

PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

DATE: 24 October 2017

REPORT OF: Business Manager – Strategic Place

ITEM: 2.

CASE OFFICER Kelly Grunnill

APPLICATION FOR CONSIDERATION: SHALDON - 17/01385/VAR - Highfield, Torquay Road - Variation of condition 2 on planning permission 15/01503/VAR to amend access road

APPLICANT: Park Green (SW)

WARD MEMBERS: Councillor Clarence, Shaldon and Stokeinteignhead

1. REASON FOR REPORT

Councillor Clarence requests Committee consideration if officers are recommending approval. The reason given is in the interests of democracy due to the high number of representations received.

2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Development to be in accordance with approved plans
2. Soft landscaping scheme (details, implementation and management) to be submitted within one month of determination. These details shall include the Devon banks, reinstatement details for stock fencing and hedge along the Woodleigh Park boundary and wild meadow mix for the area of land east of the dwellings
3. External lighting scheme (details including location, type and management to be submitted within one month of determination)
4. Details for the pillars and gate at the entrance including automation, opening direction and access for emergency vehicles to be submitted within one month of determination

3. DESCRIPTION

Site description

- 3.1 The application site is a rectangular area of land which lies on a hillside at the outer edge of Shaldon, situated between existing established residential development to the east at Woodleigh Park and the Coast View Holiday Park to the west and south.

- 3.2 The site sits in an elevated position relative to the rest of Shaldon and above development at Woodleigh Park.
- 3.3 The site lies within an area designated as Undeveloped Coast as defined in the adopted Teignbridge Local Plan 2013-2033. It lies within the Teign Estuary Landscape Character Area as defined in the Teignbridge Landscape Assessment.
- 3.4 There are 5 newly-constructed houses on site which all appear to be occupied. Four were approved under application reference: 15/01503/VAR and the fifth under application reference: 15/02241/FUL.
- 3.5 The holiday homes at Coast View Holiday Park to the west can be seen viewed in the spaces between each property. A fence marks the boundary between these sites. Each property has a private paved drive with soft landscaping.
- 3.6 The site is served from Picket Head Hill by an approximately 4.1 metres wide tarmac access road which runs in a north to south direction and is of varied gradient and proximity from the east boundary shared with properties at Woodleigh Park. The road has a gravel strip at the north eastern section of the access. Three passing spaces have been provided on the lower northern section of the access road. A new gated field access (marked by post and rail fencing) has been constructed on the north western side of the access road. A wild meadow mixed grassed margin is shown on the upper section of the access road (where the dwellings are located) at its east side. Officer inspection during the site visit indicates that there is a bank at present where the meadow area is shown and there were no obvious signs of any wild meadow mix planting.
- 3.7 A pair of rendered and white painted pillars (measuring 900 mm wide x 2100 mm high) with automated steel gates (each leaf measuring 2250 mm wide by 1800 mm high) have been constructed close to the site access. There are areas of newly-constructed Devon Bank within the site along the access. There is some ground cover grass planting on top but at present no trees or hedging as indicated on the submitted plan.

Relevant site history

- 3.8 In 2012, outline planning permission was granted at appeal for the construction of four detached dwellings and an access drive, with scale, appearance, layout and landscaping reserved for later approval. In allowing the appeal the inspector made the following observations:

“Whilst matters of location and scale are not for consideration under this appeal, I note the indicative drawings submitted show the dwellings to be cut into the hillside with roof levels at or below that of the hedge separating the site from the caravan park. I have no reason to suppose that this could not be achieved.”

“From more elevated positions in Teignmouth, the access road rising up to the dwellings would be more clearly seen. However, with planted banks alongside it, the road would appear much as a traditional Devon lane which is part and parcel of local hillside scenery. With a low building profile aided by excavation as I have

described, and with the potential for adding planting, I would not expect the proposed dwellings themselves to be particularly visible from the western parts of Teignmouth. Elsewhere, the rounded form of the hillside would shield the development from view.”

