

Forde House
Newton Abbot
Telephone No: 01626 215159

E-mail: comsec@teignbridge.gov.uk

7 December 2018

PLANNING COMMITTEE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Tuesday, 18th December, 2018** in the Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX at **10.00 am**

Yours sincerely

PHIL SHEARS
Managing Director

Distribution: Councillors Smith (Chairman), Clarence (Vice-Chairman), Austen, Bullivant, Colclough, Dennis, Fusco, Hayes, J Hook (was Brodie), Jones, Keeling, Mayne, Kerswell, Nutley, Orme, Parker, Pilkington, Prowse, Rollason, Winsor and vacancy

Substitutes: Councillors Connett, Dewhirst, Golder, Haines, Hocking, Russell, Thorne and Wrigley

A link to the agenda on the Council's website is emailed to:

- (1) All other Members of the Council
- (2) Representatives of the Press
- (3) Requesting Town and Parish Councils

If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting

Public Access Statement

Information for the Public

Health and safety during the meeting. In the event the fire alarm sounds please evacuate the building calmly but quickly using the nearest exit available, do not stop to collect personal or other belongings and do not use the lift. Fire Wardens will assist you to safety and 'safety in case of fire instructions' are prominently displayed in the Council buildings and should be followed. Should an escape route be compromised the nearest alternative escape route should be used. Proceed quickly to the assembly point in the very far overflow car park. Report to the person taking the roll-call at the assembly point if you have evacuated without being accounted for by a member of staff.

There is an opportunity for members of the public to speak on planning applications at this meeting. Full details are available online at www.teignbridge.gov.uk/planningcommittee.

Please email comsec@teignbridge.gov.uk or phone 01626 215112 to request to speak by **12 Noon** two working days before the meeting.

This agenda is available online at www.teignbridge.gov.uk/agendas five working days prior to the meeting. If you would like to receive an e-mail which contains a link to the website for all forthcoming meetings, please e-mail comsec@teignbridge.gov.uk

General information about Planning Committee, delegated decisions, dates of future committees, public participation in committees as well as links to agendas and minutes are available at www.teignbridge.gov.uk/planningcommittee

Any representations or information received after the preparation of the reports and by noon on the Friday before the planning committee will be included in the late updates sheet.

All documents relating to planning applications can be viewed online at www.teignbridge.gov.uk/planningonline. In the case of sensitive applications representations are not placed on the website All representations are read by the case officer and a summary of the planning matters raised is placed online instead.

AGENDA

PART I

(Open to the Public)

1. Minutes (Pages 1 - 8)
To confirm the minutes of the last meeting held on 20 November, 2018.
2. Apologies for absence.
3. Agreement of the Meeting between Parts I and II.

4. Matters of urgency/report especially brought forward with the permission of the Chairman.

5. Declarations of Interest.

6. Public Participation

The Chairman to advise the Committee on any requests received from members of the public to address the Committee.

7. Planning applications for consideration

To consider applications for planning permission as set out below.

a) NEWTON ABBOT - 18/01785/REM - 9 Forde Park - Approval of details for a dwelling (approval sought for layout, scale, appearance, access and landscaping) (Pages 9 - 16)

b) BOVEY TRACEY - 18/01452/FUL - 7 Battle Road, Heathfield Industrial Estate - Construction of extension to main warehouse and new external freezer (Pages 17 - 24)

c) TEIGNMOUTH - 18/01384/FUL - Car Park accessed off Buckeridge Road - Four dwellings (Pages 25 - 38)

d) TEIGNMOUTH - 18/01383/FUL - Trinity Lodge , Buckeridge Road - Demolition of existing building and replacement with six dwellings (Pages 39 - 52)

e) TEIGNGRACE - 18/01759/FUL - Greenacres - Alterations to existing gypsy and traveller site including the relocation of 1 existing pitch and creation of 7 additional pitches (8 pitches in total), amenity buildings, landscaping and surface water drainage (Pages 53 - 64)

8. Breaches of Planning Control

a) Newton Abbot - 32 Devon Square (Pages 65 - 68)

b) Chudleigh - Land at Graeden Park, Milestone Cross (Pages 69 - 74)

Any representations or information received after the preparation of the reports and by noon on the Friday before the planning committee will be included in the late updates sheet.

All documents relating to planning applications can be viewed online at www.teignbridge.gov.uk/planningonline. In the case of sensitive applications representations are not placed on the website. All representations are read by the case officer and a summary of the planning matters raised is placed online instead.

PART II (Private)

Items which may be taken in the absence of the Public and Press on grounds that Exempt Information may be disclosed. Local Government Act 1972 (Section 100 and Schedule 12A).

NIL

FURTHER INFORMATION:

Future meetings of the Committee

22 January, 19 February 2019

Dates of site inspections

Team 1 –

Chairman, Vice Chairman and Cllrs: Bullivant, Colclough, Fusco, Hayes, Nutley, and Rollason

Team 2 - 31 January 2019

Chairman, Vice Chairman and Cllrs: J. Hook, Dennis, Jones, Mayne, Orme, Parker

Team 3 -

Chairman, Vice Chairman and Cllrs: Austen, Kerswell, Keeling, Pilkington, Prowse and Winsor

Notes for Planning Committee members on determining applications

Members are reminded of their legal responsibilities when determining planning applications as set out in the planning practice guidance on the government website Gov.UK.

“Local authority members are involved in planning matters to represent the interests of the whole community and must maintain an open mind when considering planning applications. Where members take decisions on planning applications they must do so in accordance with the development plan unless material considerations indicate otherwise. Members must only take into account material planning considerations, which can include public views where they relate to relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.”

S70 (2) of the Town and Country Planning Act 1990 and S38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be taken in accordance with the Council’s development plan unless there are material planning considerations that indicate otherwise.

[Article 32 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) provides that, subject to additional publicity requirements, a local planning authority may depart from development plan policy where material considerations indicate that the plan should not be followed.

The development plan consists of the Teignbridge Local Plan and the Neighbourhood Plans.

The National Planning Policy Framework and National Planning Practice Guidance must also be taken into account.

S70 (2) of the Town and Country Planning Act 1990 provides that a local planning authority must have regard to a local finance consideration as far as it is material. A local finance consideration is defined as a grant or other financial assistance that has

been, will or could be provided to a relevant authority by a Minister of the Crown Court (such as a New Homes Bonus payments) or sums that a relevant authority has, will or could receive, in payment of the Community Infrastructure Levy. Whether or not a local finance consideration is material to a particular development will depend on whether it could help to make the development acceptable in planning terms.

APPENDIX 1

THE LOCAL GOVERNMENT ACT 1972

(Local Government (Access to Information) Act 1985)

List of Background Papers relating to the various items of reports as set out in Part I of the Agenda

As relevant or appropriate:

1. Applications, Forms and Plans.
2. Correspondence/Consultation with interested parties.
3. Structure Plan Documents.
4. Local Plan Documents.
5. Local/Topic Reports.
6. Central Government Legislation.

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PLANNING COMMITTEE

20 NOVEMBER 2018

Present:

Councillors Smith (Chairman), Clarence (Vice-Chairman), Austen, Bullivant, Dennis, Fusco, Hayes, J Hook (was Brodie), Mayne, Kerswell, Nutley, Orme, Parker, Prowse, Rollason and Winsor

Members in Attendance:

Councillor Dewhirst

Apologies:

Councillors Colclough, Jones, Keeling and Pilkington

Officers in Attendance:

Rosalyn Eastman, Business Manager, Strategic Place
Trish Corns, Democratic Services Officer
Phillip Debidin, Legal Adviser
Claire Boobier, Planning Officer
Eve Somerville, Planning Officer

1. MINUTES

The Minutes of the meetings held on 23 October 2018 were approved as a correct record and signed by the Chairman. (14 votes for and 1 against)

2. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed public speakers to the meeting. He also reminded Members of the Committee that they should not vote on an application if they are not present at the meeting to hear the entire debate on the application.

3. MATTER OF REPORT -REGIONAL EXCELLENCE ACCOLADE FOR DAWLISH COUNTRYSIDE PARK

The Chairman announced that the Council has scooped an Excellence Accolade in Planning Delivery in the Royal Town Planning Institute (RTPI) South West Awards.

Recognised for its work to create Dawlish Countryside Park, the Council turned plans for a 65-acre natural green space into a welcome community facility treasured by local people. The Park provides a natural recreation area for people, reducing pressure and protecting internationally important wildlife sites nearby such as Dawlish Warren National Nature Reserve and the Exe Estuary.

4. DECLARATIONS OF INTEREST.

18/01226/FUL - Councillor Smith declared an interest in this application, on the grounds of predetermination, by virtue of his membership of Ipplepen Parish Council and left the meeting while the matter was discussed and determined.

5. PLANNING APPLICATIONS FOR CONSIDERATION

The Committee considered the reports of the Business Manager – Strategic Place, together with comments of public speakers, additional information reported by the officers and information detailed in the late representations updates document previously circulated.

a) IPPLEPEN - 18/01226/FUL - The Shed, Yarneford Copse - Change of use of forestry building to dwelling

18/01226/FUL - Councillor Smith, the Chairman declared an interest in this application, on the grounds of predetermination, by virtue of his membership of Ipplepen Parish Council, and left the meeting while the matter was discussed and determined.

In the absence of the Chairman, the Vice Chairman chaired the meeting for this item.

Public Speaker, supporter – He managed the family forestry business which has been in existence for several years. The agricultural building was constructed in 2011 to replace a dilapidated building. Incidents of theft amounting to the loss of £20k worth of business equipment, and difficulties in obtaining insurance cover resulted in him residing at the building for security purposes. The community supported the residential use of the building.

Comments from Members included: the forestry business is successful and employs 5 full time workers; there is an essential functional need for a full time employee on site; there is no other dwelling on the holding which meets the need; it could be tied for the family and the forestry business; and that there is an essential need in view of the security risks to the business.

It was proposed by Councillor Prowse and seconded by Councillor Fusco that the application be approved subject to the dwelling being ancillary to the business.

The Business Manager urged caution, reminding the Committee that for similar situations an application is supported by an agricultural consultant's report. Permission would be granted for temporary residential use only for a caravan for example, not permanent residential use of a permanent structure.

The Planning Officer referred Members to the report circulated with the agenda and the officer recommendation of refusal on several grounds including contrary

to Policies WE9 and S22. There is not sufficient information to consider the permanent residence of the dwelling. The Business Manager added that an agricultural workers application should be submitted if the Committee are minded to approve permanent residency of the agricultural building. Such an application would provide the additional information required, including an agricultural report to justify approval of the application. The material considerations do not outweigh the need for the permanent residency of the building.

The Legal Adviser urged the Committee to defer the application for the receipt of further information.

A member of the Committee concluded that the application was not supported with the relevant information under Policy WE9 and therefore there was not sufficient information to approve the application contrary to the officer recommendation.

The Business Manager added that she had sympathy with the views of the Members, however the application should be deferred for further information on how the residency, currently contrary to policy could be controlled, when there was no application for an agricultural workers dwelling, merely a change of use of an agricultural building.

Councillor Prowse then advised she wished to withdraw the proposal for approval and propose deferment for further information. Councillor Fusco agreed and seconded the proposal for deferment.

Councillor Rollason proposed that that the application be approved because the security issues were paramount to the success of the business. This proposal was seconded by Councillor J Hook who added that the application was sustainable.

The Business Manager advised that should the Committee be minded to approve the application, a Section 106 Agreement was essential to tie the dwelling to the agricultural business, and that planning permission should be subject only to the satisfactory completion of such an agreement, which delegated authority could be granted to her to complete.

Councillor Prowse advised that she wished to withdraw the proposal for deferment. Councillor Fusco proposed deferment for further information. This was seconded by Councillor Bullivant. A vote was taken and lost by 4 votes for, 10 against and 1 abstention. A vote on the proposal for approval was taken and carried by 12 votes for, 1 against and 2 abstentions.

