

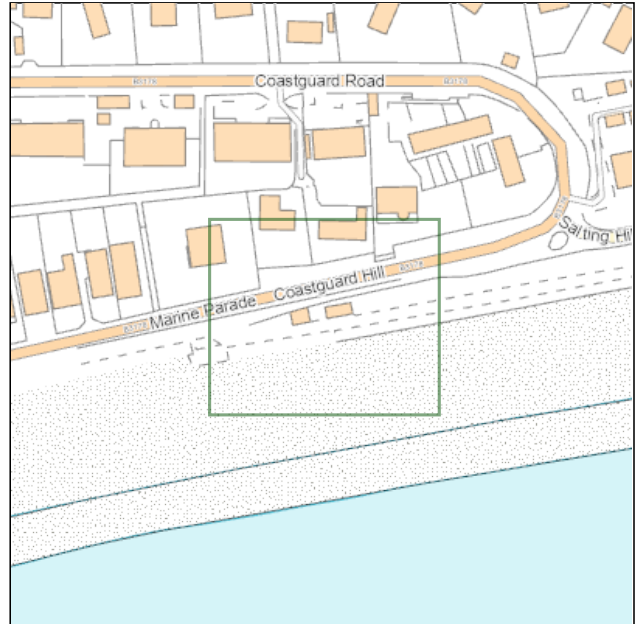
Ward Budleigh And Raleigh

Reference 24/0594/FUL

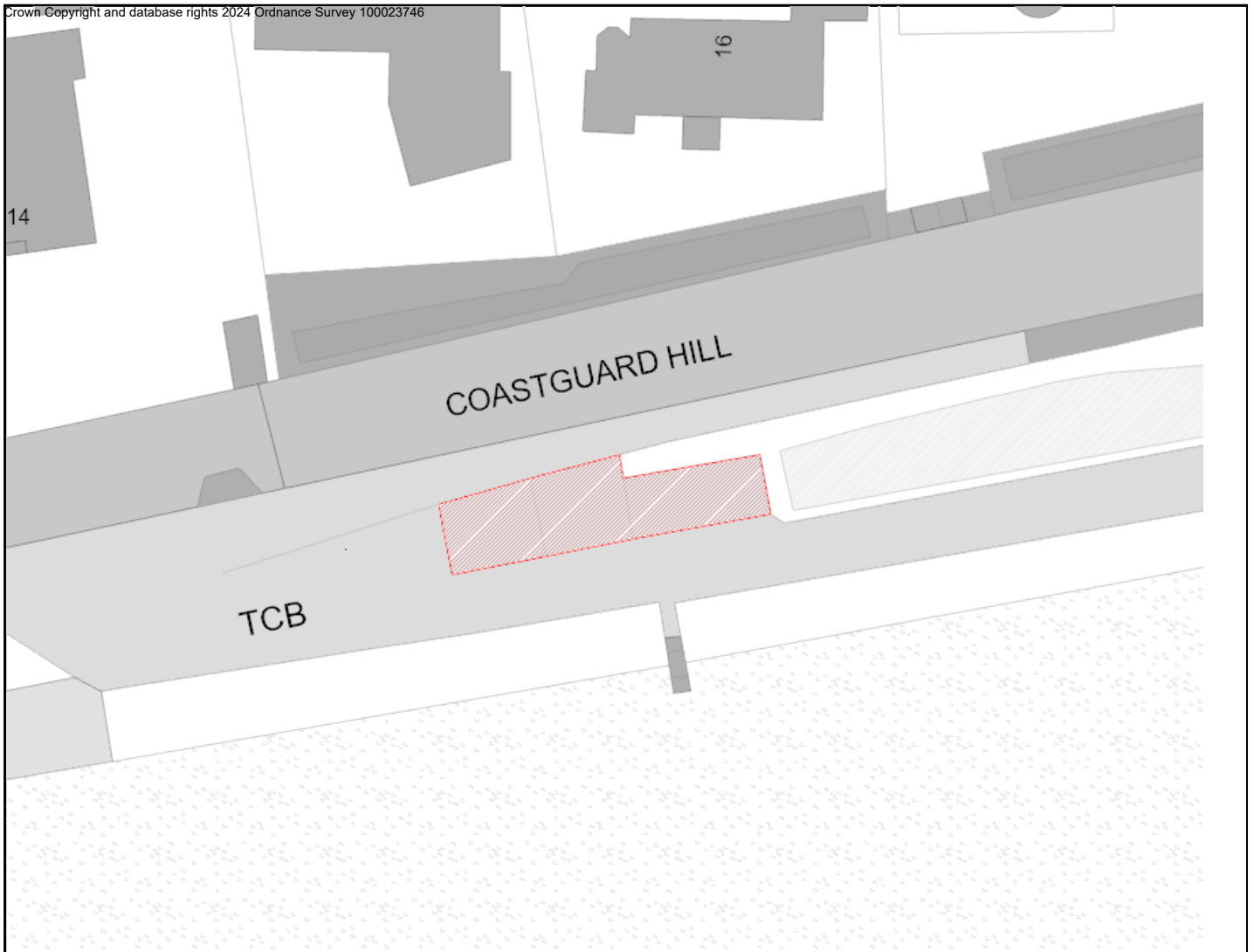
Applicant Mr Mitch Tonks

Location Longboat Cafe Marine Parade Budleigh
Salterton Devon EX9 6NS

Proposal Proposed extension with retractable roof and walls.



RECOMMENDATION: Approval with conditions



		Committee Date: 16.07.2024
Budleigh And Raleigh (Budleigh Salterton)	24/0594/FUL	Target Date: 21.05.2024
Applicant:	Mr Mitch Tonks	
Location:	Longboat Cafe Marine Parade	
Proposal:	Proposed extension with retractable roof and walls.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The proposal seeks to extend the existing café building with a modest extension of 43 sqm which covers an outside seating area. Due to the national and local designations which cover the site the proposal takes place in a sensitive area. These designations include the National Landscape, setting of a conservation area, the World Heritage Site, and SSSI. However, there are no statutory consultee objections to this proposal in relation to these. The retractable glass design is considered acceptable within this context.

The proposal has drawn objections from third parties which have raised concern over the potential noise (from its use and from the extraction system). However, no objections to the proposal have been received from Environmental Health and details and operation of the extraction system can be controlled via condition.

As a consequence of being situated on the seafront the proposal falls within floodzone 3. However, due to its modest size the sequential test is not applicable and national guidance makes it clear that the exception test is not required either. A suitable and robust Flood Risk Assessment has been submitted.

A change of use of the café is not proposed and so the use of the site would remain unchanged albeit with formalised increase in capacity. There are likely to be economic benefits stemming from formal expansion which weigh in favour of the proposal.

The proposal is considered to be compliant with the development plan and therefore a recommendation of approval is made. As this recommendation conflicts with the view of a Ward Member this application has been referred to the Development Management Committee.