- 3.9 In 2014, a reserved matters application to approve details of scale, appearance, layout and landscaping was granted (application reference: 14/02008/REM). The approved scheme showed four houses arranged along the access road and orientated to face eastwards towards Woodleigh Park. The properties were cut into the hillside with ridge height from ground level varying between 7.7 metres to 8 metres (east facing elevation). All the houses were of identical design, scale and massing with pitched roof and had a terrace at first floor level facing eastwards.
- 3.10 In 2015 reserved matters approval was sought (ref: 15/00346) for an alternative design, layout and scale of development to that previously approved in 2014. The officer recommendation to approve was accepted by Members at its meeting on 28 April 2015.
- 3.11 In 2016 an application was made under Section 73 (ref: 15/01503/VAR) to change the location of the approved turning head from the middle of the development to the south side. This application was approved subject to conditions.

15/01503/COND1 – Conditions 4 (external materials), 6 (existing drain on site) and 7 (surface water) – approved

15/01503/COND2 – Conditions 3 (landscaping) and 5 (hard surfacing) – approved

15/01503/COND3 – Condition 3 (landscaping) – Pending consideration

This is the development that the applicant has implemented and the four houses are currently built and occupied.

In July 2016 a fifth dwelling was granted planning permission under appeal (Ref: 15/02241). This dwelling was approved in the area shown as a turning head at the south side of the site. The fifth dwelling is now complete and the dwelling appears to be occupied.

Proposal

- 3.12 The application has been made under Section 73A of the Town and Country Planning Act which relates to planning permission for development already carried out and, in this case, subsection (c) without complying with some conditions subject to which planning permission was granted.
- 3.13 The applicant seeks to amend condition 1 (approved plans condition) of application ref. 15/01503/VAR to essentially substitute approved drawings with the submitted plans

3.14 The amendments relate to the realignment of the first section of the site access road (northern section) leading up from Picket Head Hill. The four houses have been constructed in accordance with the approved drawings.

N.B.: The submitted drawings do not show the fifth dwelling on site as this was approved under a separate permission and therefore does not relate to the application which the applicant seeks to amend.

3.15 The key changes can be summarised as follows:

- Re-alignment and changes to gradient of the access road between the site access and where it curves into a straight section up towards the dwellings;
- Entry into the farm to the west of the access road has been increased in width which the applicant has advised is for appropriate access for livestock;
- Minor amendments to the bin collection points;
- Provision of passing spaces;
- Drainage strip along the access (as required by surface water condition discharge);
- Adjustments to the approved landscape scheme (15/1503/COND2) to reflect the re-aligned road.

3.16 As set out in the history section above, there is an existing permission in place for four dwellings which have been constructed and are occupied. Therefore, issues relating to the principle of the development and the impact of these dwellings in the undeveloped coast are not relevant to the determination of the current application to regularise the works to the road alignment and gradient.

3.17 Letters of representation have also raised concerns about the fact the development has not been undertaken in accordance with the approved plans and that the applicant must be required, as a matter of principle, to implement the development as approved.

3.18 Officers have inspected the site, as a result of complaints, and this application has come forward as part of this enforcement investigative work. Whilst there is some sympathy with the local residents about their concerns over development taking place without first obtaining consent, and the uncertainty this has caused, Section 73A of the Planning Act does enable works undertaken without the benefit of planning permission to be regularised. Section 73 of the Planning Act also enables conditions imposed on a planning permission to be amended or removed following an approval. Therefore, the route taken by the applicant to apply for permission to regularise the unauthorised works to the access road and layout is a legitimate one.

3.19 The main issues in the determination of this application therefore relate to:

- the effect of the changes to the access road on the character and appearance of the area and the Undeveloped Coast having regard to the letters of representation received and local and national policies; and,
- whether the changes to the access road would have any impact on the amenity of nearby residential properties having regard to the letters of representation received and local and national policies.