Resolved

Delegated authority be granted to the Business Manager, Development Management, in consultation with the Ward Member to grant permission subject to the satisfactory completion of a Section 106 Agreement to tie the dwelling to the business, and subject to conditions including addressing the following:

1. Removal of Permitted Development Rights.
2. Standard time condition.
3. Works in accordance with approved plans.
(12 votes for, 1 against and 2 abstentions)

b) **NEWTON ABBOT - 18/01734/FUL - Butter Market, Market Street- Raise the height of the existing 1.5 metres high steel and glass railing along the south elevation by 0.5 metres to form a total height of 2 metres**

It was proposed by Councillor J Hook, seconded by Councillor Hayes and

Resolved

Permission granted subject to the following conditions:

1. Standard time limit
2. Works in accordance with the approved plans.
(14 votes for and 0 against)

c) **NEWTON ABBOT - 18/01735/LBC - Butter Market, Market Street- Raise the height of the existing 1.5 metres high steel and glass railing along the south elevation by 0.5 metres to form a total height of 2 metres**

It was proposed by Councillor Bullivant, seconded by Councillor Dennis and

Resolved

Listed Building consent be granted subject to the following conditions:

1. Standard time condition.
2. Works in accordance with approved plans.
(16 votes for and 0 against)

d) **NEWTON ABBOT - 18/01526/FUL - 8 The Butter Market, Market Street- Change of use from A3 (restaurant/cafe) to A5 (hot food takeaway)**

It was proposed by Councillor Hayes, seconded by Councillor Parker and

Resolved

Permission be granted subject to the following conditions:

1. Standard time condition.
2. Works in accordance with approval plans.

Informative

The planning permission hereby granted relates solely to the change of use of the premises from A3 (restaurant/cafe) to A5 (hot food takeaway). As the property the subject of this application is a Grade II Listed Building any physical alteration to the building, including display of new advertisements, will require

Listed Building; depending on the size, height and method of illumination of the signage to be erected the Council's "Consent to Display an Advertisement" may also be required.

(16 votes for and 0 against)

- e) **SHALDON - 18/01778/MAJ - Coast View Holiday Park, Torquay Road- Variation of conditions 2, 3 and 4 on planning permission 12/01547/MAJ (use of land for stationing of static caravans for holiday use all year round) to provide an alternative landscaping scheme**

The Planning Officer circulated copies of the landscaping proposals and appraisals for the previous application and also for the current application. Further to the updates document the following have been received: an additional 14 representations of support; 1 comment relating to the validity of the application; and 6 objections of which comments included: no substance for support, the site is an eyesore, and enforcement action has not been taken.

Public speaker, objector – objected on the grounds of: the holiday park has encroached onto his land and part of the site depicted on the plans is not within the boundary of the Park; the proposal will place a concrete base and chalet within the Devon hedge bank; trees have been removed on site in relation to the 2012 application which were conditioned to be protected and to remain; an Ash tree on his land had been felled by the applicant; and trees conditioned to be planted to screen the site from his property have not been planted.

Public speaker, objector – objected on the grounds of: Condition 4 of the previous application for landscape screening to protect the view from his property has not been implemented; why were the conditions not enforced; he has lost land in order to protect his privacy.

Public speaker, supporter – the application will enhance and achieve the original conditions and protect the landscape; all development has planning approval, but appreciates any inconvenience to neighbours during development as a result of earth works and machinery noise; permission was granted without fixed locations for the units, and the previous landscape plan would not work with the layout; the number of units is not excessive and the proposed landscaping scheme, of some 75 specimen trees, will work with the existing layout of the chalets; the facilities at the 5* Park were open to the public and it provided local employment.

Comments made by Members included: the proposed scheme would enhance the situation; concern about the chalet being set within the Devon hedge bank, and that efforts be made that the hedge bank is not compromised.

The Business Manager advised that the dispute over the application boundary arises following the serving of Certificate A as part of the planning process.

However, the affected neighbour has not been disadvantaged by the use of Certificate A as they are aware of the proposals and their detail. The current

proposal is not a lesser scheme but a different scheme. The chalets would be conditioned for holiday accommodation only, and some landscaping has already taken place

It was proposed by Councillor Bullivant, seconded by Councillor Winsor and

Resolved

1. Development in accordance with approved plans.
2. Landscaping shall be carried out and thereafter maintained in accordance with the Landscaping Details and Landscape Plan, including on a rolling basis after 5 years.
3. The number of static caravans in areas 2, 3 and 4 shall be limited to 20, 50 and 60 respectively.
4. The static caravans shall be occupied for holiday purposes only and shall not be occupied as a person's sole, or main, place or residence; the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
5. No external lighting shall be installed on the site other than mounted on static caravans, or under 1.5 metres in height, unless otherwise agreed in writing by the Local Planning Authority.
6. No gates or fences adjacent to Picket Head Hill are approved under this consent. (9 votes for and 7 against)

- f) **SHALDON - 18/01779/VAR - Coast View Holiday Park, Torquay Road- Variation of condition 4 on planning permission 15/02763/VAR (variation of condition 4 on planning permission 13/03275/FUL to vary the stated parameters for the approved decking) to ensure compliance with revised landscaping plan**

The Planning Officer drew Members' attention to the amended landscape plan and a different date for the wording of the landscape plan condition set out in para 3.13 of the officer report, circulated with the agenda. Since the publications of the representations update document, the following had been received: 15 representations of support; and 3 objections including disputes over the boundary lines, there should be 4 metres distance between the decking and landscaping, and that this should be enforced.

Public speaker, objector – the condition that requires the decking to be 4 metres distance from the hedgerow has not been enforced. The distance is significantly less.

Public speaker, supporter – the site licence allows statics to be positioned closer than 4 meters from the hedgerow. There is no detrimental effect on the planting and distance between the two is acceptable.

The Business Manager confirmed that the Council's Landscape Officer was part of the discussions for the current scheme.

It was proposed by Councillor Bullivant, and seconded by Councillor Winsor that the application be approved as set out in the report circulated with the agenda. The vote was taken as follows: 8 votes for and 8 votes against. The Chairman used his casting vote and it was

Resolved

Permission be granted subject to the following conditions:

1. Development to accord with approved plans
2. The decking hereby permitted shall be dismantled and removed from the site on or before the removal of the static caravan to which it is attached;
3. All decking shall be constructed within the following parameters:
 - (a) Decking shall be no more than 3.6 metres deep measured from either the side or front of the static caravan and the total area of decking excluding any steps or sloping walkway (for disabled access) shall not when installed exceed 45 square metres;
 - (b) The decking shall be limited to a maximum of 2 elevations of the static caravan;
 - (c) The floor level of the decking shall not exceed the threshold/floor level of the static caravan at any point;
 - (d) The maximum height of any balustrade shall not exceed 1300mm.
4. No area of decking shall be positioned where it would prevent/compromise the successful establishment of the approved landscaping scheme as detailed on the Landscape Plan and Landscape Details agreed under application 18/01778/MAJ. (9 votes for and 8 against)

g) **DODDISCOMBSLEIGH - 18/01782/FUL - Mistleigh Farm Barns, Doddiscombsleigh - - Extension to the existing barn, installation of satellite and attachment of solar panels**

It was proposed by Councillor Prowse, seconded by Councillor Nutley and

Resolved

Permission be granted subject to the following conditions:

1. Development to proceed in accordance with the approved plans.
2. No external lighting shall be installed on the building including extension without the prior submission and approval of an External Lighting Scheme.
3. Building shall be used only for the storage of historic and classic vehicles and no vehicles of less than 20 years of age shall be stored or worked upon within the building.
4. No storage of parts shall take place under the extension hereby permitted other than the storage of the solar panel batteries shown on drawing TDC4 (Floor Plan) and a vehicle shall only be stored in the extension during daylight hours where it complies with condition 8 .
5. Only the area marked as workshop area on the indicative storage layout diagram received on 13 April 2018 under application reference 18/00801/VAR and hereby approved shall be used as a workshop. This designated area shall only be used to repair and maintain the vehicles stored within the building and all other areas of the building shall be used for the storage of historic and classic

vehicles of more than 20 years of age and parts associated with these vehicles only.

6. No overnight parking of vehicles or storage of parts shall take place on the site outside of the building as extended.

7. No vehicle parts or scrap materials shall be stored outside the building at any time.

8. During daylight hours historic and classic vehicles of more than 20 years of age shall only be stored on the hardstanding area (or under the extension) hereby approved when space is needed inside the building to undertake works on historic and classic vehicles of more than 20 years of age. Only one such vehicle shall be stored on the hardstanding to provide space within the building at any one time.

9. The hardstanding area shall only be used for the parking of two passenger vehicles for the owner to access the site and no commercial vehicles and associated plant or trailers are to be brought onto the site other than for the purpose of transporting historic and/or classic vehicles or conducting maintenance work to the land and/or building.

10. No parts or machinery shall be stored within the building (excluding the extension hereby approved) other than those needed to repair the historic and classic vehicles of more than 20 years old stored within it or materials necessary for undertaking maintenance and/or repair work to the building and/or land including means of enclosure. The storage of such materials shall only be in the areas as depicted on the indicative storage layout diagram received on 13 April 2018.

11. Repair and maintenance works shall at no time be undertaken outside the building or in the extension hereby approved.

12. All doors to the building (excluding the extension hereby approved) shall be kept shut whilst noise generating equipment is being used to facilitate the repair and maintenance of classic and historic vehicles of more than 20 years old stored within it.

13. Noise arising from the use of the building including any equipment or machinery associated with the use shall not exceed more than 5dB above the background noise levels prevailing at the time of operation measured at the boundaries of the site.

14. No burning of waste created from the use of the building shall take place on the site.

15. The extension structure shall be clad in profile cladding in a colour to match the existing.

(14 votes for and 0 against)

6. APPEAL DECISIONS

The Committee noted appeal decisions made by the Planning Inspectorate.

DENNIS SMITH
Chairman

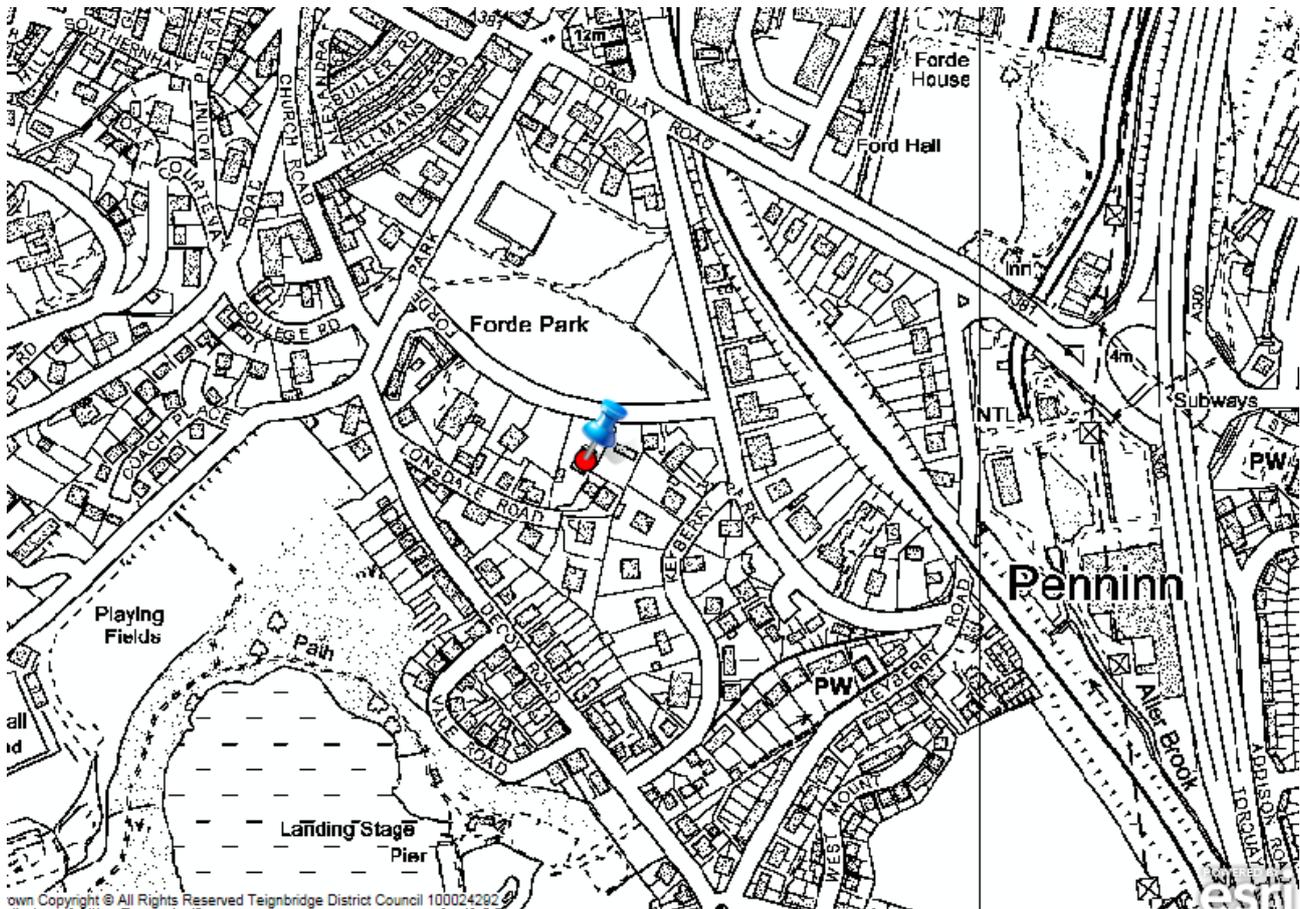
PLANNING COMMITTEE REPORT

Tuesday 18 December 2018

CHAIRMAN: Cllr Dennis Smith



APPLICATION FOR CONSIDERATION:	NEWTON ABBOT - 18/01785/REM - 9 Forde Park - Approval of details for a dwelling (approval sought for layout, scale, appearance, access and landscaping)	
APPLICANT:	Ms B Stone-Parker	
CASE OFFICER	Anna Mooney	
WARD MEMBERS:	Councillor Pilkington Councillor Jones	College
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=18/01785/REM&MN	





1. REASON FOR REPORT

Councillor Pilkington has requested Committee determination because he is concerned that the means of access to this development is via Lonsdale Road.

