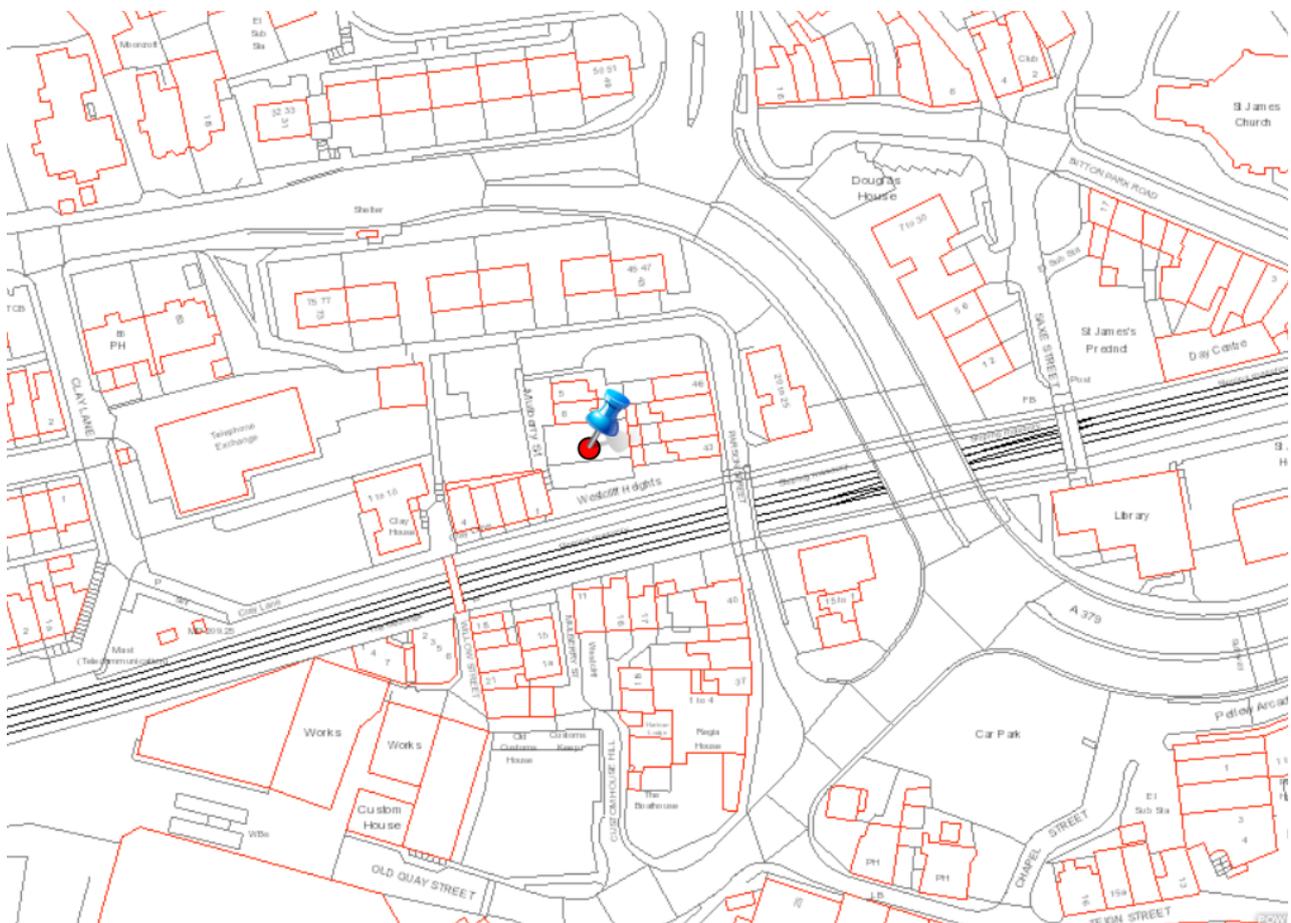


APPLICATION FOR CONSIDERATION:	TEIGNMOUTH - 20/01107/FUL - Land Adjacent 6 Mulberry Street, Teignmouth - Construction of two dwellings	
APPLICANT:	Mr Gerald Tranckle	
CASE OFFICER	Eve Somerville	
WARD MEMBERS:	Cllr David Cox Cllr Nina Jefferies	Teignmouth West
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=20/01107/FUL&MN	





20/01107/FUL Land adjacent 6 Mulberry Street Teignmouth



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1. REASON FOR REPORT

This application is being presented to committee due to concerns with overdevelopment expressed by Teignmouth Town Council.

