

Case Officer: C Mitchell

Site: Kittery Court, Priory Street, Kingswear, Devon, TQ6 0AB

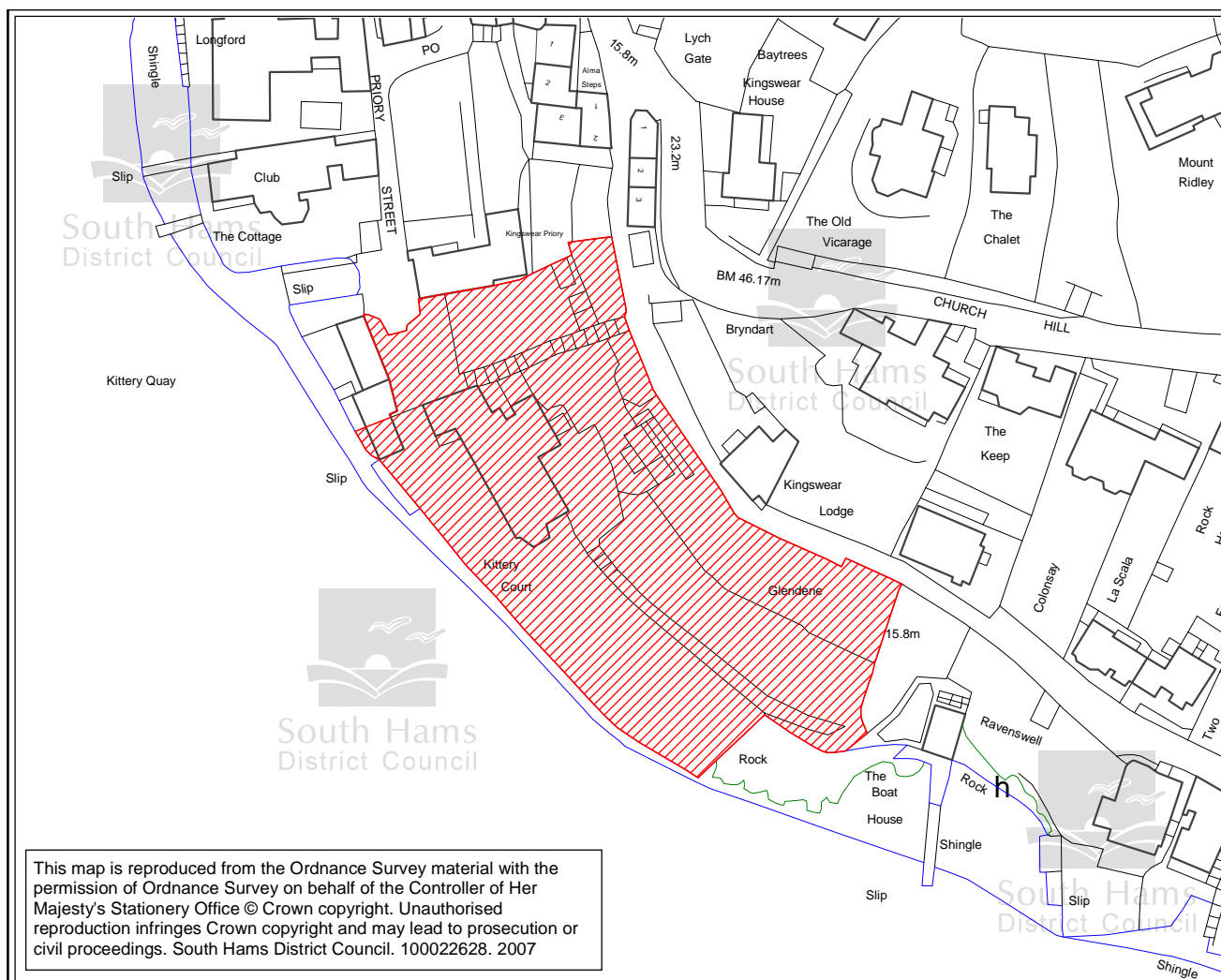
Application No: **(i)** 30/1175/09/LB and **(ii)** 30/1176/09/F