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. Parking to be provided and retained
4. Restricted Permitted Development Rights
5. Obscure glazing to first floor (bathroom) window in west elevation and top hung
6. Obscure glazing to first floor (bathroom) window in north elevation and top hung
7. Sample stone panel
8. Sample or details of all external material
9. Drainage proceed in accordance with submitted details
10. Demolition works in accordance with Ecological Survey (Outline condition 5)
11. Notwithstanding Ecological Survey (received 8 November 2018) bird and bat boxes located as shown on Drawing PL3 Rev B.

3. DESCRIPTION

- 3.1 The application site falls within the settlement limit for Newton Abbot, as depicted on the Teignbridge Local Plan 2013-2033 Proposals Map.
- 3.2 The application seeks approval of details for a dwelling (approval sought for layout, scale, appearance, access and landscaping) following already granted outline permission 17/01809/OUT.
- 3.3 The current proposal provides a dwelling with rendered elevations and natural slate roof to reflect the local character. It also includes retention and enhancement of the front boundary to Lonsdale Road, with additional stone boundary walling and a native hedge boundary to the north of the site to complement the original host dwelling, 9 Forde Park.
- 3.4 There is considerable planning history on the application site for permission for a single dwelling with access onto Lonsdale Road. This includes 09/01791/FUL and the renewal of this permission under 12/01476/FUL. The principle has therefore been established for some time.
- 3.5 The key issues in the consideration of this application for approval of reserved matters relate to:
 - Impact on the character and appearance of the Conservation Area
 - The effect of the proposal on residential amenity
 - Ecology/biodiversity
 - Highway safety
 - Drainage

The issue of principle is not a consideration at this time.

Impact upon the character and appearance of the Conservation Area

- 3.7 The site is located within the Newton Abbot Conservation Area. Having regard to its statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the planning department to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Where harm to the character or appearance of the Conservation Area is identified the Council must give this considerable importance and weight.
- 3.8 Policy EN5 (Heritage Assets) of the Teignbridge Local Plan 2013–2033 states that:
- To protect and enhance the area’s heritage, consideration of development proposals will take account of the significance, character, setting and local distinctiveness of any affected heritage asset, including Scheduled Monuments, Listed Buildings, Conservation Areas, Historic Parks and Gardens, other archaeological sites and other assets on the Register of Local Assets, particularly those of national importance.
- Development should respect and draw inspiration from the local historic environment responding positively to the character and distinctiveness of the area, important historic features, their settings and street patterns. Where appropriate development should include proposals for enhancement of the historic environment including key views and actions identified in Conservation Area Character Appraisals and Management Plans.
- 3.9 The original host dwelling, 9 Forde Park, presents within the Conservation Area predominantly from the north side into Forde Park. To the rear (south) dwellings located in Lonsdale Road display a mixed pattern of development, with many of the dwellings to the north side of the road having been constructed in the original rear gardens of dwellings fronting Forde Park to the north.
- 3.10 Lonsdale Road is characterised by a variety of design styles and ages, with many of the more recent dwellings located to the north side of the road. A unifying element between the properties is that many have rendered elevations and stone boundary walls. The proposed dwelling, which is fairly traditional in appearance, is two storey, as are neighbouring dwellings to the east and west sides, and is set within a similar plot size. The proposed dwelling will have rendered elevations, a natural slate roof and improved stone boundary frontage in keeping with the predominant material palette in the area.
- 3.11 The front boundary enclosure is to be maintained with timber entrance gates, a new pier to match the existing pier (in stone with brick quoins) and adjacent new stone boundary walling (replacing existing timber fencing) to the east of the entrance gates. Native hedging to the north of the site will provide boundary screening to the north to ensure that the proposal preserves and enhances the appearance of the Conservation Area when viewed from the original host dwelling, 9 Forde Park, to the north.
- 3.12 It is therefore considered that the proposals preserve the character and appearance of a conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy EN5 of the Teignbridge Local Plan.

Residential amenity

- 3.13 To the front (south) the proposed dwelling is not considered to give rise to any unacceptable overlooking as this elevation fronts on to Lonsdale Road.
- 3.14 To the rear one roof light and two first floor windows are proposed, serving a bathroom and two bedrooms. The roof light is to be set 1.7 metres above finished floor level to prevent unacceptable overlooking. The bathroom window is to be obscure glazed and top hung (this will be conditioned) to prevent unacceptable overlooking.
- 3.15 It is acknowledged that the remaining bedroom window could give rise to an element of overlooking to first floor windows in the former host dwelling, 9 Forde Park. Within 9 Forde Park the two first floor windows in the south elevation serve a bathroom and kitchen. However, as this window is set to the west side of the rear elevation and the first floor windows in 9 Forde Park are to the east, this window is not considered to give rise to an unacceptable level of overlooking to the former host dwelling.
- 3.16 To the west elevation there is one small first floor bathroom window. This window is to be obscure glazed and top hung (this will be conditioned) to prevent unacceptable overlooking. With the benefit of obscure glazing/top hanging this window, which looks towards the rear garden of the neighboring dwelling, is not considered to give rise to any unacceptable overlooking.
- 3.17 Following concern that the most southerly first floor window to the east elevation will give rise to some overlooking to the neighbouring dwelling, this window has been removed. One first floor window remains to the east elevation. This window will face the windowless upper elevation of the neighbouring dwelling and is not considered to give rise to any unacceptable overlooking.
- 3.18 The proposed dwelling, which is located on a site of similar size to several of the neighbouring dwellings and is detached, is not considered to be overbearing to any neighbouring dwellings.
- 3.19 A condition to restrict permitted development is proposed to safeguard future residential amenity.

Ecology/biodiversity

- 3.20 Following initial comments from the Biodiversity Officer, a revised Landscape Plan, Landscape Management Plan and Planting Schedule and details of bird and bat boxes have been received. The positioning of bird and bat boxes are as shown on Drawing PL3 Rev B received on 28 November 2018). The Biodiversity Officer is now satisfied that the proposals ensure that there is no net loss of biodiversity.

Highway safety

- 3.21 Devon County Highways standing advice requires private drives to have adequate provision for parking and turning. The proposal allows for vehicle turning within the site and includes off-road parking for two vehicles which is considered to be adequate provision.

- 3.22 Whilst the application dwelling has no visibility splay to Lonsdale Road, this is in common with many of the existing dwellings on this road. As the limited size of Lonsdale Road requires slow traffic movement the proposals are not considered to give rise to any additional highway safety issues. There are no Highways or access reasons for refusal.

Drainage

- 3.23 Following receipt of the Foul and Surface Water Drainage Report on 23 October 2018, Teignbridge Drainage Engineers have confirmed that they are satisfied with the drainage proposed (this will be conditioned as requested by Teignbridge Drainage Engineers). This satisfies condition 7 of outline approval 17/01809/OUT requiring a scheme of foul and surface water disposal.

Other Matters

- 3.24 Incorrect elevation orientation on Drawing PL3 has been corrected by the submission of Drawing PL3 Rev B showing the correct orientation.
- 3.25 A construction plan has not been conditioned for previous approvals for a dwelling on the site and is not considered appropriate for the current application given the nature of the proposal as a single new dwelling.

Summary and conclusion

- 3.26 The Planning Act, the National Planning Policy Framework (NPPF) and Policy S1A of the Teignbridge Local Plan require that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.27 The proposed dwelling is considered to be in keeping with the character of the Conservation Area with no adverse impact on the amenity of the occupiers of neighbouring dwellings.
- 3.28 It is therefore recommended that the proposals should be approved subject to the recommended conditions.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)
S1 (Sustainable Development Criteria)
S2 (Quality Development)
EN5 (Heritage Assets)

Planning (Listed Buildings and Conservation Areas) Act 1990

National Planning Policy Framework

National Planning Practice Guidance

5. CONSULTEES

Devon County Highways - Standing Advice.

Teignbridge Biodiversity Officer 5 November 2018 - Additional and revised information is needed. Condition 5 from the Outline permission must still apply.

Details of bird and bat boxes required.

Revised lawn mix required and revised Landscape Management Plan.

Teignbridge Biodiversity Officer 28 November 2018 - The revised landscape plan and the bat and bird box information are acceptable.

Teignbridge Drainage Engineers - The development shall proceed in accordance with the submitted AquaTech Foul and Surface Water Drainage Strategy Report - reference AT2307, dated 23 October 2018.

As part of the Building Regulations Approval, Devon Building Control shall ensure that the proposed drainage serving this development complies with Building Regulation Document H and Infiltration testing with BRE 365 (2016).

6. REPRESENTATIONS

18 letters of objection raising the following points:

1. Proposal is contrary to Government planning policy
2. Proposal is detrimental to the quality, character and amenity of the area
3. Unsympathetic to the character of the Conservation Area
4. Inadequate parking and access
5. Will give rise to increase in traffic in area and parking issues
6. Lonsdale Road is not suitable for access
7. Proposed dwelling is too large for the site
8. Overlooking to neighbour (no address given)
9. Overlooking to 6 Lonsdale Road
10. Materials proposed for the gate piers are not in keeping with area
11. Overlooking to 9 Forde Park
12. Concern that condition 7 (foul and surface water disposal) on outline application 17/01809/OUT has not been met
13. Construction plan requested to address access for large vehicles and waste disposal
14. Overlooking to 7 Lonsdale Road

7. TOWN COUNCIL'S COMMENTS

The Committee recommends refusal on the grounds of highways issues where it was noted that the criteria within Devon County Council advice had not been met.

8. COMMUNITY INFRASTRUCTURE LEVY

The proposed gross internal area is 209.31m². 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 0.00 m². The CIL liability for this development is £19,249.51. This is based on 209.31 net m² at £70 per m²

and includes an adjustment for inflation in line with the BCIS since the introduction 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.