2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit for commencement;
2. Development to be carried out in accordance with approved plans;
3. Unsuspected contamination condition;
4. Submission of and approval of a Written Scheme of Investigation (WSI) to secure the implementation of a programme of archaeological work;
5. No part of the development shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to and approved by the Local Planning Authority;
6. Prior to first use on the building a sample of the slate to be used shall be submitted and agreed in writing by the Local Planning Authority;
7. No part of the development shall be commenced until a Construction Management Plan has been submitted and agreed;
8. Details of materials and boundaries to be agreed prior to installation;
9. Removal of permitted development rights for boundary treatments, roof enlargements/extensions and extensions to the dwellings;
10. Details of ecological enhancement measures.

3. DESCRIPTION

Site and Proposal

- 3.1 The application relates to an area of land adjacent to 6 Mulberry Street, Teignmouth. The site is not in a Conservation Area and there are no listed buildings in the immediate vicinity.
- 3.2 Planning consent is sought for two semi-detached dwellings on this parcel of land. The dwellings would be two-storey with a room in the roof of the dwelling to the south.
- 3.3 Concern has been raised in representations received with regard to whether this is brownfield land or a greenfield site. Having referred back to Historic Maps of the site there is clear evidence that dwellings used to be sited on the land the subject of this application and therefore it would be classed for the purposes of planning as a brownfield site.
- 3.4 This application is revised following 19/01476/FUL, which was refused at committee and later overturned at Appeal.

Principle of Development

- 3.5 The site lies within the defined settlement limits of Teignmouth in which Local Plan policy S21A (Settlement Limits) would permit development where it is consistent with the provisions and policies in the local plan.
- 3.6 Furthermore, the site is located within an easy walk into Teignmouth Town Centre providing future occupiers with good access to facilities and services in the town and to public transport including bus and rail travel. The proposal to develop residential dwellings in this location would accord with the presumption in favour of Sustainable Development set out in policies S1A and S1 of the Local Plan which seek to promote

development in sustainable locations which are accessible by walking, cycling and public transport for main travel purposes, particularly work, shopping, leisure and education.

Impact upon the character and visual amenity of the area

- 3.7 The site proposes two new homes on a parcel of land which historically contained houses, the dwellings are two-storey in scale.
- 3.8 During the course of the consideration as part of 19/01476/FUL, the height of the dwellings was reduced to align with the height of the adjacent properties on Mulberry Street and the fenestration treatment was revised to provide a more uniformed frontage to reflect the symmetry found on the immediately adjacent semi-detached pair, albeit the dwelling to the south is stepped down to respond to the topography of the site. This has been reflected as part of this application.
- 3.9 It is concluded that the scale and massing of the proposed dwellings, their semi-detached character and height and simple material palette and roof form is such that the dwellings would not appear incongruous additions to the area. A condition is however recommended to secure a slate sample in order to be able to ensure that the chosen slate would be compatible with neighbouring properties.
- 3.10 Whilst the proposal does involve the introduction of Juliet balconies to the dwelling sited to the south, there are other properties on the adjacent Parson Street with balconies to the south and it is not considered that the introduction of Juliet balconies to this elevation would adversely impact on the character and visual amenity of the area.
- 3.11 Overall, it is considered that the revisions made to the scheme are acceptable as an alternative to the scheme that was granted permission on Appeal such that Officers conclude that the proposal would not adversely impact the character and visual amenity of the area.
- 3.12 As part of the previous approval, the Inspector concluded that the proposed development would not harm the character and appearance of the surrounding area.