Date Received: 3rd July 2009

Agent: EJW Architects, Baltic Wharf Business Centre, Totnes, Devon, TQ9 5EW

Applicant: Mr A Brownsword

Development: **(i)** Listed Building Consent for resubmission of 30/0411/09/LB for amendment to 30/0973/04/F for conversion of workshop building into ancillary accommodation, and **(ii)** Householder application for resubmission of 30/0412/09/F for amendment to 30/0974/04/F for conversion of workshop building into ancillary accommodation



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## **Policies**

Development Boundary  
AONB  
Conservation Area  
Affecting Setting of Listed Building

## **Consultations**

Devon County Council - County Highways Authority  
No objection

South West Water  
No objection

Environment Agency  
Objection

Environmental Health Section  
No objection

Drainage Engineer  
Requested Flood Risk Assessment by undertaken and consult with EA

Building Control  
No objection

## **Parish Council**

Kingswear Parish Council make the following observations:  
Objection – because of the following reasons:

- Highways – a further building will increase additional traffic in an already narrow lane.
- Design – it is felt inappropriate to have a two-storey building in this position and is viewed as overdevelopment.
- There are no plans to show how the chimney in Kittery Quay is to be combined with the proposed building (if this is not clearly defined and was not enforced it would cause major down draughts).
- Unneighbourly – the two-storey building would cause lack of light and privacy for adjoining property.
- Area of Outstanding Natural Beauty – with reference to County Structure Plan CO3 the proposed building does no support or enhance the AONB.

Letters of representation can be viewed on the Council's website.

## **Case Officer's Report**

### **The Proposal**

The proposal is a resubmission of application 30/412/09/F for the amendment to approved planning permission 30/0974/04/F for the conversion of Workshop building into ancillary accommodation. It is proposed to erect a timber frame two-storey building replacing the existing Workshop, for accommodation for staff, friends and visitors to the main property of Kittery Court. The internal layout will be living accommodation at first floor level with bedroom and bathroom at the ground floor level.

The materials proposed are rendered walls (colour to be agreed) timber windows and a natural slate (reclaimed Delabole slate) roof. An oriel window is proposed on the south east elevation at first floor level and will be constructed in timber with hipped roof. The main roof will be a half hip facing onto the River Dart with gabled eaves facing onto the neighbouring property of Kittery Quay.

### **Site Description**

The site is situated to the east of the town of Kingswear and on the banks of the River Dart. The property dates to medieval period and consists of a medieval hall with the later addition of a Georgian manor house, gatehouse and collection of outbuildings. The building in question is the Workshop that is situated to the north west of the property and faces on to the River Dart. It is a single storey building constructed of rendered brick walls with timber windows and a hipped asbestos slate roof.

### **Planning History**

30/1175/09/LB – Linked Application

30/0412/09/F – Withdrawn on Case Officer Advice for design to be amended as per the recommendations of the Design Panel and the Conservation Officer

30/0411/09/LB – Withdrawn on Case Officer Advice for design to be amended as per the recommendations of the Design Panel and the Conservation Officer

30/2297/08/F – Withdrawn – Resubmission of application 30/0392/08/F for amendments to 30/0974/04/F for alterations to dwelling (changes to Workshop)

30/2296/08/LB – Withdrawn – Resubmission of application 30/0393/08/F for amendments to 30/0974/04/F for alterations to dwelling (changes to Workshop)

30/0392/08/F – Withdrawn – Readvertisement for amendment to approved planning application 30/1916/06/F alterations to approved plans for gatehouse building

30/0393/08/LB – Withdrawn – Readvertisement for amendment to approved planning application 30/1917/06/LB alterations to approved plans for gatehouse building

30/0974/04/F – Conditional Approval – Alterations and Extensions to dwelling

30/0973/04/LB – Conditional Approval – Alterations and Extensions to dwelling

### **Policies**

#### **Devon County Structure Plan**

Policy ST5: Development Priority – states that development in local centres and towns in principle will be considered acceptable providing they meet other relevant planning criteria as its compatibility with character of the site, its surroundings and where there would be no significant adverse effects in relation to traffic and parking. Effects on neighbouring properties and the slope and configuration of a site are also material considerations.