Business Manager – Strategic Place

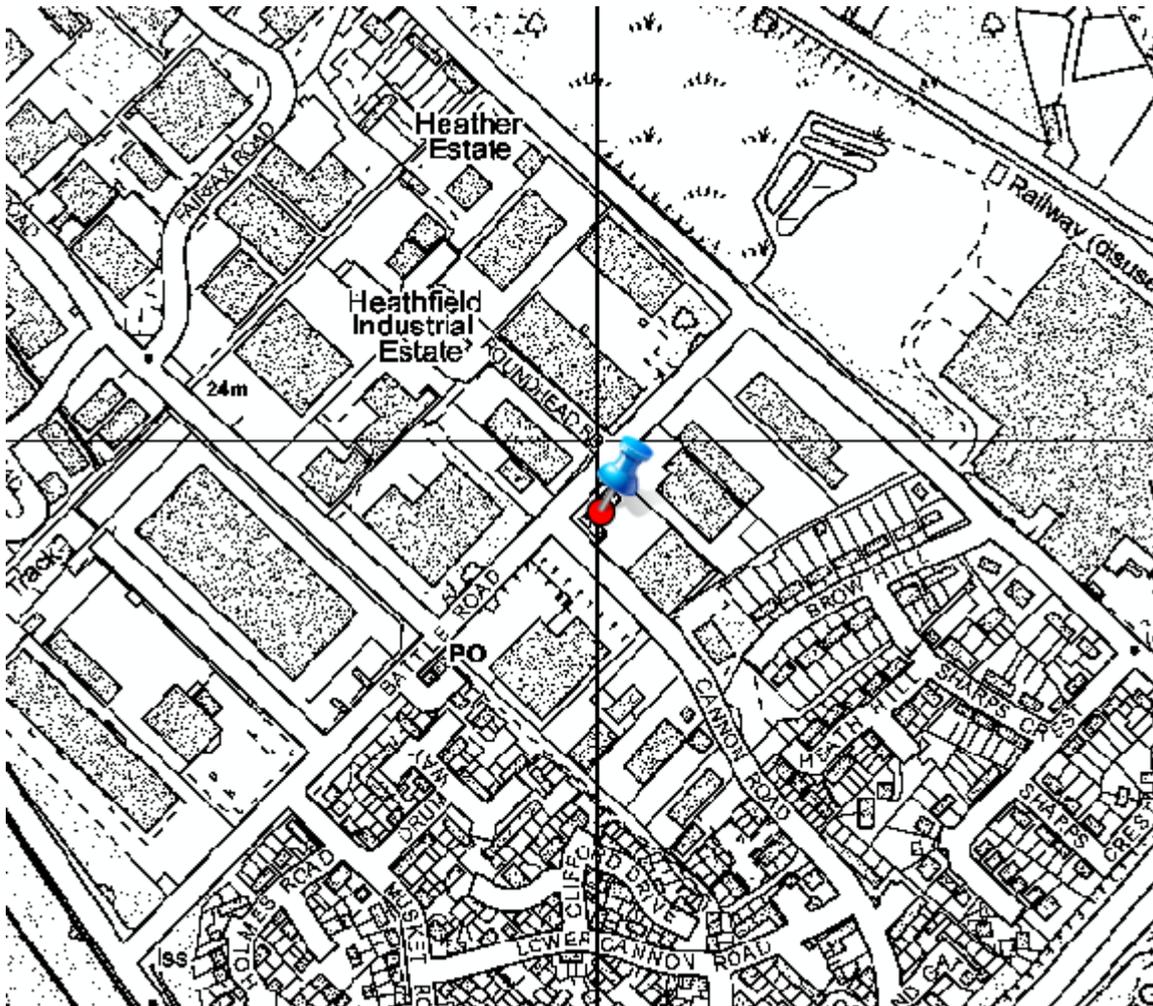
PLANNING COMMITTEE REPORT

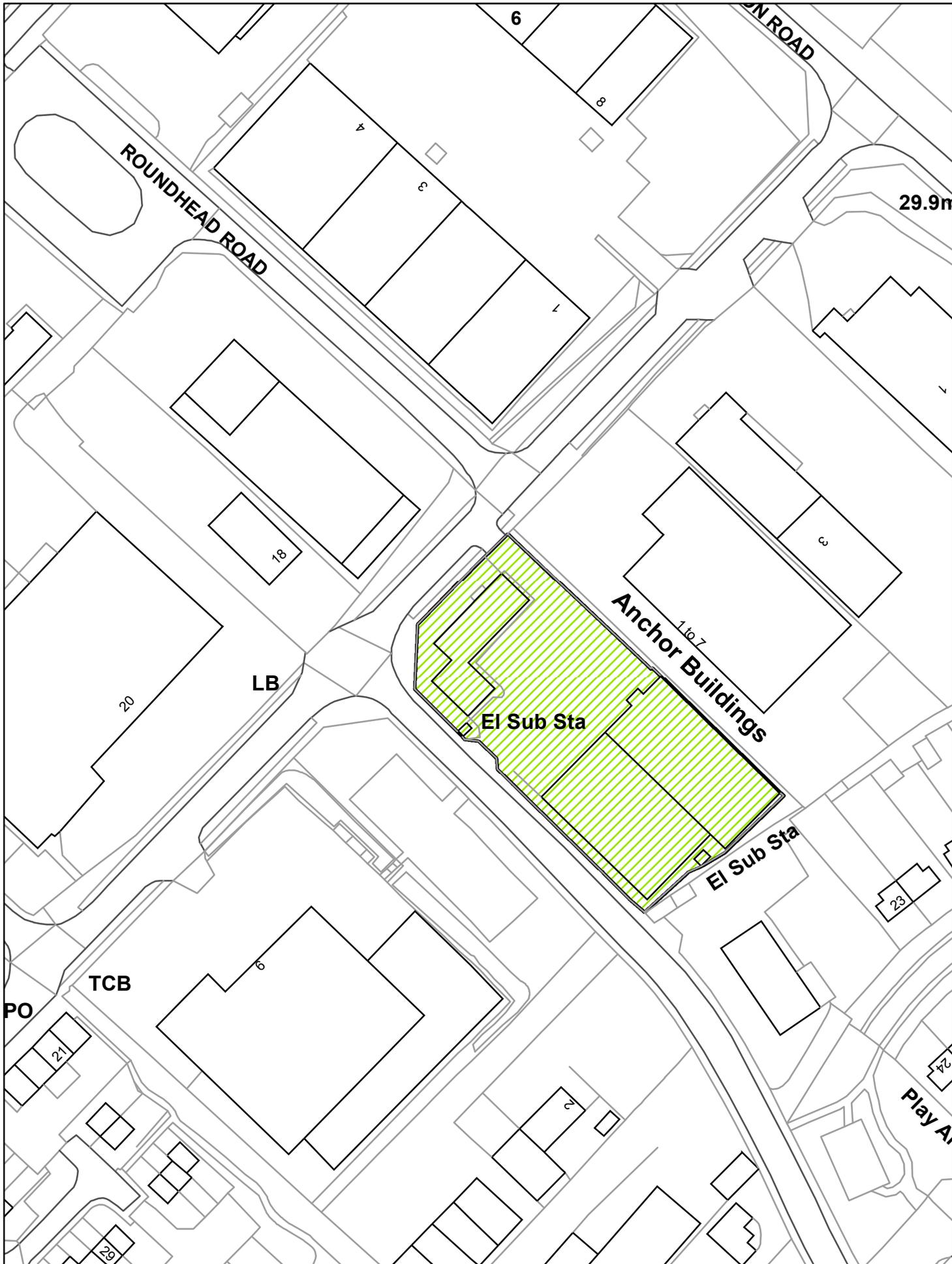
Tuesday 18 December 2018

CHAIRMAN: Cllr Dennis Smith



APPLICATION FOR CONSIDERATION:	BOVEY TRACEY - 18/01452/FUL - 7 Battle Road, Heathfield Industrial Estate - Construction of extension to main warehouse and new external freezer	
APPLICANT:	Mr T Cull	
CASE OFFICER	Guy Gibson/Claire Boobier	
WARD MEMBERS:	Councillor Gribble Councillor Kerswell Councillor Morgan	Bovey
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=18/01452/FUL&MN	





1. REASON FOR REPORT

Councillor Kerswell has requested that this application be referred to Planning Committee for determination if the Case Officer is recommending approval. The reason given for this request is concerns about the potential loss of parking spaces as there are already on-street parking problems in the vicinity. Also there are already concerns about noise/smells emanating from this site which could be worsened.

2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit;
2. In accordance with approved plans;
3. Prior to first use of the new extension or external freezer an odour management plan to include on-going maintenance of proposed measures and detailing how fugitive odour and emissions arising from the premises will be prevented from causing a nuisance to nearby residential dwellings shall be submitted and approved by the Local Planning Authority. Once approved the measures shall be installed prior to first use of either the new extension or external freezer and thereafter shall be retained and maintained in accordance with the approved maintenance plan;
4. Noise levels arising from the installation of the new refrigeration unit and any other plant and equipment located within the new extension shall not exceed existing background noise levels experienced at nearby noise-sensitive dwellings.

3. DESCRIPTION

Site and Proposal

- 3.1 The site is at 7 Battle Road but also borders Cannon Road on the Heathfield Industrial Estate and consists of two separate block on the site.
- 3.2 The main warehouse block (floor area of approximately 2,493 square metres) comprises two portal frame units built at different times, which form the mixing, assembly, dispatch and administration office functions for Little & Cull Ltd. The secondary building is known as Pullman House and is offices and laboratories and is leased privately by Little & Cull Ltd.
- 3.3 The site is predominantly surrounded by industrial buildings although there are some residential properties to the south on Brow Hill.
- 3.4 Little & Cull Ltd are manufacturers of Sous Vide and prepared meals.
- 3.5 A new extension is proposed to the warehouse building located to the north west elevation of the block. This extension would have a footprint of 344 square metres and comprise 32 square metres for boxed meats; 131 square metres for dry stores; 12 square metres of circulation space, 85 square metres for mixes, 7 square metres for bin stores and 77 square metres for distribution.

- 3.6 The extension to the warehouse will be finished with grey Kingspan Microrib insulated cladding panels to match the existing external walls and mono-pitch roof. New emergency escape doors would be grey steel doors to match the existing and new service doors would be steel roller shutter doors to match the existing.
- 3.7 The proposed new external freezer would be located within the courtyard of the site, south east of Pullman House, and would have an approximate footprint of 145 metres squared with a height of 6.8 metres to match the height of the adjacent Pullman House.
- 3.8 The external freezer is proposed to be a steel-framed structure finished with Kingspan cladding panels and would have a pitched roof behind a parapet. The parapet would be finished to match the cladding at the top of the adjacent Pullman House.

Principle of Development

- 3.9 The site is located within the settlement limit where Policies S1A, S1 and S21A of the Teignbridge Local Plan 2013-2033 support development in principle where it is consistent with the provisions and policies of the Local Plan.
- 3.10 Furthermore, Policy EC1 (Business Development) of the Teignbridge Local Plan 2013-2033 supports extensions to existing buildings used for industrial purposes and storage and distribution within the settlement limit.
- 3.11 In principle, therefore there is support for the proposed development subject to the development being consistent with the relevant provisions and policies of the Local Plan.

Impact on the character of the area

- 3.12 The proposed extensions are proportionate with the scale of the building on the site and will not dominate the host property. The industrial character of the proposed extension and new freezer is consistent with the dominant industrial character of the Industrial Estate on which it is located. Furthermore, the materials proposed match those of the existing buildings on site. The proposal is therefore not assessed to adversely impact on the character and appearance of the site or wider area to justify a refusal on visual amenity grounds.

Impact on residential amenity

- 3.13 Concern has been raised in representations received about unacceptable noise and odour from the existing premises and concerns that the proposal will make this existing problem worse.
- 3.14 In response the applicants have submitted a noise impact assessment and Environmental Health have advised that they are satisfied on the basis of the noise impact assessment provided that the noise levels arising from the use of the freezer should not be sufficiently high to interfere with the nearby residential amenity. If minded to approve Environmental Health have recommended a condition to ensure that noise levels arising from the use of the new refrigeration unit should not exceed existing background noise levels currently being experienced at nearby noise-sensitive dwellings. Officers support this condition being applied if Members are

minded to approve and would recommend that this be extended to include any other plant and equipment installed. It is considered that with this condition in place noise impacts from the development can be adequately mitigated to ensure that harm is not caused to the residential amenity of neighbours.

- 3.15 Environmental Health have advised that any intensification of production resulting from this application should be accompanied by an odour management plan detailing how fugitive odour and emissions arising from the premises will be prevented from causing a nuisance to the occupiers of nearby residential dwellings. This is considered to be a reasonable request and will assist with addressing the concern raised about odour levels in the representations received.
- 3.16 It is recommended that if minded to approve a condition be applied for an odour management plan to be submitted prior to first use of the new extension or external freezer to include on-going maintenance of proposed measures and detailing how fugitive odour and emissions arising from the premises will be prevented from causing a nuisance to the occupiers of nearby residential dwellings. The condition should also ensure that once approved the approved measures shall be installed prior to first use of either the new extension or external freezer and thereafter shall be retained and maintained in accordance with the approved maintenance plan. It is considered with this condition in place odour impacts from the development can be adequately mitigated to ensure that harm is not caused to the residential amenity of neighbours.
- 3.17 With the recommended conditions applied if Members are minded to approve, Officers are satisfied that the conditions will ensure that no adverse harm is caused to the residential amenity of neighbours as a result of the proposed development.

Highway considerations

- 3.18 Concern is raised in the representations received from interested parties and the Ward Member about parking provision for the development and its impact on on-street parking in the area and also on pedestrian safety of pedestrians crossing the adjacent roads.
- 3.19 To address this concern a Travel Plan was submitted with the application and revised site plan received which shows that parking on site would be reduced to 21 spaces, which would be a loss of 9 parking spaces. The Travel Plan submitted also shows how the company would promote other modes of transport and how the number of parking spaces are adequate for the intended use.
- 3.20 Devon County Council Highways have been consulted and following receipt of the Travel Plan they raise no objection to the proposal on highway grounds.
- 3.21 Without an objection from the County Council as Highway Authority; Officers do not consider that a refusal on highway grounds would be justified and or an argument for impact on parking on the local road network or impact on pedestrians could be sustained at appeal.

Flood Risk

- 3.22 The application site is not in a high risk flood zone (flood zone 2 or 3) and therefore in flood control terms is a suitable site for development.

Conclusion

- 3.23 It is considered that with the recommended conditions in place to mitigate for noise and odour issues the development would accord with the relevant policies of the Teignbridge Local Plan and would be able to proceed without having an adverse impact on the character of the area, highway safety or residential amenity.
- 3.24 Officer recommendation is for conditional approval to be granted.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S21A (Settlement Limits)

EC1 (Business Development)

National Planning Policy Framework

National Planning Policy Guidance

5. CONSULTEES

Devon County Council Highways - Concern was originally raised by DCC Highways about the reduction of the internal parking that this would only exacerbate an already busy area for parking which would be contrary to the National Planning Policy Framework 2018 Section 109 as this cumulative impact on the highway network could be severe.