...”The appeal site, unused and somewhat overgrown at the time of my site visit, is situated adjacent to the semi-detached property at 6 Mulberry Street and in between the terraced buildings on Parson Street and Westcliff Heights. Although Teignbridge is a relatively small seaside town, the area surrounding the site is relatively built-up and contains, amongst other aspects, a variety of terraced and semi-detached properties and some blocks of flats. As shown on the location plan, garden areas and plot sizes are generally constrained by the tight knit nature of the surrounding built environment. Having identified that dwellings were present on the appeal site in the past, the Council considers that the site is brownfield land.

The proposed pair of semi-detached dwellings would have a similar form, scale and ridge height as the adjoining properties at 5-6 Mulberry Street. They would reflect the general layout and position of those properties and be situated in similar sized plots to them and other built form in the locality. Accordingly, the appeal proposal would sufficiently integrate with and reflect its surroundings and not appear as a cramped, incongruous feature.

Although the proposed development would result in the erection of two houses on a currently open site which contains some soft landscaping, the surrounding area is characterised by its built-up setting and the evidence before me indicates that the site previously contained dwellings. It seems to me that the appeal proposal would therefore make efficient use of urban brownfield land and, given its context, would

neither enclose the streetscene to an unacceptable extent nor read as an unexpected feature in the locality. That the appeal proposal may be larger than the previous dwellings on the site does not lead me to a different conclusion..."

An additional condition is however proposed to control the detail of some of the materials to be used for the dwellings and the site boundaries as the drawings note, for example, the colour of the boarding to be used is "to be agreed". The highly prominent location of these features adjoining the footpath supports this.

Impact on residential amenity of surrounding properties

- 3.13 Representation received have raised concerns with regard to the impact of the proposal on privacy and light to 43-45 Parson Street to the east of the site and to 1 Westcliff Heights to the west of the site. Concern is also raised with regard to loss of privacy to 1A and 21 Mulberry Street to the south of the site on the other side of the train tracks.
- 3.14 As identified above historically the site was occupied by dwellings which would have formed a terrace of properties along the alignment of 5 and 6 Mulberry Street. The difference between this application and the previous is the introduction of a gable end to the rear, cladding, and the removal of rooflights and windows at first floor to the rear of the property.
- 3.15 The proposed dwellings do not project forward of the front building line created by 5 and 6 Mulberry Street nor would the proposed dwellings project forward of the rear building line created by 5 and 6 Mulberry Street. The height of the proposed dwellings would also be comparable to these existing properties.
- 3.16 The relationship between the proposed new dwelling and 43 and 44 Parson Street to the east would therefore be the same as the relationship between the existing dwellings 5 and 6 Mulberry Street and 45 and 46 Parson Street to the east of these properties. Whilst it is recognised that the urban grain in the area is tight knit it is not concluded that siting dwellings in the proposed location would result in a significant loss of light to 43-45 Parson Street to the east nor would the proposal result in an unacceptable overbearing impact on these properties. In addition, it is not considered that the proposed windows/doors to the east elevation would result in an unacceptable level of overlooking/loss of privacy to these properties to justify a refusal of planning consent. Albeit, it is recognised that the owners having had the benefit of no development in this area may feel the perception of overlooking it is not however considered that this would be justification for refusal of planning consent in this case particularly given the historic context of the site and the surrounding urban grain.
- 3.17 Concern has been raised with regard to overlooking to 1 Westcliff Heights from the glazing proposed to the front elevation of the dwellings. Given the angle of 1 Westcliff Heights and its neighbours to the application site the proposed glazing would not provide the opportunity for direct overlooking between the proposed new development and this property or its neighbours and as such it is not considered that a refusal on overlooking/loss of privacy grounds could be justified. Concern has also been raised with regard to loss of light to this property, however given the separation distance between the properties and orientation of the site in relation to this property it is not considered that a refusal on the grounds of the proposal causing a significant loss of light to this property could be justified.
- 3.18 Concern has also been raised with regard to overlooking/loss of privacy to 1A and 21 Mulberry Street on the other side of the train tracks from the application site as a result of the glazing and Juliet balconies proposed on the south elevation of the new dwelling facing onto the train tracks and as a result of the height difference between the site and these properties. Whilst it is recognised that there is a height difference between the

site and these properties, the separation distance (over 30 meters) is such that it is not considered that a refusal on overlooking/loss of privacy grounds could be justified.