The effect of the changes to the access road on the character and appearance of the area

- 3.20 For the purpose of settlement boundaries, the site lies in countryside, outside of defined settlement limits on land designated as countryside and where Policy S22 (Countryside) of the Local Plan applies. However, given the five dwellings on the site and the consented access road, the appearance is not one of open undeveloped countryside.
- 3.21 The site also lies within an area which is designated as the Undeveloped Coast. Policy EN2 aims to prioritise the protection, maintenance and enhancement of the distinctive landscape and seascape character and ecological qualities of the Undeveloped Coast, and that new development will be regarded as inappropriate except in certain circumstances, none of which applies here.
- 3.22 In terms of the immediate site context, the site cannot be easily seen from public vantage points in close proximity to the site, owing to the convex curve of the hillside, the existing development near the site and the intervening vegetation. Views of the access road from Woodleigh Park are also limited and no better view can be obtained from the A379. The site is on elevated, steeply-sloping, north east-facing ground above the entrance to the Teign estuary and visible from the coast, estuary and Teignmouth promenade and beach. It forms part of the rural setting of Shaldon from these views.
- 3.23 Letters of representation have raised concerns about the amendments made to the approved scheme and subsequent harm to the landscape character of the area and surrounding countryside. It is strongly requested by a number of residents that only the consented scheme would be acceptable and that the due to the harm that arises from the development that has been undertaken, regularisation though the current application should be rejected.
- 3.24 Officer opinion is that the changes to the access, in terms of gradient, layout, access strips and passing places do not significantly differ from how the site would appear if the consented scheme had been implemented. In the context of the wider landscape and available views of the site, the changes to the access road as undertaken would be negligible and would not harm the character or appearance of the countryside or the Undeveloped Coast.
- 3.25 Letters of representation also raise concerns about elements of the landscape scheme which have been amended and/or not implemented; including details for the Devon banks and related cover planting, re-instatement of stock fencing and boundary hedging and the planting mix for the wildlife area. The applicant submitted an application to discharge landscape details under 15/01503/COND2 (details discharged) and 15/01503/COND3 (pending consideration), however, due to the changes applied for under the current application the applicant would now seek to address landscaping as part of this approval.
- 3.26 The Teignbridge Landscape Officer has visited the site and has raised no landscape concerns about the appearance of the development and has made recommendations about appropriate landscape conditions. The Landscape Officer

also raised no concerns about the hard surface materials for the access road, including the use of tarmac, which would be a Highway Authority requirement. The location of the site means that the main view of the access road (and its surfacing) would be from Picket Head Hill though the access. Similarly, the change in road access layout would have a negligible impact upon the approved hard surfacing scheme.

- 3.27 Lighting details in the form of ground based units have previously been approved. Given the amended access layout it is recommended that such details are obtained by condition.
- 3.28 Concerns have also been raised about the increased width of the gated access into the field/agricultural land at the lower section of the access road. In particular, it is considered to be too wide for its intended purpose. Officer's view is that while the access is indeed wide, this may be to facilitate speedier livestock movements into the serving field given its proximity to Picket Head Hill. The access width is not considered to have any negative impact upon the character or appearance of the area.
- 3.29 If Members are minded to approve this application, it is recommended that a condition requiring further details of soft landscaping, lighting and management are imposed.
- 3.30 For the reasons set out above, the development is considered to accord with Policies S1, S1A, S2, S22 and EN2 of the Teignbridge Local Plan 2013-2033.

Residential Amenity

- 3.31 The site sits in an elevated position above its neighbours on Woodleigh Park. Letters of representation (in the current and previous reserved matter applications) have raised concerns about the relationship of the development to these properties.
- 3.32 The access road layout has changed from the approved application. Parts of the access road are closer to the eastern boundary with Woodleigh Park properties, however, sections of the access road are also built lower than approved. The access road is complete and in use by the five occupied properties. Officers have inspected the site and it is not possible to overlook any of the Woodleigh Park properties from the access road. Even when stood on the Devon banks which lie adjacent to the eastern side of the access, views are limited mainly to rooflines. The Devon banks would also be planted with hedging and trees as part of the recommended landscape condition which would offer additional screening.
- 3.33 For the above reasons, the changes to the access are not considered to harm residential amenity and the development accords with Policy S1A of the Local Plan.