This was raised with the applicant and a travel plan was submitted in response as well as a revised site plan showing 21 spaces created.

Devon County Council on receipt have advised that the number of parking spaces will be reduced to 21 spaces as a result of this application which will be a loss of 9 parking spaces. The Travel Plan also shows how the company will promote other modes of transport and how this number of parking spaces are to be adequate for this use. Therefore, the Highway Authority has no objection to the proposal.

Environmental Health (Noise and Odour) - I have studied the noise impact assessment which accompanies this application and I am satisfied that the noise levels arising from its use should not be sufficiently high to interfere with the nearby residential amenity.

Should you be minded to grant I would be grateful if you would add a condition which states that the noise levels arising from the installation of a new refrigeration unit and any other plant and equipment should not exceed existing background noise levels currently being experienced at nearby noise sensitive dwellings.

Any intensification of production resulting from this application should be accompanied by an odour management plan detailing how fugitive odour and

emissions arising from the premises will be prevented from causing a nuisance to the occupiers of nearby residential dwellings.

6. REPRESENTATIONS

Four letters of objection received raising the following summarised concerns/objections:

1. Concern that current unacceptable noise and smell levels will become worse with a larger building and more fans running;
2. Concerns about lack of parking on and off site in the area and limited on-road parking next to the unit as well as increased risk to pedestrians trying to cross the road.

7. TOWN COUNCIL'S COMMENTS

No comment received

8. COMMUNITY INFRASTRUCTURE LEVY

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

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.

Business Manager – Strategic Place

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PLANNING COMMITTEE REPORT

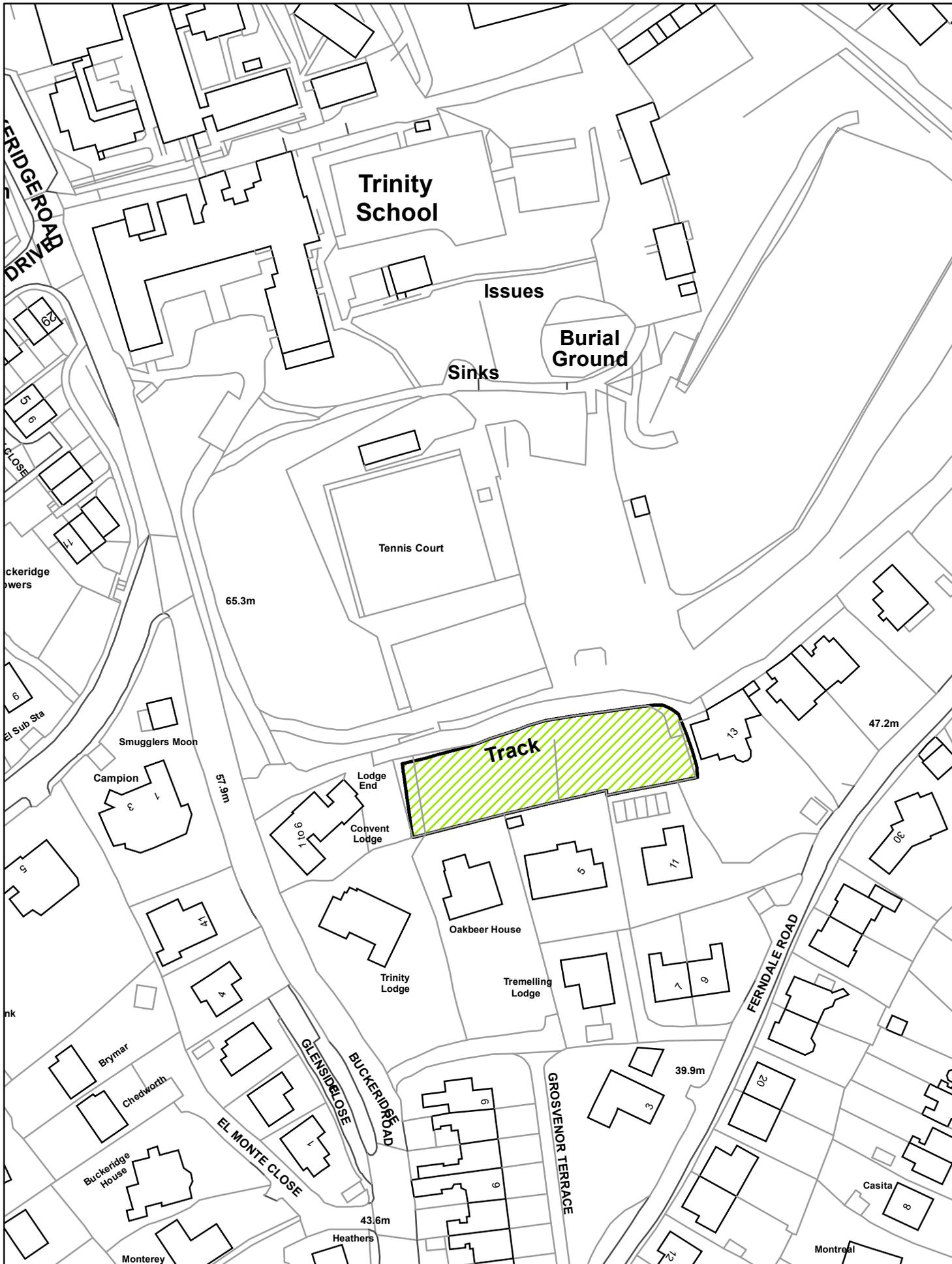
Tuesday 18 December 2018

CHAIRMAN: Cllr Dennis Smith



APPLICATION FOR CONSIDERATION:	TEIGNMOUTH - 18/01384/FUL - Car Park accessed off Buckeridge Road - Four dwellings	
APPLICANT:	Bunny Homes	
CASE OFFICER	Claire Boobier	
WARD MEMBERS:	Councillor Eden Councillor Orme	Teignmouth Central
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=18/01384/FUL&MN	





1. REASON FOR REPORT

Councillor Orme has requested that this application be referred to Planning Committee if the Case Officer is recommending approval. The reasons given for this request are:

- Problems with the access to the site being via a narrow un-made road affecting the peaceful enjoyment of the traditional former convent cottages at the entrance.
- The site is a backland development and will compromise the amenity of the surrounding properties.
- Additional traffic exiting onto Buckeridge just below the already significant traffic entering and leaving Trinity School will create a dangerous situation.

2. RECOMMENDATION

SUBJECT TO: the satisfactory completion of an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017,

PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit for commencement of development;
2. In accordance with approved plans;
3. Submission and implementation of a remediation scheme regarding contaminated land and reporting of any unexpected contamination;
4. The works, including demolition and site clearance shall proceed in strict accordance with the precautions and measures described in the preliminary ecological appraisal report and mitigation and enhancement measures shall be provided as described in this report;
5. No external lighting shall be installed on, or in association with, the new building, except for low-intensity, PIR motion-activated lights on a short timer (maximum 2 minutes), directed/cowled downwards and away from the site boundaries. The luminaries should produce low-intensity, UV-free light, with a warm colour-temperature (3,000K or less) unless otherwise agreed;
6. Prior to first use samples or details of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority;
7. Prior to the brick work being installed to any of the dwellings hereby approved a sample panel of the brickwork shall be constructed on site and shall be inspected and approved in writing by the Local Planning Authority;
8. Parking facilities for each unit shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved plans prior to first occupation of each unit;
9. Refuse and recycling facilities with the exception of collection days shall be stored in the garden or in the garage where provided for each unit in the interests of visual amenity;
10. Prior to first occupation of any of the dwellings full details of hard and soft landscaping works including boundary treatments and an implementation and management plan, shall have been submitted to and approved in writing by the Local Planning Authority;
11. Removal of Permitted Development Rights for extensions, and enlargements to the roof of the dwellings;

12. Construction Management Plan prior to development commencing being agreed;
13. Drainage shall be provided in accordance with the submitted drainage strategy unless otherwise agreed;
14. Tree protection measures shall be installed and retained as set out in the arboricultural impact assessment submitted;
15. The first floor bathroom window to the east elevation of the dwelling known as plot 4 shall be obscure glazed.

3. DESCRIPTION

The Site and Proposal

- 3.1 The application site relates to an area of land that was approved to be used as a car park ancillary to the nursery at Trinity Lodge under reference 15/00605/FUL.
- 3.2 The site is located to the north east of the former Nursery and is accessed via a private road off Buckeridge Road.
- 3.3 The site is bounded to the north by Trinity School, and to the south, west and east by residential properties.
- 3.4 The site is not in a conservation area and is not in a designated landscape area including Area of Great Landscape Value or designated Undeveloped Coast.
- 3.5 A water course runs through the site and serves as a surface water discharge point.
- 3.6 Planning consent is sought for four detached dwellings on the site with plots 1, 3 and 4 having garages and plot 2 having its own parking area.
- 3.7 The dwellings proposed are two storey on the northern side and three storey to the south with plots 1 and 2 being provided with a third storey through dormer windows in the roof.

Principle of Development

- 3.8 The site is located within the settlement limit of Teignmouth and therefore Policy S21A (Settlement Limits) of the Teignbridge Local Plan would support development in this location in principle where it would be consistent with the provisions and policies of the Local Plan.

Affordable Housing Considerations

- 3.9 This application is being considered at this Planning Committee meeting at the same time as application reference 18/01383/FUL for the re-development of the Trinity Lodge site for residential development. It has been queried whether these two sites should be considered as one site rather than two sites as submitted for the purposes of affordable housing considerations.
- 3.10 However, having considered the relationship between the sites carefully, it is Officer opinion that the sites should be treated separately. Whilst it is recognised that the application site and Trinity Lodge were both previously owned by Trinity School, and that the site gained consent for use as a car park in association with the

Nursery run from Trinity Lodge and that the two applications before Planning Committee are submitted by the same applicant; the sites are capable of being delivered separately and the physical connection is not such that they rely on one another for delivery.

- 3.11 In terms of affordable housing for this site, the proposal is to create four dwellings and the constraints of the site with the location of the watercourse and spatial relationship with Tree Preservation Order-protected trees does not lend itself to an increase in density for this site. As a result, the threshold for the provision of affordable housing for sites capable of delivering more than 4 dwellings as set out in Policy WE2 of the Teignbridge Local Plan 2013-2033 is not reached in this case.
- 3.12 There is therefore not a requirement to provide affordable housing on this site and an objection on the lack of affordable housing being promoted would not be considered a valid reason to refuse this application.

Impact on the character and appearance of the area

- 3.13 Concern has been raised in representations received about the design of the dwellings, their scale, lack of architectural merit and the proposals being out of keeping with neighbouring properties.
- 3.14 It is considered that the density of development proposed for this site meets the requirements of Policy S2 (Quality Development) criterion (b) of the Teignbridge Local Plan which requires new development to make the most effective use of the site.
- 3.15 Whilst clearly the properties are of a modern design compared with the Victorian and Edwardian properties found in the locality, there is some variation in dwelling types and designs in the area. It is important that the proposed dwellings portray their own individual character rather than developing a pastiche of surrounding development. The design does not need to replicate existing surrounding design in order to provide a high quality development in accordance with Policy S2 of the Teignbridge Local Plan 2013-2033.
- 3.16 The proposal to provide detached dwellings is consistent with the immediate surrounding dwellings which are largely detached and the use of brickwork is considered to be consistent with its surroundings where brick finished properties dominate. It is advised that if recommending approval that a condition be imposed for a sample panel of the brickwork to be approved on site in order to ensure that the brick used will tie in with the surrounding brickwork on neighbouring properties.
- 3.17 It is considered that the form of the development responds appropriately to the topography of the site.
- 3.18 Conditions are recommended if minded to approve for samples or details of materials to be agreed prior to installation; for a sample brick panel to be agreed and for hard and soft landscaping works to be agreed to ensure that the development will assimilate with its surroundings.
- 3.19 Overall, whilst of a modern design and making maximum use of the site, it is considered that the development can be accommodated without having an adverse impact on the character of the area. It is, however, also recommended that

Permitted Development Rights be removed for further extensions including roof extensions in the interests of visual amenity and to retain control over any further enlargement of the dwellings proposed.