- 3.19 Overall, having considered the impact of the proposal on the residential amenity of neighbours, Officers conclude that the proposal would not have a detrimental impact on the residential amenity of neighbours in terms of being overbearing, resulting in a significant loss of light or resulting in an unacceptable level of overlooking/loss of privacy to neighbouring occupiers. A condition is however recommended to remove permitted development rights for roof enlargements/alterations and for extensions to avoid an overdevelopment of the site and in the interest of ensuring that privacy of neighbours would not be compromised by any future development of the site.
- 3.20 As part of the previous approval, the Inspector concluded that the proposed development would not harm the living conditions of adjoining occupiers.

...” Given the built-up nature of the surrounding area and the size and location of the site, the proposed dwellings would be situated in relatively close proximity to surrounding residential properties and their gardens. Due to topography, the proposed development would also be sited above some nearby properties, including those on Parson Street to the east and Mulberry Street to the south.

However, the Mulberry Street properties to the south are over approximately 20 metres away and are also separated from the site by the railway line. Although the side elevation of unit 2 would have several windows incorporating Juliette balconies facing towards 1b, 11 and 16 Mulberry Street, the proposed development would therefore not result in significant overlooking.

With a back-to-back distance of approximately 13 metres, the degree of separation to 43-45 Parson Street would be relatively limited. However, the relationship between the proposed dwellings and Nos 43-45 would be similar to that between the existing semi-detached properties at 5-6 Mulberry Street and the terrace on Parson Street. I observed on my site visit that topography would mean that views of the rear gardens of Nos 43-45 from the first-floor rear windows of the proposed dwellings would be relatively limited, while the boundary treatment shown on the proposed block plan would further reduce views of Nos 43-45. The proposed floor plans also show that two of the four proposed first-floor rear windows would serve non-habitable rooms. On this basis, the extent of overlooking from the proposed development to Nos 43-45 would neither be unacceptable nor significant. Given the limited height of the proposed dwellings, the separation distances and the orientation in relation to Nos 43-45, the development would also not significantly reduce the amount of light and sunlight reaching those properties.

Situated to the east of 1 Westcliff Heights, the proposed development would be located near to two flank windows in that property. However, as the proposed dwellings would not be situated entirely in front of those east-facing windows, I am satisfied that the appeal proposal would not result in direct overlooking or significant loss of outlook and light for the occupiers of No 1.

This is a residential area with accommodation located in relatively close proximity. As such, a certain degree of mutual overlooking and some restriction on natural light and sunlight from surrounding built form would not also be unusual. Accordingly and for the reasons above, I am satisfied that the proposal would not result in an unreasonable loss of privacy, light and outlook...”

Impact on ecology/biodiversity

- 3.21 The application site is within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. More information about these regulations as they apply in this area can be found here <https://www.teignbridge.gov.uk/planning/biodiversity/>
- 3.22 To mitigate against impacts of the development on these habitats the applicant has elected to enter into a Unilateral Obligation to pay the Habitat Mitigation Contribution required before development commences.
- 3.23 With this in place, the LPA, as Competent Authority, is able to conclude that there will be no effect on the integrity of the European site(s) such that this does not constitute any reason for refusal of the development.

In acknowledgement of the Council's declaration of an ecological emergency and in order to secure some biodiversity enhancement on site in line with our Local Plan, a condition is also proposed requiring details of provision of swift boxes and bee bricks within the scheme.