Summary and conclusion

- 3.34 The proposed access realignment is considered to have a neutral impact upon residential amenity and the character and appearance of the area, taking into consideration the approved development. The development accords with the

policies of the Local Plan. Conditions of permission would ensure that landscaping and lighting is undertaken to reflect the revised road layout. It is therefore recommended that approval is given to regularise the works undertaken on site, subject to conditions.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1 (Sustainable Development)

S2 (Quality Development)

S22 (Development in Countryside)

EN2 (Undeveloped Coast)

EN2A (Landscape Protection and Enhancement)

EN12 (Woodland, Trees and Hedgerows)

WE11 (Green Infrastructure)

National Planning Policy Framework

National Planning Practice Guidance

5. CONSULTEES

Teignbridge Landscape Officer - Has visited the site and raised no objections to the road realignment as proposed. However, it was noted that the Devon banks adjacent to the access have not yet been landscaped. It is recommended that details for the proposed hedge planting mix, including plant size, spacing and planting specification is required by condition including details for the tree sets within the hedge. The cherry and field maple are considered to be very suitable species, however birch is considered to be less appropriate in this situation and would be better replaced with oak. It is recommended that a condition is imposed requiring further details to be provided in relation to plant size, their method of cultivation (container grown would be most suitable) and method of staking/support.

6. REPRESENTATIONS

25 letters of representation have been received which raise the following objections in summary:

1. The applicant has continually contravened the plans and the Council has an obligation to ensure they are adhered to or it may be necessary to approach the Ombudsman. It is suggested that the road is dug up and constructed as approved under the previous application.
2. The breach in the plans can only be remedied by carrying out the development in accordance with the approved drawings.
3. The mistakes in the application make it invalid.
4. Why did no one in the planning department study the plans, calculate the measurements and see if the development fitted into the plot of land?
5. The Council has turned a blind eye to planning breaches and has allowed the developer to make a retrospective application. Closed door discussions have taken place and all correspondence has not been placed on the Council website.

6. The contours in the hillside should be returned to their original condition.
7. Stock fencing and hedging has been removed/damaged at the rear of existing properties which was previously shown to be retained.
8. The 3 metres wide Devon bank presently has no cover planting and is presently a mound of spoil with movement towards neighbouring properties.
9. There should have been two x 1 metre grassed biodiversity verges along the access road which have been changed to gravel footpaths. Loss of wild meadow and biodiversity strips should be re-instated which were supposed to provide an ecological benefit.
10. No gated entrance was identified on the approved plans. The current application shows two large white pillars and gates. These are incongruous with the location of the site. The gates would also be obstructive to emergency vehicles.
11. There is now an enlarged access to the adjacent field for livestock which it is considered is not intended for that purpose.
12. The enlarged agricultural gated entrance needs to be reduced as sheep do not require this width to access a field.
13. Four dwellings are shown on the plans, however, five dwellings are built on site.
14. Extra passing places are shown.
15. The drive has not been constructed in the approved location – it is 4 metres too far east.
16. The width of the access should be 4.1 metres wide across its entire length.
17. Inconsistencies from the planning inspectorate in allowing four houses at appeal and then shortly after finding the new local plan sound.
18. The drive way should be at least 7 metres from the back garden of the properties at Woodleigh Park which has not been achieved.
19. Landscape impact of houses in the meadow.
20. Determination of application ref. 15/01503/COND3 is pending (this application relates to the discharge of the landscaping scheme).
21. Breaches in the ecological appraisal.
22. The road has not been cut into the hillside and indeed seems to have been raised in height by the importation of thousands of tonnes of soil which therefore completely changes the contours, causing great visual harm to this former beautiful meadow that can be viewed from Teignmouth.
23. The number of passing spaces has increased.
24. A porous access road was previously required and the tarmac is considered to be unsuitable.
25. Houses on site cause damage to the landscape.
26. During high rainfall the Devon banks may subside.
27. The Devon bank needs to be constructed to the well documented specifications of the local authority and set behind the "buffer zone".
28. The retained hedgerow must be replanted behind all eleven properties.

7. PARISH COUNCIL'S COMMENTS

Shaldon Parish Council has raised objection to the application. The development has taken place outside the terms and conditions of the planning approval, specifically the road construction. The approved plans sought to minimise the visual impact of the development and the impact on neighbours. The enforcement officer has confirmed that the approved plan has been flouted in this regard and this has a

detrimental impact on the local area and residents of Woodleigh Park. We believe that the original approved plan should be enforced and that the development should be reinstated to comply

8. COMMUNITY INFRASTRUCTURE LEVY

This development is not liable for CIL because it is a Section 73 application for the variation of conditions to a reserved matters application for development with an outline permission granted before the implementation of CIL.

9. 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.