Residential Amenity Considerations

- 3.20 Concern has been raised in representations received about the impact of the development on neighbouring residential properties particularly with regard to overlooking and loss of privacy.
- 3.21 Given the location of the dwellings and separation distance to neighbours it is not considered that the proposal would result in an unacceptable level of overlooking/loss of privacy to the occupiers of neighbouring properties. Window/door placement has been carefully designed to not be located to the west or east for plot 1 and plot 4 (with the exception of an obscure glazed bathroom window to the east elevation of plot 4) to ensure that overlooking would not occur to the immediate neighbours to the east and west of the site. A condition is recommended for the bathroom window to the east elevation of plot 4 to be obscure glazed in the interests of protecting the property to the east from overlooking.
- 3.22 The existing Tree Preservation Order-protected boundary to the north will ensure that the development cannot unduly overlook the neighbouring school and subject to the existing landscaped boundary treatment on the south boundary being bolstered through an appropriate landscaping treatment which should be conditioned to be secured through the approval of a landscape scheme it is considered that the proposed windows/doors to the south would not result in an unacceptable level of overlooking/loss of privacy to neighbours to the south.
- 3.23 The proposals include raised balconies/terraces to the south elevation of the properties subject to a condition to secure appropriate boundary treatments both between proposed dwellings and on boundaries with existing dwellings. It is considered that adequate mitigation can be secured to ensure that the proposed raised balconies/terraces will not result in an unacceptable level of overlooking/loss of privacy of neighbours.
- 3.24 Whilst the proposal does result in additional windows facing properties to the south the view from these windows will predominantly be over the roofs of properties to the south and therefore. Whilst there may be the perception of overlooking, it is not considered that the second and third floor windows proposed would result in an unacceptable level of overlooking/loss of privacy to properties to the south, and, as stated above, the ground floor windows/doors can be screened by way of an improved southern boundary treatment.
- 3.25 Overall, it is considered that the development can be accommodated on the site site without causing an unacceptable level of harm to the residential amenity of neighbouring occupiers in terms of being overbearing or resulting in significant loss of light or an unacceptable level of overlooking/loss of privacy.

Highway Safety Considerations

- 3.26 Concern has been received in the representations received about the impact of the development on increased traffic on Buckeridge Road, the suitability of both

Buckeridge Road and the private road off Buckeridge Road to serve the site and the lack of pavements currently on the private road and Buckeridge Road.

- 3.27 The site would be accessed off Buckeridge Road via a private drive which serves the property to the east and Convent Lodge adjacent to the junction with Buckeridge Road to the west of the application site. Parking would be provided by means of garaging for plots 1, 3 and 4 and allocated parking spaces for plot 2.
- 3.28 Devon County Council have been consulted on these matters and they advise that Buckeridge Road is an unclassified County Road which is restricted to 30 m.p.h. with no footways in the area. The application site has had permission for an ancillary car park for the Trinity Lodge Nursery which had 30 parking spaces. This application for 4 dwellings would create fewer trips than the previous consent for a car park on the site and there has only been one personal injury collision reported to the police in this area between 1 January 2013 and 31 December 2017 which was recorded as slight. The County Highway Authority therefore advise that they have no objections on highway safety grounds to the application.
- 3.29 The test in the NPPF is severe harm and it is not considered that there is the evidence to suggest that the proposal would cause severe harm particularly given that the police records only record one incident and given the intensity of likely vehicle movements for the previous use compared to this one.
- 3.30 Whilst the concerns about an increase in traffic on the private road is noted and there may be occasions when cars exiting the site may need to wait for vehicles coming from the existing dwellings and, likewise, that those exiting dwellings may need to wait for vehicles coming to/from the site this would be less often than would have been feasible previously if the car park had been used to full capacity.
- 3.31 Whilst the road safety concerns are noted, it is not considered given the planning history of the site that a refusal on highway safety grounds could be justified.
- 3.32 Furthermore, it is considered that the level of parking to serve the development is acceptable.

Impact on Biodiversity

- 3.33 A Preliminary Ecological Assessment has been submitted with this application which found some limited wildlife value on the site.
- 3.34 The Preliminary Ecological Assessment recommends a suite of measures to limit impacts and provide net biodiversity gain, as required by the NPPF which includes limiting light spill onto adjacent trees and hedges.
- 3.35 The Council's Biodiversity Officer has assessed the findings and has raised no objection to the application on ecological grounds provided that conditions are attached to secure the mitigation and enhancement measures set out in the report and to ensure that no external lighting is installed on, or in association with, the new buildings, except for low-intensity, PIR motion-activated lights on a short timer (maximum 2 minutes), directed/cowled downwards and away from the site boundaries. The luminaires should produce low-intensity, UV-free light, with a warm colour-temperature (3,000K or less) unless otherwise agreed in writing by the Local Planning Authority.

- 3.36 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/exe-estuarydawlish-warren-habitat-mitigation/> .
- 3.37 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 of £3,200 before development commences.
- 3.38 With this in place, the Local Planning Authority will be able to conclude that there will be no likely significant effect on the European site. However, as mitigation is required to reach this conclusion, an Appropriate Assessment is required as to whether the proposal will affect the integrity of the European site. As such, it is necessary for Natural England to be consulted on this application and therefore the recommendation of approval is to the satisfactory outcome of this process. Furthermore, with the recommended conditions to secure the measures in the ecological assessment and to limit the type of lighting that can be installed the Local Planning Authority is satisfied that the proposal can progress without adverse harm being caused to the ecology of the area.

Land Drainage/Flood Risk

- 3.39 The application site is in Flood Zone 1, however the Environment Agency records show that parts of the site have a 1 in 100 and 1 in 1,000 chance of surface water flooding per year.
- 3.40 A drainage strategy has been submitted during the course of the considerations of this application and the scheme details are considered acceptable. A condition is recommended to ensure that the drainage strategy as submitted is implemented to ensure that a satisfactory drainage system is provided.

Contaminated Land

- 3.41 A Contaminated Land Assessment has been submitted with this application.
- 3.42 The Environmental Health Team have assessed this and in accordance with the findings of the Contaminated Land Assessment they recommend conditions for the submission and implementation of a remediation scheme for contaminated land and the reporting of any unexpected contamination as set out in the consultee section of this report.
- 3.43 If minded to approve it is recommended that these conditions be applied in the interests of protecting the health of future occupants of the dwellings.

Impact on Trees

- 3.44 Trees along the access road are protected by Tree Preservation Order it is therefore recommended that, if minded to approve, a condition be imposed that the tree protection methods detailed in the arboricultural report received on 31 October

2018 be erected prior to commencement of works and retained for the duration of the works in the interests of protecting these trees.

Summary and Conclusion

- 3.45 It is considered that the development accords with the relevant provisions and policies of the Local Plan and with the NPPF and therefore officer recommendation is for conditional approval.
- 3.46 Whilst, representations received suggest alternative uses Members must determine the acceptability of the use as proposed in this application.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S21A (Settlement Limits)

WE2 (Affordable Housing Site Targets)

EN8 (Biodiversity Protection and Enhancement)

EN10 (European Wildlife Sites)

EN11 (Legally Protected and Priority Species)

EN12 (Woodlands, Trees and Hedgerows)

National Planning Policy Framework

National Planning Policy Guidance

5. CONSULTEES

Arboricultural Officer - The Arboricultural Officer originally raised concerns about the impact of the development on protected trees and the spatial relationship of the properties with existing trees on site. Following the receipt of revised plans, the arboricultural objections were withdrawn provided the Arboricultural Impact Assessment with Constraints Plan and Method Statement received on 31 October 2018 is made an approved document, should consent be granted.

Biodiversity Officer - The Preliminary Ecological Assessment found some limited wildlife value on the site. It recommends a suite of measures to limit impacts and provide net biodiversity gain, as now required by the NPPF. These include limiting light spill onto adjacent trees and hedges. If minded to approve these measures should be secured by condition.

Devon County Council Highways - The site is accessed off an unclassified County Route which is restricted to 30 m.p.h.

There is one personal injury collisions which has been reported to the police in this area between 1 January 2013 and 31 December 2017 which was recorded as slight.

There are no footways in this area.

This area has permission for use as an ancillary car park for the Trinity Lodge Nursery which had 30 parking spaces. This application for 4 dwellings would create fewer trips than the car park.

Therefore the County Highway Authority would have no objections

Drainage Officer - The applicant has not provided any information in relation to the disposal of surface water from the site to enable the officer to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's Sustainable Drainage Design Guidance, which can be found at the following address: <https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>.

(Case Officer Note: This has since been provided and details deemed acceptable)

Environmental Health (Contaminated Land) - I refer to the above application and the Contaminated Land Assessment submitted. In accordance with the findings of the Contaminated Land Assessment I recommend conditions as follows:

Submission of Scheme, Implementation, Verification, Reporting Unexpected Contamination.

1. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

2. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to occupation or the development being brought into use

3. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and site investigations shall be carried out. Where required by the Local Planning Authority, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to occupation, or the development being brought into use, on the site affected.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other

receptors.

Devon County Council Minerals - No comments.

Housing Enabling Officer - I note that a separate residential development application ref 18/01383 has been submitted by the same applicant for an adjoining site at Buckeridge Road Teignmouth. I would be grateful if you could ascertain whether these two applications should in fact be regarded as one site and therefore whether the submission of 2 separate applications is an attempt to subdivide a major residential application for the avoidance of affordable housing policy obligations. If this is the case Housing will object and legal advice should be sought on how to proceed in the consideration of subdivided applications.

In the meantime I have provided Enabling comments on this separate application as follows:

Affordable housing

Quantums – with 4 dwelling units proposed Policy WE2 (Affordable Housing Site Targets) adopted and up to date Local Plan threshold for affordable housing provision may be triggered if the site is judged to have a capacity for more than 4 dwellings, in which case, in line with Policy WE2, affordable housing will be sought.

Recently published National Planning Policy Framework advice also needs to be balanced in consideration of whether an affordable housing contribution would be required in this case and for residential proposal such as this, the NPPF affordable housing threshold conflicts with that set out in the Affordable Housing policy in the up to date adopted development plan.

Housing Enablers can advise on local evidence of housing need and pipeline of housing delivery to assist these considerations.

If policy WE2 applies in this case this would require 25% affordable housing provision for Teignmouth (net of 4 dwellings because the proposal is effectively a windfall residential development).

Adopted Local Plan Policy WE2 sets out a table of provision at para 4.7, which in this case could require the scheme to provide the equivalent of 1 Affordable Housing unit. If the sites do need to be considered separately (not as a whole) on balance Housing Enabling consider that it would be acceptable (although not the preferred option under Local Plan policy) for this development to make an off-site Affordable Housing contribution.

The development plans show proposal for 2 x large 3 bed and 2 x 4 plus (arguably 5 bedroomed) properties. An off-site contribution be calculated based on the bedroom capacity of the proposed houses and Enablers consider that because of the size of the properties this should be calculated on a 4 bed house contribution: £110,825. The 5 bed rate would be £126,397.

** Figures quoted from the updated 6 September 2016 Executive report whereby contribution amounts are subject to regular BCIS review (now updated October

2017). If the site is assessed as having the capacity to accommodate more than 4 dwellings, this would put the Local Plan-compliant affordable housing contribution rate at £110,825 for 1 affordable dwelling contribution in this case.

Evidenced shows that affordable housing need for Teignmouth is increasing rapidly and in these circumstances even small contributions to affordable housing provision can cumulatively make a big difference to providing for affordable housing needs. Recent data from Devon Home Choice shows there were 147 households from Teignmouth in housing need. In relative terms this is higher than the number of Dawlish households registered, with only Newton Abbot exceeding this for the numbers in housing need. Meantime the allocated housing site in Teignmouth does not have necessary consents in place, and is not scheduled to start construction.

Teignmouth Town has a high level of affordable housing need – making all affordable housing provision valuable – especially if this provision (via an off-site financial contribution) can be targeted to deliver specific aspects of evidenced local need, especially step-free or more accessible dwellings.

It is therefore suggested that an affordable housing contribution could be targeted to deliver affordable housing to meet this specific priority housing need for an affordable dwelling at Level 2 (former Lifetime Homes) standard. The key features of a level 2 property are highlighted below:

- Level or gently sloped approach plus parking nearby
- Lighting over primary entrance – 850mm clear opening width
- Manoeuvring space in main hall for wheelchair
- Entrance door to flat 850mm clear width/internal door width minimum 800mm
- Bedrooms – allow 750mm to sides and foot of bed
- Bathroom – walls strengthened for future fittings – minimum size to allow 1500mm turning circle
- Glazing no higher than 800mm and one handle no higher than 1200mm
- Service controls – within specified height range

Nationally Britain has an ageing population profile and Housing needs to make better provision for elderly residents. Looking at population predictions for Teignbridge, ONS statistics/predictions show that by 2020 the District will have 36,100 residents aged 65 and over (28% of the total population of the district). The provision of Accessible/Adaptable Homes (level 2 in Building Regulations Part M4) is an important affordable housing priority for Teignmouth.