Policy C03 – Area of Outstanding Natural Beauty – development must support the conservation or enhancement of AONB's or foster their social and economic well-being provided that such development is compatible with their conservation.

Policy CO7 – Historic Settlements and Buildings – the quality of Devon’s historic environment should be conserved and enhanced.

## **South Hams Local Plan**

SHDC1 – Development Boundaries – states that development will be permitted where this is compatible with the character of the site, its surroundings and where there would be no significant adverse effects in relation to traffic and parking, the landscape of local amenity. Effects on neighbouring properties and the slope and configuration of a site are also material considerations.

SHDC15 – Design – states that new development must display good design practice and attain the highest possible standard of design.

Policy SHDC18 – Conservation Areas – seeks to preserve and enhance those features which contribute towards their special character and appearance. Outside Conservation Areas, the Council will consider the impact on any conservation area as material in reaching its decision on planning applications.

Policy SHDC19 – Historic Buildings – states that the Council will make diligent use of all powers available to it to protect historic buildings in their setting, whether listed or not.

## **Adopted LDF Core Strategy**

CS1 – Location of Development – permits in principle development within development boundaries.

CS7 – Design – development proposals must include and promote good design, which respects local distinctiveness respects, the character of the site and its surroundings in order to protect and enhance the natural environment.

Policy CS9 – Landscape and Historic Environment – states that the quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced.

## **Representations**

At the time of compiling this report, there have been 16 letters of objection to this proposal and they detail the following concerns:

- Overdevelopment of the site;
- The proposed design is not in keeping with the main house of Kittery Court and has a detrimental impact upon the Listed Building;
- Loss of light and privacy to Kittery Quay and no 9am shadow diagram has been submitted;
- No reference to jettying of wall facing onto river, concern about loss of privacy;
- Increase in traffic to the site;
- Proposal denying vehicular access to Kittery Quay, emergency access to neighbouring properties;
- Public slip way is constantly blocked by vehicles associated with Kittery Court;
- Neighbour at Kittery Quay has had to suffer 3 years of disruption of building work at this property and this is unacceptable and unreasonable;

- Proposed first floor of proposal overhangs roof of Kittery Quay and cannot be built without permission of owner;
- Applicant states the Workshop can be used as a separate unit of accommodation and states concern is raised to it being sold off as separate unit;
- Drawings do not show any existence of Kittery Quay Chimney;
- The drawings do not show the correct distance between boundary wall and French Doors of Kittery Quay should be 0.9m though shown as 0.6m;
- Existing approved plans were for a single storey extension and previous two-storey have been refused.

## **Analysis**

### **Planning History**

The proposal is the fourth application to be made for the alteration to the approved Workshop to provide additional living accommodation for Kittery Court. Planning and Listed Building applications 30/0974/04/F & 30/0973/04/LB granted permission for the insertion of kitchen, toilet and shower room and raising the roof to provide a mezzanine sleeping area.

Applications 30/0392/08/F and 30/0393/08/LB included within their descriptions to be alterations to 30/1916/06/F and 30/1917/06/LB that was the Gatehouse building. This was found to be incorrect, as this is a separate building on the site. These previous applications proposed a gallery over the main entrance to Kittery Court that would link into the medieval Hall breaking through the historic wall. The Conservation Officer raised an objection to the gallery, as it would not be in keeping with the character of the property. Furthermore, it would result in damage to the historic fabric of the Medieval Hall and therefore the proposal is unacceptable and therefore withdrawn due to incorrect description of application references and issues of design.

Applications 30/2297/08/F and 30/2296/08/LB were submitted, with the correct description and the removal of the linked gallery. However, it was questioned whether a two-storey building historically stood on the site as concern was raised to the loss of the view of the Barn's building. The Conservation Officer did not raise an objection to the proposal, stating that the elevation of the medieval barn facing the River was not meant to be exposed to public view. The agent provided supporting historical evidence that there was a two storey building on this part of the site. Due to the level of objection to the proposal there was insufficient time to provide objectors with the opportunity to view the additional information.