CONSULTATIONS

Local Consultations

Parish/Town Council

This Council supports the application

This Council is happy with the amendments and therefore continues to support the application.

Budleigh And Raleigh - Cllr Melanie Martin

I object to this planning application.

The cafe as it stands provides affordable refreshments for residents and visitors to Budleigh, it is accessible to all. If the cafe was to be replaced by a chain restaurant there would be a number of people who could not afford to eat here.

On a visit to the cafe I counted three front of house staff plus kitchen staff, I cannot see that the proposed restaurant would be increase its staffing levels significantly. I am concerned that there would be an increase in odours, noise levels and disturbance to neighbouring residential properties.

Budleigh And Raleigh - Cllr Charlotte Fitzgerald

I support this application. The proposed improvements to the structure of the building would be welcomed, and the Rockfish dining offering would fill a gap in the Budleigh Salterton tourism economy that would place it well to compete with other nearby seaside towns for both local custom as well as visitors from further afield.

Budleigh And Raleigh - Cllr Henry Riddell

I support the following application. The design is sensitive to the area and an upgrade from the existing structure which is currently has an enforcement notice. It is also nice to see that the original Longboat building is retained. I am sure that Rockfish will be a welcomed addition to our town.

Technical Consultations

Conservation

On the basis of the information provided through this application, the works as proposed for a low-profile extension with retractable roof and walls, sited between the Longboat Café and adjacent shelter. Would, on account of the extensions, location, scale and design result in no harm to the setting of Coastguard House a Grade II heritage asset sited to the northeast, the Grade II listed war memorial sited to the east of the development site and Budleigh Salterton conservation area sited to

the west. In this respect conservation do not wish to offer any further heritage comment. Case Officer to assess on planning merit.