Conclusion – I trust that the advice outlined above will be of use to you in forming an assessment of the application proposals. Subject to the site capacity assessment, the Housing Enabling team objects to this planning application because it fails to provide much needed affordable housing, contrary to Development Plan policy. The Enabling Team considers that, in light of high levels of local housing need, the provision of affordable housing for non-major residential

applications in the Teignmouth urban area, where the delivery of affordable housing is not coming forward, should remain a development plan priority.

(Case Officer Note: This site is to be treated independently from application 18/01383/FUL at Trinity Lodge as it is a separate site, and is capable of being delivered separately from the Trinity Lodge site. It therefore cannot be considered as one application site with application 18/01383/FUL. The threshold for affordable housing has therefore not been triggered at this application site.)

6. REPRESENTATIONS

Forty-nine letters of objection have been received raising the following summarised comments/objections (see case file for full representations). It should be noted however that of these forty-nine at least 6 of the representations received reiterate comments previously provided due to receipt of a further consultation on the application on receipt of revised plans:

1. Road safety concerns about use of Buckeridge Road and whether the road is suitable to serve the development;
2. Concern that there are no pavements to accommodate pedestrians proposed;
3. Concern that the proposal will result in increased traffic;
4. Concern about overlooking and loss of privacy to 5 Ferndale Road particularly bedroom windows in this property and garden;
5. Concerned design of houses and ancillary development will be overbearing and intrusive on 5 Ferndale Road;
6. Proposal out of keeping in an area of largely established Victorian/Edwardian villas;
7. Proposals un-original in appearance and have little or no architectural merit;
8. Size and proportions will overwhelm the relatively small site;
9. Concern proposal will have profound effect on landscape and heritage of the area;
10. Concern about surface water run-off;
11. The single lane access road will be dangerous when turning into and coming out of the site and that the lane itself will become congested with traffic resulting in restricted access to the existing dwellings which use the lane;
12. Concerns about noise and disturbance caused by dwellings on this site;
13. Proposal brings no benefit to the area;
14. Area does not need more densely populated housing;
15. Proposal does not provide affordable housing;
16. Proposal will spoil the appearance of the surrounding area;
17. Liability of flooding would increase with these extra dwelling;
18. Concern about overlooking and loss of privacy to 1 Convent Lodge particularly to lounge and bedroom from vehicles queuing to enter/exit the site as a result of increased traffic on the access road;
19. Access would be in use 24/7 rather than nursery opening hours only as was the case with the use of the car park in connection with nursery;
20. Concern where refuse/recycling materials will be stored and whether this will impact on access lane;
21. Concern loss of privacy to bathroom and kitchen flat 5, 11 Ferndale Road;
22. Concern proposed dwellings would result in significant overlooking and loss of privacy to the existing dwellings to the south and east;
23. Concern about overlooking to the garden of Convent Lodge;
24. Junction with Trinity School already dangerous;
25. Concern that this is not the most appropriate use for the site and that organic garden would be a better use;

26. Concern about overlooking and loss of privacy to Flat 3, 5 Ferndale Road particularly to the garden, balcony and one of the bedrooms interfering with the occupants' enjoyment of their home;
27. Concern about impact on wildlife;
28. Concern about overlooking and loss of privacy to Flat 2, 5 Ferndale Road;
29. Concern about plot 4 balcony and overlooking to bedroom windows to Addiscombe Lodge;
30. Site was not used by the Nursery as a carpark and this should not be used as basis for decision.

7. TOWN COUNCIL'S COMMENTS

Teignmouth Town Council recommends refusal of this application on the grounds that access to the site is via a narrow un-made road affecting the peaceful enjoyment of the traditional former convent cottages at the entrance. The site is a backland development and will compromise the amenity of the surrounding properties. Additional traffic exiting on to Buckeridge Road just below the already significant traffic entering and leaving Trinity School will create a dangerous situation. If the Officer is minded to approve the Ward Member is requested to place this application onto Category B.

Following receipt of revised plans the Town Council were consulted and noted the submission of revised plans. However, it was recommended that the Ward Member keeps the application as a Category B with the option of a site visit.

8. COMMUNITY INFRASTRUCTURE LEVY

The proposed gross internal area is 815.45. 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 £133,918.14. This is based on 815.45 m² at £125 per m² and includes an adjustment for inflation in line with the BCIS since the introduction 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.

Business Manager – Strategic Place

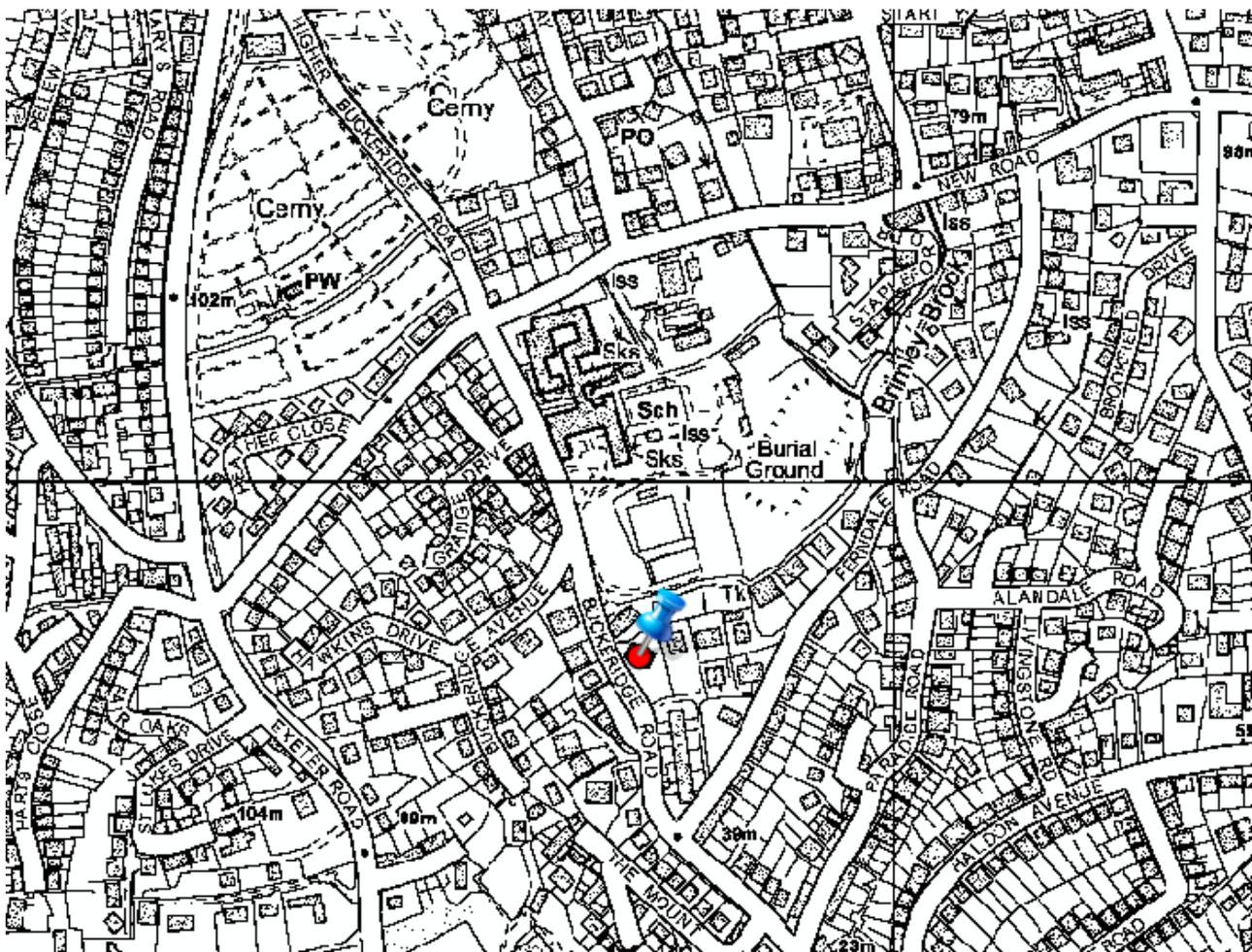
PLANNING COMMITTEE REPORT

Tuesday 18 December 2018

CHAIRMAN: Cllr Dennis Smith



APPLICATION FOR CONSIDERATION:	TEIGNMOUTH - 18/01383/FUL - Trinity Lodge , Buckeridge Road - Demolition of existing building and replacement with six dwellings	
APPLICANT:	Bunny Homes	
CASE OFFICER	Claire Boobier	
WARD MEMBERS:	Councillor Eden Councillor Orme	Teignmouth Central
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=18/01383/FUL&MN	



1. REASON FOR REPORT

Councillor Orme has requested that this application be referred to Planning Committee if the Case Officer is recommending approval. The reasons given for this request are problems with the proposed density and design of the illustrated dwellings. It is considered that there will be considerable overlooking from the top floor living areas particularly affecting properties in the adjoining Terrace. There is little amenity space and visibility from the access onto Buckeridge Road is compromised.

2. RECOMMENDATION

Subject to: a Section 106 agreement to secure an off-site contribution of £87,977 towards affordable housing provision, AND the satisfactory completion of an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017, PERMISSION BE GRANTED subject to the following conditions:

1. Standard 3 year time limit for commencement of development;
2. In accordance with approved plans;
3. Submission and implementation of a remediation scheme about contaminated land and reporting of any unexpected contamination;
4. The works, including demolition and site clearance, shall proceed in strict accordance with the precautions and measures described in the preliminary ecological appraisal report and mitigation and enhancement measures shall be provided as described in this report;
5. No external lighting shall be installed on, or in association with, the new building, except for low-intensity, PIR motion-activated lights on a short timer (maximum 2 minutes), directed/cowled downwards and away from the site boundaries. The luminaries should produce low-intensity, UV-free light, with a warm colour-temperature (3,000K or less) unless otherwise agreed;
6. Prior to first use samples or details of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority;
7. Prior to the brick work to the south elevation of the terrace being installed a sample panel of brickwork shall be constructed on site and shall be inspected and approved in writing by the Local Planning Authority;
8. Parking facilities for each unit shall be provided and shall thereafter be permanently retained for the parking of vehicles in accordance with the approved plans prior to first occupation of each unit;
9. Refuse and recycling facilities with the exception of collection days shall be stored either in the garage of each unit or where available in the rear garden in the interests of visual amenity;
10. Prior to first occupation of any of the dwellings full details of hard and soft landscaping works including boundary treatments and an implementation and management plan, shall have been submitted to and approved in writing by the Local Planning Authority;
11. Removal of Permitted Development Rights for extensions, and enlargements to the roof of the dwellings;
12. Construction Management Plan to be agreed prior to development commencing;
13. Drainage shall be provided in accordance with the submitted drainage strategy unless otherwise agreed.

3. DESCRIPTION

The Site and Proposal

- 3.1 The application site relates to the former nursery at Trinity Lodge on Buckeridge Road which has closed. The existing building on site is currently vacant. The building is not listed, and the site is not located in a Conservation Area or in a designated landscape area including Area of Great Landscape Value and Undeveloped Coast.
- 3.2 Planning consent is sought for the demolition of the existing building 'Trinity Lodge' on the site and its replacement with six dwellings. A terrace of three dwellings (plots 1, 2 and 3) and three detached dwellings (plots 4, 5 and 6).
- 3.3 Due to the topography of the site the properties would be two storey facing north and three storey facing south.

Principle of Development

- 3.4 Trinity Lodge was formerly used as a nursery: before consideration can be given for another use of the site, the loss of the nursery facility needs to be considered. Policy WE12 (Loss of Local Facilities) of the Teignbridge Local Plan 2013-2033 sets out that to maintain a range of accessible services within an area, the redevelopment or loss of community facilities for another use will not be permitted unless one of the following criteria apply:
- a) There will continue to be a sufficient choice of that type of provision within the local area;
 - b) The existing use is causing a significant problem which can only be resolved with relocation and which outweighs the loss of that type of provision;
 - c) The proposed replacement use has significant benefits which outweigh the loss of that type of provision; or
 - d) It can be demonstrated that the use is no longer necessary or viable in the long term.
- 3.5 Trinity School decided to close the nursery facility attached to the school and relocate to another site in Teignmouth. It is therefore considered that there will continue to be a sufficient choice of nursery provision within Teignmouth and the proposal would therefore accord with criterion (a) of Policy WE12 and would not conflict with this policy.
- 3.6 Given that the loss of the facility is accepted by Policy WE12 there would be no objection to the loss of this use at this site, whilst concern has been raised in the representations received about the loss of the existing building. The existing building is not a Listed Building nor in a Conservation Area and the demolition could be carried out under permitted development, and therefore the Local Planning Authority would have little grounds to resist its demolition as part of this planning application.
- 3.7 With regard to the principle of the proposed development, the site is located within the settlement limit of Teignmouth and therefore Policy S21A (Settlement Limits) of

the Teignbridge Local Plan supports development in this location in principle where it would be consistent with the provisions and policies of the Local Plan.

