/balustrade to frameless glass panels at Start House, Devon Road, Salcombe, TQ8 8HQ. This is a large 4 storey development. Amenity impacts differ from the application site proposals and are not considered to be directly comparable.

In summary, the applicants consider the application proposals to be similar and have comparable impacts to other developments locally and elsewhere in Salcombe and consider precedents have been set which should be taken into account in the determination of and lead to the successful outcome of this planning application.

Salcombe has sloping topography and issues of drainage and matters relating to AONB character, neighbouring amenity such as overshadowing, overlooking and loss of privacy are common considerations to many development proposals, not just the ones identified above. However, each case must be determined on its own individual merits. Having regard to the perceived impacts this development will have on the amenities of neighbouring occupiers and the character and visual amenities of the area, an AONB, none of the above developments are considered directly comparable or to justify the application proposals, given the identified harm arising. Whether new build, or developments which have occurred incrementally, none of the proposals are directly comparable with 4 storey new build development proposed so close to a north-facing boundary with existing bungalow development beneath. Some of the examples above indicate levels of overlooking and overshadowing and other impacts which also arise in the application proposals. That doesn't necessarily make the application proposals acceptable, which must be determined on its merits. These issues have been assessed on their own individual merits when each application was determined.

While in no way suggesting the following example is comparable to the application site proposals – it is not – the following case in some respects is similar to some of the examples cited by the applicants above.

Application 3672/16/FUL at Lorima, St Dunstons Road, Salcombe sought permission for garages, bin store, access path, associated landscaping to serve two dwellings and was refused. The subsequent appeal was dismissed due to the effect of the proposals on the character and appearance of the area

This case is cited merely to demonstrate that there are also examples locally where the LPA and an Inspector found harm, where clearly the applicant did not perceive it.

In reviewing some of the above cases, it is accepted that impacts as described above do arise. Rather than setting a precedent for allowing the application proposals creating harmful impacts, it is rather a reason to resist the application proposals, avoiding further harm arising, for which there is support in Policy and Guidance.

Covenant and ownership Issues: The applicant has drawn the LPA's attention to the existence of a restrictive covenant. Such covenants are civil matters and do not have a direct bearing on the outcome of a planning application. If granting planning permission, this in no way negates the existence of a covenant.

The part of the covenant that the applicants are concerned with is that the neighbouring occupiers in both properties to the north "... will not seek to oppose any application to develop the said land in accordance with lawfully obtained planning permission."

The applicants' interpretation of this is that the neighbouring occupiers (bound by the covenant) are ignoring a legally binding obligation. However, it is considered by the LPA that it is not the purpose or the effect of the covenant to restrict the legitimate rights of neighbours to oppose a planning application. The purpose of the covenant is to restrict the neighbouring owners from opposing the development of the land in accordance with 'legally obtained planning permission'. This is construed as meaning that in the event of planning permission being granted, the owners will not oppose the legitimate implementation of that proposal. However, it does not preclude opposition to a planning application. Nevertheless, this is a civil matter and not for consideration as part of this application. It is the view of the LPA that the existence of this restrictive covenant does not remove the legitimate rights of neighbouring occupiers to comment upon or oppose a planning application.

The restrictive Covenant further includes the clause: "The transferors (and successors in title) reserve the right to use all of the retained land for building or other purposes whether or not such use shall obstruct or diminish the egress of light and air now or at any time hereafter enjoyed by the owners or occupiers for the time being of the property hereby transferred to or for any building or other erection now or hereafter to be erected thereon". The applicants consider the neighbouring objectors are disregarding legally binding clauses. Whether this is or isn't that case does not have a bearing on the outcome of the planning application. It is a civil matter. It does though perhaps explain the reasons why the neighbouring occupiers have retained and grown the boundary planting to a height which they consider is detrimental to their own amenities, fearful for their future amenities, based upon the perceived impacts of the proposed application development. The applicants wish to point out they have acquired the land with the restrictive covenants, not imposed them.

For the applicant's part, they have frequently referenced a land dispute, referenced also by a neighbouring occupier, and consider that they may own more of the land to the north and that works to reduce the height of vegetation planting currently within the garden of 10 Knowle Road to the north is within the applicant's ownership. The owners of 10 Knowle Road dispute this. It is not for the LPA to act as arbiter in any dispute and the application falls to be determined on its merits as submitted. For the avoidance of doubt, this disputed land does not form part of the red line boundary of the application.

Well-being: Planning Practice Guidance (PPG) Para. 002 advises good design should consider amongst other things the impact of development on well-being. This matter is considered in more detail under the 'Neighbour Amenity' section. However, it is clear local residents fear the impacts of the proposals. Having evaluated the proposals, I consider these fears to be well founded in relation to the properties to the north. Having considered all representations, for and against, it is concluded that negative impacts arise.

Well-being is also a factor for future occupiers. It is absolutely apparent that the applicants, all family members, genuinely believe these houses will provide a high standard of internal and external accommodation.

To a large extent this is true. There is a good standard of internal space and external balcony and terrace areas would compensate to a degree for the limitations of the ground level external amenity areas. Salcombe has coastal recreation opportunities which also weigh in favour of the proposal in this regard. I do though have concerns not only about the rear gardens and daylight to north-facing rooms, particularly at the lower levels, but about how the forecourt will function. Shared forecourts are not uncommon. However, the extent to which future occupiers would be reliant on their neighbours keeping the forecourts free and unencumbered gives rise to cause for concern. This is particularly so where the highway authority, while not objecting, has expressed concerns about the difficulty in ensuring these areas are kept clear in perpetuity so they can be used for the express purpose of reversing and manoeuvring to avoid reversing onto the highway. Space is at a premium here, with limited space for accessible bins (though bin storage is indicated), cycles and soft landscaping. The frontage arrangement is symptomatic of an overdevelopment. Conditions requiring the spaces to be kept free in perpetuity would be difficult to enforce. In circumstances where all occupiers are members of the same extended family, as the applicants are, close co-operation to make the forecourt working arrangements operate successfully may be more likely. However, this is by no means guaranteed, either initially or subsequently. Such circumstances can be cause for disputes and disagreements and is now considered to be an example of a well planned development, but symptomatic of an overdevelopment.