Furthermore concern was also raised that the first floor would jetty out on the River side elevation and would result in the overlooking of Kittery Quay's Garden. The agent stated the first floor was not jettying out it was a detail indicating the difference in the use of render, to alleviate any confusion. It was recommended that revised drawings were undertaken, however, there was insufficient time to do this and therefore the application was therefore duly withdrawn.

The application was resubmitted under applications 30/0411/09/LB and 30/0412/09/F for the same design with the amendments as detailed under the previous application. However, concern was raised to the increase in height of the building and use of half hipped roof rather gabled as the neighbouring properties. The agent argued that historically a two-storey building was erected on the workshop site and provided photographs that are contained

within the application. However, the lack of clarity of the photographs and their distance from which they were taken undermines this claim.

The roof design was also questioned by objectors, however, the Conservation Officer argued that the half hip was acceptable and contributed to the variety of roof styles in the area and did not consider this issue worthy of refusal. Due to the number of objections concerning the design and increase in the ridge height it was recommended that the proposal was considered by the Design Panel.

The Design Panel did not wish to comment upon the historical evidence provided, however, concluded the first floor extension would not cause harm to the Listed Building of Kittery Court. Comments were also passed to the vernacular style proposed and suggested the following issues be addressed:

- Correct eaves details and guttering to be used;
- Correct approach to the corbelling, fenestration and ridge tiles ;
- An enlarged and more appropriate chimney;
- Reduction in the size of the oriel window on the south east elevation;
- The first floor window on south west elevation (river front) should be reduced in size as sufficient light from oriel window.

In conclusion, the Panel was in support of the proposal in principle though encouraged the agent to refine the design and the approach so that it is faithful to the chosen Arts and Crafts style. Revised drawings could not be submitted within the life of the current application and therefore it was subsequently withdrawn to make the amendments recommended by the Design Panel.

### Current Application

The current proposal has incorporated the amendments as recommended by the Design Panel and the Conservation Officer raises no objection to the application. It is recommended that the following conditions be placed on any permission granted:

- Detail of render, its colour and application;
- Delabole slate to be used;
- Joinery details to be submitted;
- Full details of ducts, pipes and vents; natural slate sample and method of fixing using pegs to riven lath in the traditional Devon way;
- Details of ridge tiles, finial and chimney pot and
- Full details of increase to parapet wall all to be submitted to the Local Planning Authority (LPA) and approved in writing and thereafter retained and maintained.

The Council's Drainage Engineer originally raised an objection to the proposal stating that no Flood Risk Assessment (FRA) had been submitted with the application. As the proposal states the ground floor of the workshop is for living accommodation (bedroom) a FRA is required. The agent argued that the original planning permission 30/0974/04/F granted use of the workshop for living accommodation as a kitchen, toilet and shower were proposed. Nevertheless, the agent submitted the requested FRA following further clarification from Officers.

The Environment Agency (EA) has raised an objection to the FRA only if the building is classed as a separate unit of accommodation. If it is an extension, then standing advice

would be apply and questioned the current permission for the building. The LPA considers that the workshop is a building within the curtilage of a Listed Building and therefore it would be ancillary to the main house and would not form a separate unit of accommodation.

The main requirement of the EA is to raise the internal floor level by only 0.3m to prevent flooding and not the recommended 0.6m. The Local Planning Authority has considered the EA recommendation; however, the increase to the internal floor level would result in the raising of the ridge height of the proposed building. This would have an adverse impact upon the design and appearance of the proposal and would result an unacceptable impact upon the Listed Building and potential loss of sunlight to Kittery Quay. Furthermore when viewed in the context the raising of the floor level is not guaranteed to mitigate against the risk of flooding and therefore the increase of the floor level to 0.6m is not considered acceptable.