Amendments

On the basis of the amendments provided through this application, Conservation has no further comments to make on this application. Case Officer to assess on planning merit.

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites Budleigh Salterton Cliffs SSSI and has no objection. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Budleigh Salterton Cliffs Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection

Historic England

Thank you for your letter of 7 May 2024 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Environmental Health

I have reviewed the schematics of the extraction system including the locations of the two fitted SLU50 silencers. Given the level of attenuation achieved by these two units, I do not anticipate any environmental health concerns.

I have considered the application and do not anticipate any environmental health concerns.

World Heritage Organisation

We are content that the scale of this development will have no negative impact on the geological interests, Outstanding Universal Value or setting of the World Heritage Site as they currently exist. However, we note that this proposal will increase

development and economic value of an asset in a position that is highly vulnerable to the effects of coastal change. In other locations along the Jurassic Coast where non-impactful development like this takes place in a similarly vulnerable position we advocate for temporary consents that can be renewed at intervals if appropriate. This allows for a more adaptive and sympathetic approach to the continued use of coastal frontages in the context of ongoing sea level rise and climate change.

Other Representations

At the time of writing there have been 21 objections to the proposal and 13 emails of support;

Objections (in summary);

- Damage to high street retailers (reduction of trade)
- Loss of amenity
- Conflicts with the unique nature of structure
- Loss of public seating
- Spoil seafront
- More deliveries and traffic, lack of parking
- Object to proposed operators menu and business plan
- Animal welfare
- Precedent for future development and expansion
- Noise from patrons and ventilation system (80 db would be generated).
- Smells generated
- Business would be anti competition
- Lack of a refuse area
- Lack of toilets
- Queues and increased pedestrian traffic prevent access for all to the seafront/beach
- Insufficient and inadequate information submitted
- Impact on World Heritage Site

Support (in summary);

- Better design than existing configuration
- Support on going use as a café
- Town needs investment
- Increase visitors and evening options to eat
- Boost to tourist economy

PLANNING HISTORY

Reference	Description	Decision	Date
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08/2537/FUL	Demolition of existing cafe/store and construction of new cafe/ restaurant facility	Approved	22.10.2010
11/2764/FUL	Demolition of existing cafe and construction of new cafe facility	Refused	14.02.2012
12/0883/VAR	Variation of approved plans (under condition 7 of permission 08/2537/FUL - demolition of existing cafe/store and construction of new cafe/restaurant facility) proposing reduced building footprint and retention of shelter	Approved	18.06.2012
13/0889/FUL	Demolition of existing cafe and construction of new cafe facility	Allowed at appeal	05.02.2014

POLICIES

Strategy 6 (Development within Built-up Area Boundaries)
 Strategy 44 (Undeveloped Coast and Coastal Preservation Area)
 D1 (Design and Local Distinctiveness)
 EN14 (Control of Pollution)
 D2 (Landscape Requirements)
 EN21 (River and Coastal Flooding)
 Strategy 46 (Landscape Conservation and Enhancement and AONBs)
 EN10 (Conservation Areas)
 EN8 (Significance of Heritage Assets and their setting)
 Strategy 21 (Budleigh Salterton)
 Strategy 47 (Nature Conservation and Geology)
 TC2 (Accessibility of New Development)
 TC7 (Adequacy of Road Network and Site Access)
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
 EN22 (Surface Run-Off Implications of New Development)
 E2 (Employment Generating Development within Built Up Area Boundaries)

Budleigh Salterton 'made' Neighbourhood Plan 2017 - 2031

POLICY H2: Maintaining local character
 POLICY H3: Infill developments and extensions
 POLICY B1: Identity of town and seafront
 POLICY B2: Protection of key views and vistas
 POLICY B3: Heritage Assets
 POLICY NE1: Conservation of the Natural Environment
 POLICY NE3: Conservation of Biodiversity
 POLICY NE5: Development within the Coastal Preservation Area
 POLICY EC1: Supporting the Development of Small Business Enterprises

Site Location and Description

The Longboat cafe is a single storey white painted building with a low pitched roof, standing between the path and the retaining wall to Coastguard Hill, towards the eastern end of the Budleigh Salterton sea front.

To the west of the building is a former open area used for seating associated with the cafe and further to the west of that is an open fronted concrete shelter and store building with viewing area above, itself containing seating and enclosed by railings.