Land drainage/flood risk

- 3.24 The site is located in flood zone 1 and therefore in flood control terms is an appropriate site for new residential development to be located.
- 3.25 The submitted details advise that both foul sewage and surface water disposal would be via the mains sewer.
- 3.26 Public letters of representation have been received which raise concerns regarding drainage.
- 3.27 South West Water have confirmed by email to the applicant as part of application 19/01476/FUL, a copy of which has been provided to the Local Planning Authority, agreement of discharge to the mains sewer.
- 3.28 During the course of the consideration of this application clarification on discharge point, sizing and positioning of the proposed surface water attenuation tank and exceedance routing has also been provided.
- 3.29 The Council's Drainage Engineers have been consulted and have advised that they have no in-principle objections to the proposal, from a surface water drainage perspective, subject to a pre-commencement condition being imposed if minded to approve that no part of the development shall be commenced until the detailed design of the proposed permanent surface water drainage system has been submitted to, and approved in writing by, the Local Planning Authority. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Parking and Highway safety

- 3.30 Public letters of representation received have raised concerns about the lack of parking for this development and existing pressures on parking in the area.
- 3.31 No parking is proposed as part of this development, however given the site's location within easy walking distance to Teignmouth Town Centre and its accessibility by walking, cycling and public transport for main travel purposes with the Town Centre being well served by buses and Teignmouth having a rail station within a reasonable walking distance from the site it is not considered that a refusal on lack of parking could

be justified in this case given the sustainable location of the site which would mean that occupiers could manage without the need for a private vehicle.

- 3.32 Given the constrained nature of the site however construction of the dwellings would be difficult. It is therefore recommended that if minded to approve a condition be attached to secure details of a Construction Management Plan to secure details of deliveries, material storage and contractor parking during undertaking the works in the interest of minimising impact on neighbours during the construction phase of the proposal.

Other Matters

- 3.33 A representation received raises issues relating to stability of a garden wall and outbuilding. These are not planning considerations and would be a civil matter.
- 3.34 Some representations received also raise concern that the proposal would devalue their properties, this is not a valid material planning consideration.

The re-use of this brownfield site in a location very close to Teignmouth Town Centre makes this development highly sustainable on its own merits. The proposal represents sustainable development and merits Committee support.

Conclusion

- 3.35 It is deemed that the proposed development would not adversely affect the character and visual amenity of the area or adversely affect the amenity of neighbouring properties. The application is considered acceptable and compliant with the Teignbridge Local Plan. Officer recommendation is one of conditional approval.
- 3.36 The decision made by the Planning Inspectorate is a material consideration and must be taken into account during the determination of the application.

4. **POLICY DOCUMENTS**

Teignbridge District Council Local Plan 2013-2033:

S1A Presumption in favour of Sustainable Development
S1 Sustainable Development Criteria
S2 Quality Development
S21A Settlement Limits
EN7 Contaminated Land
EN8 Biodiversity Protection and Enhancement
EN9 Important Habitats and Features
EN10 European Wildlife Sites
EN11 Legally Protected and Priority Species

National Planning Policy Framework

National Planning Practice Guidance

5. **CONSULTEES**

Drainage Engineer

At full planning stage the applicant is required to submit full design details for the proposed surface water drainage system to serve the development. MicroDrainage model outputs, or similar shall be submitted, in order to demonstrate that all components of the proposed surface water drainage system have been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event and flows from

such systems should be limited to a discharge no greater than the site's greenfield runoff rate. Written confirmation from South West Water Ltd. to confirm that this method of surface water disposal is acceptable. The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system. Boundary treatments should be considered to prevent overland flows due to exceedance design flows and blockages from affecting neighbouring land and properties. Information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.

Devon County Archaeology

The proposed development lies in an area of archaeological potential within the historic core of the town. The mid-19th century Tithe Map shows the area already developed, while the later OS maps show the site occupied by terraced houses that were demolished sometime in the later 20th century. The supporting information in the Contaminated Land report suggests that the site still contains evidence of former buildings and, as such, there is the strong likelihood for the survival of below-ground archaeological deposits associated with the post-medieval expansion of the town to survive within the development site. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits that will be present. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and with the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5 (adopted 2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95.