The EA has advised that all the mitigation measures recommended in the (FRA) are to be adhered to with the addition of tiled surfaces at ground floor level to which a letter has been received from the agent agreeing to a condition. The EA also advised the applicant that a structural survey should be carried out in respect of the proposed flood boards, however, this cannot be conditioned as it is only advice and will be placed as an informative on any permission granted.

The FRA also proposes through its mitigation measures to increase the height of sea wall to 4.18m from the current 3.5m, however, the EA state this should be increased by 1.36 resulting in a height of 5.36m the same as the increase of floor level. As the height of the floor level has been accepted by the LPA to be 0.3m then the increase of the sea wall by 0.68 is also acceptable and the FRA will form part of the condition and this increase will form part of the approval.

The letters of objection of residents and those of the Parish Council have been noted and the following responses are made:

In respect of the design of the proposal and its impact upon the Listed Building, to the Conservation Officer has raised no objection to the proposal and considers that it is in character with the neighbouring properties. The proposal is not considered to be overdevelopment of the site, as it is merely increasing the height of the property. This increase has been accepted by the LPA due to the supporting historical information submitted and on the advice of the Conservation Officer. Furthermore the Design Panel raised no objection to the scale and massing of the building though recommended minor detail amendments that have been addressed in this revised application.

The issue of overlooking and loss of privacy has been assessed, though are not considered to be an overriding reason for refusal. The first floor window of the proposal does not jetty out of this elevation and therefore does not permit the applicant to significantly overlook the neighbouring property's garden. It is accepted that there is a certain degree of overlooking but this does not justify refusing this application.

The reference to the loss of light was raised by the Case Officer and the agent has undertaken a study which indicates that loss of sunlight, the existing workshop and Kittery Quay already casts a shadow over the entire garden area of Kittery Quay. The proposal will not exacerbate the overshadowing of the neighbours garden area; rather it will increase overshadowing of the adjoining River Dart by 1m as at the hour of 09.00 hours, a time specifically referred to in a 3<sup>rd</sup> party representation.

The concern about the increase in traffic has been noted, although the Highway Officer has raised no objection to the proposal as the development is an extension to an existing building and therefore there is no requirement to provide additional parking. In respect of vehicles in association to Kittery Court blocking the slipway, this is a Devon County Highways issue not one that planning would become involved with.

A further objection relates to the building being sold as a separate unit of accommodation. A condition is recommended for the Workshop to only be used as ancillary accommodation to Kittery Court.

The objection that the new first floor will overhang the roof space of Kittery Quay has been detailed to the agent who states that although the drawing may read like it overhangs the roof it does not, due to very thick party walls. Therefore the applicant is building on his land and will serve the correct notices to the neighbour before undertaking any development. Furthermore permission would need to be granted by the neighbour for any works to the party wall; this is a civil dispute between neighbours and not a planning matter.

The comment that the proposal does not show an existing chimney servicing the neighbouring property and that no details have been provided of how the new chimney would work for Kittery Quay is noted. However, the design of the new chimney is considered to be acceptable and therefore this comment does not have a material bearing on the application on planning grounds. This is a civil matter between the owner of Kittery Quay and the applicant and not overriding material planning consideration.

The objection that the drawings did not show the correct distance between boundary wall and French doors of Kittery Quay being 0.9m and not 0.6m as shown has been noted. The Council's Engineer undertook a site visit to measure the distance and confirmed that this distance is between 0.92m and 0.93m. This was detailed to the agent who stated without gaining access to the neighbouring property it was not possible to obtain accurate measurements. Revised drawings were submitted with the amended dimensions and were placed on the application file and posted on the website site. This increase in the distance between the French doors and the boundary wall further reduces (albeit slightly) the issue of any potential overlooking of the garden of Kittery Quay from the first floor window.

The statement that a single storey extension has permission is corrected though the claim that a two-storey building has been previously refused is questioned. There has only been one application with a planning permission granted upon the Workshop planning application 30/0974/04/F. All previous applications have been withdrawn and form part of the current application, therefore this objection would not be an overriding reason for refusing the application.