Budleigh Salterton Cliffs is an SSSI notified for its geological interests and is covered by two GCR sites (1507 Budleigh Salterton, Permian - Triassic and 1837 Budleigh Salterton Coastal Geomorphology of England). It is understood that although any maps on the subject of the World Heritage Site are inconclusive, for the purposes of the definition of its boundary, as the site lies within an SSSI it is also considered to lie within the Dorset and East Devon coast World Heritage Site, appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage.

The building itself was considered for listing and English Heritage concluded that the building has been heavily altered and so has lost its historic fabric. As a result, it was considered a 'poor example' of a late 19th Century longboat house.

The adjacent shelter, which is owned by this Council, does not form part of this planning application.

Currently on site a makeshift enclosed building has been erected to cover the seating area erected during the Covid pandemic. Whilst the operator considered that this building was built under planning provisions due to the pandemic planning officers disagreed as it was considered a building of permanence had been constructed for which planning permission would be required. Subsequently an Enforcement Notice was served in January 2022 against this unauthorised development. Therefore, the existence of this unauthorised building should not be relied upon to establish that there would be a betterment in terms of design over the existing on site conditions.

Proposed Development

The proposal seeks planning consent for an extension of the existing building to formalise an outside seating area. The proposal has an approximate floor space of approx. 43m² between the existing café building and the adjacent council owned shelter building.

Constructed of retractable glass and roof panels with a powder coated steel frame the extension would provide operators the option to open and close this seating area dependant on conditions. The height of the proposed extension purposely matches that of the adjacent shelter and eaves of the café building.

Also proposed is an extractor system flue to be attached to the rear of the main café building.

No change of use to the existing use of the café is proposed.

ANALYSIS

The main issues concerning the proposal are;

- The potential Flood Risk,
- Environmental Health/Amenity
- Impact of the designated Nationally Recognised Landscape (Area of Outstanding Natural Beauty)
- the impact on the World Heritage Site - Jurassic Coast
- Impact on the Conservation Area

The Potential Flood Risk

Due to the position of the development in close proximity to the sea the proposal is within Floodzone 3.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) states that the Sequential Test must be satisfied for development to be considered acceptable. The approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding.

Footnote 56 of the NPPF states that certain minor development is exempt from the Sequential Test. This includes 'minor development' where the floor space of extensions falls under 250 sq metres - as is the case here. Therefore, the sequential test does not need to apply.

The Exception Test must also be considered. However, the site falls within Flood Zone 3a and use of the site for restaurant purposes is considered a 'less vulnerable' class use as per Table 2 at paragraph 079 of the PPG. The development is therefore exempt from the Exception Test.

With regards to ensuring the development shall be safe with regards to flood risk and Flood Risk Assessment (FRA) has been submitted. The proposed finished floor levels of the extension will be the same as the existing ground floor level at 7.2mAOD. With the Upper End climate change scenario SWL at 4.80 mAOD (2124), the maximum predicted still water level remains more than 2 m below the site level.

The storm alert threshold for sea waves from the nearby wave buoy at Dawlish is set at a significant wave height of 2.63 m, which is equivalent to the 1 in 0.25-year storm event. To account for the potential effects of climate change, a 10% increase is applied

to this wave height, resulting in a value of 2.89 m. The event probability is considered appropriate for a 'modest' dependency scenario.

As a conservative assessment, half the wave height (1.45 m) is added to estimate the potential wave impact on the café building. The resulting peak wave height reaches 6.2 mAOD, which remains 1 m below the building's ground level.

As a precautionary measure the FRA explains that it is standard policy for the restaurant to temporarily close if a severe storm is forecasted for the area.

The FRA recommends that the property owners register for the Environment Agency's 'Flood Warning Alert' system for the 'South Devon Coast from Exmouth to Seaton' area to receive timely notifications of potential flood events. These notifications can be used to ensure the premises is closed and evacuated ahead of any flood event.

Given the above officers are satisfied that the FRA's recommendations can be safely and reasonably achieved. There are no flood mitigation measures required that would result in a residual risk and with easy access to high ground and egress to the site. Surrounding access routes should allow occupants to safely access and exit the building in design flood conditions or in advance of major flood. Vehicular access from the higher ground of the road behind the café building should allow the emergency services to reach safety during flood conditions.