Network Rail

Network rail requires confirmation that the Surface Water Holding tank is at least 5m away from NR boundary. A sketch showing this is acceptable. There is a note to say it is subject to design however this cannot be within 5m of the Network Rail boundary.

As part of application 19/01476/FUL:

Environmental Health:

Unsuspected Contamination Condition recommended to be applied if minded to approve.

Devon County Council Highways:

Recommend that the Standing Advice issued to Teignbridge District Council is used to assess the highway impacts.

Devon County Council Historic Environment Team:

The proposed development lies in an area of archaeological potential within the historic core of the town. The mid-19th century Tithe Map shows the area already developed, while the later OS maps show the site containing occupied by terraced houses that were demolished sometime in the later 20th century. The supporting information in the Contaminated Land report suggests that the site still contains evidence of former buildings and, as such, there is the strong likelihood for the survival of below-ground archaeological deposits associated with the post-medieval expansion of the town to survive within the development site. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits that will be present. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and with the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5 (adopted 2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

Reason: *'To ensure, in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.17 of the Teignbridge Local Plan Policy EN5 (adopted 2013), that an appropriate record is made of archaeological evidence that may be affected by the development.'*

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

Devon County Council Minerals Authority:

Devon County Council has no objection to this proposal in its role as mineral planning authority.

Natural England:

Providing that the Appropriate Assessment concludes that these measures are secured as planning conditions or obligations by your Authority to ensure their strict implementation for the full duration of the development, and providing that there are no other adverse impacts identified by your Authority's Appropriate Assessment, Natural England is satisfied that your Appropriate Assessments can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives.

Teignbridge District Council Drainage Engineer:

Further clarification has been received on the discharge point, sizing and positioning of the proposed surface water attenuation tank. Exceedance routing has been provided

and it is expected that suitable boundary treatment is provided to allow exceedance flows down Mulberry Street and prevent flows towards surrounding properties. At this stage, we have no in-principle objections to the above planning application, from a surface water drainage perspective, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

REPRESENTATIONS

Three objection representations have been received and one letter of support.

The letters of objection raise the following summarised concerns (see case file for full representations):

- Concern build cannot be erected without using private lane owned by Westcliff Heights, Parson Street to which access is required at all times;
- Concern proposal will impact on the front door, lounge and bedroom window belonging to the owner of 1 Westcliff Heights in terms of loss of light and privacy to this property;
- Great concern is raised with regard to the development connecting to the main sewer;
- Concern with regard to lack of light, overlooking and loss of privacy to numbers 43, 44 and 45 Parson Street;
- Concern with regard to privacy of the owners of the two properties in Mulberry Street, numbers 1A and 21 (other side of the train line), where the proposed development would look into bedrooms and bathrooms;
- There is significant overdevelopment in the immediate area causing parking issues in the area;
- Drawing number 2 is misleading and shows parking at the top of the drawing. This is parking for residents of local authority housing, or people that have purchased these properties only, and would not be for new development;
- Proposed development makes no provision for parking for these two properties;
- Would there be any loss of integrity of the railway wall;
- There has been a recent planning application for an additional storey at 1A and 1B Mulberry Street which was refused, surely this sets a precedent for refusing this development;
- There was discussion that this site was a brownfield site, it is not and has been a garden for many years, therefore making it a greenfield site;
- Proposal would result in the loss of a green space;
- Concern proposal would reduce quality of life of existing residents;
- Concern with regard to dwelling construction impacting on garden wall and outbuilding which backs onto development site.

6. TOWN COUNCIL'S COMMENTS

Refusal due to overdevelopment and the application to be placed on Category B.

7. COMMUNITY INFRASTRUCTURE LEVY

The proposed gross internal area is 173.78 sq m. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 0. The CIL liability for this

development is £30,356.97. This is based on 173.78 net m2 at £125 per m2 and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

8. ENVIRONMENTAL IMPACT ASSESSMENT

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

9. HUMAN RIGHTS ACT

The development has been assessed against the provisions of the Human Rights Act, 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.

Business Manager – Strategic Place