In conclusion this application is considered to be acceptable and all the letters of representation have been noted though are not considered to be overriding reasons for refusing this application. It is therefore recommended that this application be approved subject to the conditions detailed within this report.

### **Human Rights Act**

Due regard has been given to the provisions of the Human Rights Act, and in particular to the rights under Article 1 of the First Protocol of the applicants with respect to their right to peaceful enjoyment of possessions and protection of the property. Due regard has also been given rights, under Article 8, of local residents and objectors with respect to their rights for

private and family life. In arriving at a recommendation the rights of the applicants have been balanced against the interests, as expressed through the Development Plan and Central Government Guidance.

### **Recommendation**

Conditional Approval (both applications)

### **Conditions**

#### **30/1175/09/LB**

- 1 – TIM4 (Standard limit 3 years)
- 2 - MAT8 Natural Slate) – (Delabole)
- 3 - MAT22 (Joinery Details)
- 4 - MAT30 (Full Details (ducts, pipes, vents, etc)

#### **30/1176/09/F**

- 1 - TIM3 (Standard time limit 3 years)
- 2 - MAT8 Natural Slate) - (Delabole)
- 3 - MAT22 (Joinery Details)
- 4 - MAT30 (Full Details (ducts, pipes, vents, etc)
- 5 - RES32 (Ancillary Occupation)

### **Reasons for Approval (for 1176/09/F)**

1. This application has been determined in accordance with Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of planning applications which affect a listed building or its setting which requires that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interests which it possesses. This application has been determined in accordance with approved Development Plan Policies; relevant Government planning policy guidance; and approved in the absence of any other overriding material considerations and having given due weight to all other matters raised in this application including technical and other representations received. The relevant Policies are Devon County Structure Plan ST5, CO3, CO7; South Hams Local Plan SHDC1, SHDC15, SHDC18, SHDC19; Adopted LDF Core Strategy CS1, CS7 and CS9.
2. Special regard has been given to the representations about the design, issue of overdevelopment, increase in the height of the building, loss of privacy, loss of light, increase in vehicular traffic, impact upon neighbours but were not considered to be overriding reasons for refusal because the design and the height of the building is acceptable, is not considered be an overriding reason for refusal.

### **Reasons for Approval (for 1175/09/LB)**

1. This application has been determined in accordance with Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of planning applications which affect a listed building or its setting which requires that special regard shall be had to the desirability of preserving the

building or its setting or any features of special architectural or historic interests which it possesses. This application has been determined in accordance with approved Development Plan Policies; relevant Government planning policy guidance; and approved in the absence of any other overriding material considerations and having given due weight to all other matters raised in this application including technical and other representations received. The relevant Policies are Devon County Structure Plan ST5, CO7; South Hams Local Plan SHDC1, SHDC15, SHDC18, SHDC19; Adopted LDF Core Strategy CS1, CS7 and CS9.

2. Special regard has been given to the representations about the design, issue of overdevelopment, increase in the height of the building, impact upon the Listed Building but were not considered to be overriding reasons for refusal because the design and the height of the building is acceptable, and would not have a detrimental impact upon Listed Building therefore is not considered be an overriding reason for refusal.

### **Informatives (1176/09/F)**

This recommendation refers to drawings nos. 2406.01 (location plan), 2406.181, 2406.183a, 2406-254 received on 9 July 2009; 2406.183A received on 19 August 2009; revised drawing no. 2406.184C received on 27 August 2009; revised drawing no. 2406-262 received on 2 September 2009; and revised drawing no. 2406-255 Rev. B received on 2nd September 2009, Flood Risk Assessment dated August 2009, letter from Mr D Johnson dated 28 August 2009.

### **Informatives (1175/09/LB)**

This recommendation refers to drawings nos. 2406.01 (location plan), 2406.181, 2406.183a, 2406-254 received on 9 July 2009; 2406.183A received on 19 August 2009; revised drawing no. 2406.184C received on 27 August 2009; revised drawing no. 2406-262 received on 2 September 2009; and revised drawing no. 2406-255 Rev. B received on 2nd September 2009,