Blue line/Red Line Issues: The applicants sought clarity on red and blue line application site issues in relation to their possible claims of ownership of a small section of the garden of N0.10 Knowle Road (circa 11 feet). The applicants made the red line submission, presumably based upon what they were able to demonstrate to be land in their ownership at the time of the application. No issues arise in relation to certificates as the applicants own all the land within the red line and the application can be determined as submitted.

The red line cannot be extended during an application to add further owned land. If the applicants are able to determine ownership of a greater area of land in the future, a new application would be required.

How Information is illustrated: Third parties often don't have the same access to resources and where applicants object to the use of copyright plans, must illustrate their points to the best of their ability. Applicants equally have a right to refuse the use of copyright plans if they are manipulated and to be critical of those representations in return if that is their view. What ultimately is important is the LPA's assessment of likely impacts and that the application is ultimately determined on the basis of the submitted plans, having taken into consideration all representations against and in support.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Planning Policy**

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.

The relevant development plan policies are set out below:

***South Hams LDF Core Strategy***

CS1 Location of Development  
CS7 Design  
CS9 Landscape and Historic Environment  
CS10 Nature Conservation  
CS11 Climate Change

***Development Policies DPD***

DP1 High Quality Design  
DP2 Landscape Character  
DP3 Residential Amenity  
DP4 Sustainable Construction  
DP5 Conservation and Wildlife  
DP6 Historic Environment  
DP7 Transport, Access & Parking

***South Hams Local Plan***

SHDC 1 Development Boundaries  
SHDC 10 Access Housing  
KP 11 Environment in Salcombe

**Emerging Joint Local Plan**

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage of preparation, was submitted to the Planning Inspectorate on 31 July 2017 and the Inspectors have confirmed the Examination in Public (EiP) will commence on 30 January 2018. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)**

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  
SPT11 Strategic approach to the natural environment  
SPT13 European Protected Sites – mitigation of recreational impacts from development

TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
TTV29 Site allocations in the Smaller Towns and Key Villages  
TTV30 Empowering local residents to create strong and sustainable communities  
DEV1 Protecting amenity and the environment  
DEV2 Air, water, soil, noise and land  
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area  
DEV9 Accessible housing  
DEV10 Delivering high quality housing  
DEV18 Protecting local shops and services  
DEV19 Provisions for local employment and skills  
DEV20 Place shaping and the quality of the built environment  
DEV24 Landscape character  
DEV25 Undeveloped coast  
DEV27 Nationally protected landscapes  
DEV28 Protecting and enhancing biodiversity and geological conservation  
DEV29 Green and play spaces (including Strategic Green Spaces, Local Green Spaces and undesignated green spaces)  
DEV30 Trees, woodlands and hedgerows  
DEV31 Specific provisions relating to transport  
DEV32 Meeting the community infrastructure needs of new homes  
DEV33 Waste management  
DEV37 Managing flood risk and Water Quality Impacts  
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

NPPF

National Planning Practice Guidance

The recently adopted Planning for the South Devon AONB: Planning Guidance Version 1 is a relevant Supplementary Planning Document (SPD).

Light Pollution in the South Devon Area of Outstanding Natural Beauty Guidance

A Landscape Character Assessment for South Hams and West Devon Draft Report Prepared by LUC February 2017

Salcombe Conservation Area Appraisal

### **Summary/Conclusions/Planning Balance**

There is a shortfall of deliverable housing land in the District and where the development plan is out-of-date, there is a presumption in favour of granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole.

Notwithstanding that this presumption is removed by footnote 9 to NPPF paragraph 14, the provision of three family dwellings would make a small but positive contribution to the stock of housing locally, where currently demand exists and there is an identified shortfall in supply. This weighs heavily in favour of the application in the planning balance.

That no highway objections are raised to the proposal also weighs positively in the planning balance.

Notwithstanding there is a housing need and shortfall in housing supply, great weight is to be afforded to conserving and enhancing the natural beauty of the AONB. This development fails to conserve or

enhance the natural beauty and character of the AONB and pays insufficient regard to environmental factors including local townscape impacts, including public views. Furthermore having regard to overdevelopment, neighbour amenity impacts, drainage and other concerns, identified harm arising outweighs any presumption in favour of sustainable development, the proposed development is not a demonstrably sustainable form of development and is considered to be contrary to development plan policies and the NPPF taken as a whole.

Accordingly, on balance, refusal is recommended.

**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.

**DELETE THIS SECTION IF A COMMITTEE REPORT**

The above report has been checked and the plan numbers are correct in APP and the officer's report. As Senior Officer I hereby clear this report and the decision can now be issued.

Name and signature: Ian Lloyd

Date: 29.1.2018

**Chairman of Planning Committee - Cllr R Steer**

Date cleared – 29.1.2018

Comments made - Agrees with recommendation for refusal and happy to delegate it.

**Ward Member - Cllr J Pearce**

Date cleared - 29.1.2018

Comments made - Authorised delegated refusal of this application.

**Ward Member – Cllr SAE Wright**

Date cleared – 29.1.2018

Comments made - Very happy to authorise delegated refusal