Therefore, the proposal although situated within floodzone 3 is considered to provide an acceptable flood risk, this can be mitigated by implementing the submitted FRA which can be secured via condition. Accordingly, the proposal complies with policy EN21 of the LP and the National Planning Policy Framework.

Amenity

The proposal includes the provision of an extraction system to be attached to the rear (north) elevation of the main café building.

During the processing of the planning application additional information regarding the extraction systems have been submitted at the request of the Environmental Health team. Additional details concerning the type of extraction systems, its specification and performance have since been submitted with the Environmental Health team now satisfied in this regard, suggesting that there is not likely to be environmental health issues raised from the extraction system. In the event of an approval the operation and maintenance of this extraction system could be secured via condition.

Further, no objections to the any related general customer noise have been raised by Environmental Health and given its existing café use and modest extension this is unlikely to be sustained. The outside seating area can be legitimately used in any event and providing a building to enclose this seating area would not increase noise levels thereby harming nearby residential occupiers.

Impact of the designated National Landscape

The site is most prominent in immediate views from the west along Marine Parade and the beach, but it still clearly forms part of the urban context with the rural landscapes of the National Landscape (NL) forming a more distant backdrop. Within the Neighbourhood Plan policy B2 establishes key views and the café building appears within two of these key views. These key views are long range views with the café building not being especially prominent within these. Due to the limited floor space and lightweight design the extensions to the café would have no impact on the wider character and scenic beauty of the NL.

Although the site lies within the East Devon NL, it is also contained within the built environment of Budleigh Salterton and forms a part and parcel of the established built fabric of the seafront. The site has limited visual influence over the surrounding area, to the extent that when it does appear within immediate and medium range views, it is seen within the context of the built form of the town.

It is worth noting that the unauthorised structure currently on the site drew concern from officers with regards to its design, but particularly the materials used in the construction of this building. That wooden construction stands in stark contrast to the surrounding construction by failing to reference the predominant building materials of the adjacent buildings. The same also applies to the Perspex roof, which again give the impression of a transitory construction built for convenience, unsuited or committed to longevity. Taken these design aspects, together the incongruous form of development, is difficult to architecturally reconcile with existing buildings or its setting.

The proposed extension would infill an area between two existing buildings with the design purposely not expanding out from the confines of this gap so as to not be overly prominent. Instead, the design retains a suitable degree of subservience on the host original café building and being lightweight but durable in nature and design, with the predominant use of glass, means the original building is respected and can still be readily seen from public vantage points.

The proposal would therefore not be in conflict with policies which seek to protect the NL as set out in the National Planning Policy Framework (NPPF) or the East Devon Local Plan (EDLP).

Impact on the World Heritage Site (WHS)

The Dorset and East Devon Coast World Heritage Site Management Plan sets out the basis on which the setting of the WHS is defined. That states that the setting should be regarded as the surrounding landscape and seascape and concerns the quality of the cultural and sensory experience surrounding the exposed coasts and beaches. The application site (denoted by the red edge on the location plan) falls outside of the WHO. Nevertheless the impact on its setting should be taken into account.

The existing Longboat café is a single storey structure, with a formally open area for

seating, which faces on to the level sea front promenade towards the eastern end of the Budleigh Salterton sea front. To the rear of the building and the open seating area is the retaining wall to Coastguard Hill. To the east of the café, levels between the promenade and Coastguard Hill continue to diverge and where the retaining wall ceases, red sandstone cliffs become exposed. These form a part of a SSSI noted for its geological interests. The cliffs are also designated as part of the Dorset and East Devon Coast World Heritage Site.

The most significant views of the site are from the south along the beachfront. In a prominent location along the shore the site forms a part of the seafront and its urban setting, and lies immediately adjacent to the exposed cliff section of Coastguard Hill.

Since there are unlikely to be any cliffs, and as there are no exposed cliffs to the rear of the area of the extension, the development would not impact on the geology or the Outstanding Universal Value of the SSSI or WHS.

The World Heritage Site organisation have been consulted on this proposal and fundamentally do not raise objection stating there would be no negative impact on geological interests, Outstanding Universal Value or setting of the World Heritage Site as they currently exist. The suggestion that planning consent should be temporary would be unreasonable since permanent structures are sought and any such condition would nullify the benefits of the consent.

Impact on Conservation Area

The Budleigh Salterton Conservation Area (CA) lies to the west of the site, and policy EN11 of the local plan states that proposals, including those that affect the setting or views into or out of the area, will only be permitted where they would preserve or enhance the appearance and character of the area. This reflects the statutory requirement set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to the desirability of preserving or enhancing the character or appearance of the CA.

The site lies just outside, to the east of, the CA. Whilst it is not part of the historic fabric of the CA, it does nevertheless form a part of its setting. In addition to LP policy EN11 deals with the preservation and enhancement of the CA.

The proposed works would lie below the level of the road and footpath of Coastguard Hill, and fronts the path which runs along the foot of the cliffs to the east. The existing buildings are single storey and do not appear above the level of the road and footpath. From the intervisibility of the site with the conservation area the modest extension would complement the surrounding built form by not being unduly obtrusive and be assimilated readily with the existing structures.

The conservation officer has commented on the proposal, as have English Heritage, and no objections have been raised.

Accordingly, there is no adverse impact upon the setting of the conservation area.

Other Matters

The existing private drainage system at the site would be retained in its current arrangement. All impermeable areas, including the proposed extension, will continue to drain directly onto the beachfront and discharge into the sea. The runoff from the extension will be allowed to freely drain onto the hardstanding area in front of the café, where it will naturally flow towards the sea without posing a downstream flood risk.

The use of the premise as a cafe is established and the works proposed form material operation and do not seek to change this existing use. This established café use of the premise would continue if a planning consent were to be obtained for this development and then implemented. The planning process cannot take into account who, i.e. which operator, actually runs the café as this could change without Planning being involved.

Therefore, who does or would, operate the café is not material to the planning decision. By extension the issue of costs of food/drink and the affordability of this is also not material to the planning decision as this is subject to market forces beyond the control of the planning regime and indeed could change at any time without the input of Planning.

Given that it has been established that the proposal would not affect the actual cliff (which forms the SSSI) it remains unlikely that existing ecology would be harmed. The existing area of the extension, i.e. the modest outdoor seating area, is very unlikely to provide a home to protected species. The unauthorised structure which has been erected, and so would be replaced by this proposal, featuring a Perspex roof is unlikely to be used as a habitat by protected species.

Planning Balance

The proposal represents a modest extension to an existing café to enclose an existing outside seating area. Due to the position of the site there are an array of nationally and local designations which have to be considered. After carrying this out the proposal is not considered to be contrary to policies of the development plan or relevant legislations with no objections raised by statutory consultees.

The potential flood risk and extraction system impact can be mitigated via condition.

Therefore, a recommendation of approval is made.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.

(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Prior to their installation samples of the materials to be used in the external construction shall be submitted to and approved in writing by the Local Planning Authority. Such samples shall illustrate the materials, colours and texture to be used. The development shall be carried out in accordance with the approved details.(Reason – To ensure that the proposal preserves and enhances the Nationally designated landscape, in accordance with strategy 46 (Landscape Conservation and Enhancement and AONBs) of the East Devon Local Plan).
4. The development shall be carried out in accordance with the submitted extractor equipment details;

SLU 50 data sheet
Purified air document
HN Cowl Spec Sheet
KFE Extract design drawing
ESP 3000Ei spec
ESP 3000EI drawing
CAN-CNB fan Specs
Novenco Centrifugal Fans Specs

received by the Local Planning Authority on 2nd May 2024.

All equipment installed in relation to this ventilation scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions and for the lifetime of the development.

(Reason – To ensure that the extraction system does not result in undue levels of noise and satisfactorily operates to prevent odours, in accordance with policy EN14 (Control of Pollution) of the East Devon Local Plan).

5. The development hereby approved shall be carried out in accordance with the recommendations of the Flood Risk Assessment prepared by Awcock Ward Partnership submitted to the Local Planning Authority on 02.05.2024.
(Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with policy EN21 (River and Coastal Flooding) of the East Devon Local Plan).

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Informative: Confirmation - No CIL Liability. This Informative confirms that this development is not liable to a CIL charge.

Plans relating to this application:

PLO1 Rev A	Location Plan	02.05.24
1906-PI03	Existing Elevation	18.03.24
1906-PI02	Existing Floor Plans	18.03.24
1906-PI04	Proposed Floor Plans	18.03.24
1906-PI05 B	Proposed Elevation	24.06.24

List of Background Papers

Application file, consultations and policy documents referred to in the report.

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.