Affordable Housing Considerations

- 3.8 This application is being considered at this Planning Committee meeting at the same time as application reference 18/01384/FUL for residential development at the car park site accessed off Buckeridge Road. It has been queried whether these two sites should be considered as one site rather than the two sites as submitted for the purposes of affordable housing considerations.
- 3.9 However, having considered the relationship between the sites carefully, it is Officer opinion that the sites should be treated separately. Whilst it is recognised that the car park site was also previously owned by Trinity School, the same former owner of Trinity Lodge, and gained consent for use as an ancillary car park to Trinity Lodge under application reference 15/00605/FUL and that the two applications before Planning Committee are submitted by the same applicant, the sites are capable of being delivered separately and the physical connection is not such that they rely on one another for delivery.
- 3.10 In terms of affordable housing therefore for this site, the proposal is to create six dwellings on the site. Policy WE2 (Affordable Housing Site Targets) of the Teignbridge Local Plan 2013-2033 requires sites with a capacity of more than four dwellings to provide affordable housing in accordance with the targets set out in this policy. The proposal for six dwellings therefore triggers the threshold for affordable housing provision.
- 3.11 The Council's Housing Enabling Officer as set out in the response contained within the consultee section below has advised that a contribution of £87,977 for one affordable dwelling would be required in this case.
- 3.12 The applicants have agreed to enter into a Section 106 agreement to provide this as a contribution to delivering affordable housing off-site and, if minded to approve, this would need to be secured before the planning decision is issued.
- 3.13 With this agreement in place it is concluded that the development would accord with its obligations under Policy WE2 of the Teignbridge Local Plan 2013-2033.

Impact on the character and appearance of the area

- 3.14 Concern has been raised in representations received about the density of the proposed development and that the design of the dwellings lacks architectural merit and is out of keeping with neighbouring properties.
- 3.15 It is considered that the site can take the density of development proposed and meets the requirements of Policy S2 criterion (b) of the Teignbridge Local Plan which requires new development to make the most effective use of the site.
- 3.16 Whilst clearly the properties are of a modern design compared with the Victorian and Edwardian properties found in the locality, there is some variation in dwelling types with some more modern bungalows also found on the west side of Buckeridge Road. It is important that the proposed dwellings portray their own individual character rather than developing a pastiche of surrounding development.

The design does not need to replicate existing surrounding design in order to provide a high quality development in accordance with Policy S2 of the Teignbridge Local Plan 2013-2033.

- 3.17 The existing building Trinity Lodge is three storey facing south and two storey facing north and is an imposing building in the built environment.
- 3.18 The proposed development takes a similar approach with both the detached dwellings and terrace block being two storey facing north and three storey facing south working with the topography of the site.
- 3.19 Furthermore, the terrace block units have balconies on the upper floor as is the case with Trinity Lodge currently which has a raised terrace to its upper floor.
- 3.20 The proposal through revisions during the course of the application has sought to incorporate ties to the surrounding built environment through the incorporation of brickwork to the terrace block. It is advised that if recommending approval that a condition be imposed for a sample panel of this brickwork to be approved on site in order to ensure that the brick used will tie in with the surrounding brickwork of neighbouring properties.
- 3.21 The location of the detached dwellings also follows the building line created by neighbouring residential properties (albeit the depth of the dwellings is less than of the immediate neighbour Oakbear House to ensure that it fits in with the established urban grain in the area.
- 3.22 Conditions are recommended if minded to approve for samples or details of materials to be agreed prior to installation; for a sample brick panel to be agreed and for hard and soft landscaping works to be agreed to ensure that the development will assimilate with its surroundings.
- 3.23 Overall, whilst of a modern design and making maximum use of the site, it is considered that the development can be accommodated without having an adverse impact on the character of the area. It is, however, also recommended that Permitted Development Rights be removed for further extensions including roof extensions in the interests of visual amenity and to retain control over any further enlargement of the dwellings proposed.

Residential Amenity Considerations

- 3.24 Concern has been raised in representations received about the impact of the development on the occupiers of neighbouring residential properties particularly with regard to the development being overbearing and intrusive and the proposed dwellings resulting in overlooking and loss of privacy to the occupiers of neighbouring residential properties.
- 3.25 The application site is a sloping site with Grosvenor Terrace to the south being stepped down from the application site and Convent Lodge to the north being stepped up from the application site.
- 3.26 The existing building is an imposing building and has views from its upper floors across neighbouring gardens and over the roof top of Grosvenor Terrace and other properties to the south. The proposed development would have similar views from

its upper floors looking south and it is not therefore considered that the proposal would result in a significant increase in the level of overlooking or loss of privacy to neighbouring properties to the south than would have occurred when Trinity Lodge was used as a nursery or that would have occurred had this application been for conversion of the existing building. Whilst clearly the terrace block being brought further to the south will have the perception of increased overlooking to neighbouring properties to the south the separation distances and change in levels between the site and properties to the south are such that it is not considered that a refusal on the grounds of an unacceptable level of overlooking/loss of privacy could be justified in this case.

- 3.27 With regard to impact on Convent Lodge divided into flats to the north, Trinity Lodge is currently two storey facing these properties and likewise the proposed detached dwellings would be two storey facing Convent Lodge and would be no closer to Convent Lodge than the existing Trinity Lodge building. It is not therefore considered that the scale and massing of the detached units would adversely impact on Convent Lodge compared with the existing spatial relationship between Convent Lodge and Trinity Lodge. Furthermore, there is an existing soft landscaped boundary between Trinity Lodge and Convent Lodge which largely screens the site from Convent Lodge and it is recommended that, were planning consent to be granted, a condition be imposed to agree a soft landscaping scheme to bolster this boundary in the interests of further protecting the amenity of Convent Lodge. With this in place, it is considered that adequate mitigation can be put in place to address any perceived overlooking/loss of privacy to Convent Lodge.
- 3.28 To protect the amenity of Oakbeer House to the east from overlooking a strong boundary treatment will also be needed along the eastern boundary. There is currently a path leading between Oakbeer House and the site which as part of this application would be removed and incorporated into the gardens of units 3 and 6. This path is currently bounded by a close-boarded fence: it will be important as part of the incorporation of this area into the gardens of the units to secure an appropriate replacement landscaping feature as part of the recommended landscaping scheme both in the interests of visual amenity and to protect the residential amenity of Oakbeer House and its neighbours to the east from overlooking and loss of privacy.
- 3.29 There are no overlooking/loss of privacy concerns to the west given the separation distance from the site to the bungalows on the west of Buckeridge Road.
- 3.30 Given the imposing nature of the current building and stepped down nature of development on Buckeridge Road, it is not considered that a refusal on the proposed development being overbearing or unduly imposing on neighbouring residential properties given the difference in levels and separation distances, and spatial relationship between the existing Lodge and neighbouring properties could be justified.
- 3.31 Overall, it is considered that the development can be accommodated on this site without causing an unacceptable level of harm to the residential amenity of neighbouring occupiers.

Highway Safety Considerations

- 3.32 Concern has been raised in the representations received about the impact of the development on increased traffic on Buckeridge Road, the suitability of Buckeridge Road to serve the site and the lack of pavements currently on Buckeridge Road with no pavements immediately adjacent to the site and concern is also raised that the application does not propose a new pavement to serve the development and the impact that this would have on families from the site having to walk in the road to access the neighbouring school.
- 3.33 The site is accessed from the existing entrance to the site which has been adjusted to provide an improved visibility splay and from the entrance the dwellings are accessed via a shared surface estate road with each dwelling being provided with a garage and additional parking.
- 3.34 Devon County Highways have been consulted on these matters and they advise that Buckeridge Road is an unclassified County Road which is restricted to 30 m.p.h. with no footways in the area. This area has had permission for the nursery in Trinity Lodge which has a number of parking spaces at the front entrance and before the ancillary car park was constructed on the site being considered under application reference 18/01384/FUL was the only car park serving the nursery. It is considered that this application for six dwellings on the site would create fewer trips than the previous use of the site as a nursery and there has only been one personal injury collision reported to the police in this area between 1 January 2013 and 31 December 2017 which was recorded as slight. The County Highways Authority therefore advise that they have no objections on highway safety grounds to the application.
- 3.35 The test in the NPPF is severe harm and it is not considered that there is the evidence to suggest that the proposal would cause severe harm particularly given that the police records only record one incident and given the intensity of likely vehicle movements for the previous use compared to this one.
- 3.36 Whilst the concerns are noted it is not considered, given the planning history of the site, that a refusal on highway safety grounds could be justified particularly given the improved access visibility splay proposed.
- 3.37 Furthermore, it is considered that the level of parking to serve the development is acceptable.

Impact on biodiversity

- 3.38 A Preliminary Ecological Assessment has been submitted with this application which found some limited wildlife value in the grounds. No signs of bats were found in the existing building to be demolished as part of this application.
- 3.39 The Preliminary Ecological Assessment recommends a suite of measures to limit impacts and provide net biodiversity gain, as required by the NPPF which includes limiting light spill onto adjacent trees and hedges.
- 3.40 The Council's Biodiversity Officer has assessed the findings and has raised no objection to the application on ecological grounds provided that conditions are attached to secure the mitigation and enhancement measures set out in the report and to ensure that no external lighting is installed on, or in association with, the new buildings, except for low-intensity, PIR motion-activated lights on a short timer

(maximum 2 minutes), directed/cowled downwards and away from the site boundaries. The luminaires should produce low-intensity, UV-free light, with a warm colour-temperature (3,000K or less) unless otherwise agreed in writing by the Local Planning Authority.

- 3.41 The application site is also 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/exe-estuarydawlish-warren-habitat-mitigation/> .
- 3.42 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 of £4,800 before development commences.
- 3.43 With this in place, the Local Planning Authority will be able to conclude that there will be no likely significant effect on the European site. However, as mitigation is required to reach this conclusion, an Appropriate Assessment is required as to whether the proposal will affect the integrity of the European site. As such, it is necessary for Natural England to be consulted on this application and therefore the recommendation of approval is to the satisfactory outcome of this process. Furthermore, with the recommended conditions to secure the measures in the ecological assessment and to limit the type of lighting that can be installed the Local Planning Authority is satisfied that the proposal can progress without adverse harm being caused to the ecology of the area.

Land Drainage/Flood Risk

- 3.44 The application site is in Flood Zone 1, however the Environment Agency records show that parts of the site have a 1 in 100 and 1 in 1,000 chance of surface water flooding per year.
- 3.45 A drainage strategy has been submitted during the course of the consideration of this application and the scheme details are considered acceptable as shown on drawing no. C-GA-100 Rev P2. A condition is recommended to ensure that the drainage strategy as submitted is implemented to ensure a satisfactory drainage system is provided.

Contaminated Land

- 3.46 A contaminated land assessment has been submitted with this application.
- 3.47 The Environmental Health Team have assessed this and in accordance with the findings of the Contaminated Land Assessment they recommend conditions for the submission and implementation of a remediation scheme regarding contaminated land and the reporting of any unexpected contamination as set out in the consultee section of this report.
- 3.48 If minded to approve it is recommended that these conditions be applied in the interests of protecting the health of future occupants of the dwellings.

Summary and Conclusions

3.49 It is considered that the development accords with the relevant provisions and policies of the Local Plan and with the NPPF and therefore officer recommendation is for conditional approval.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

S21A (Settlement Limits)

WE2 (Affordable Housing Site Targets)

WE12 (Loss of Local Facilities)

EN8 (Biodiversity Protection and Enhancement)

EN9 (Important Habitats and Features)

EN10 (European Wildlife Sites)

EN11 (Legally Protected and Priority Species)

EN12 (Woodlands, Trees and Hedgerows)

National Planning Policy Framework

National Planning Policy Guidance

5. CONSULTEES

Environmental Health - I refer to the above application and the Contaminated Land Assessment submitted. In accordance with the findings of the Contaminated Land Assessment I recommend conditions as follows:

Submission of Scheme, Implementation, Verification, Reporting Unexpected Contamination.

1. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

2. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to occupation or the development being brought into use

3. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and site investigations shall be carried out. Where required by the Local

Planning Authority, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to occupation, or the development being brought into use, on the site affected.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors

Biodiversity Officer - The Preliminary Ecological Assessment found some limited wildlife value in the grounds. No sign of bats was found in the building. It recommends a suite of measures to limit impacts and provide net biodiversity gain, as now required by the NPPF. These include limiting light spill on the adjacent trees and hedges. If minded to approve please attach conditions to secure these measures.

Arboricultural Officer - There are no arboricultural objections to the proposal as no significant trees within or adjacent to the site will be adversely affected by the development.

Drainage Engineer - The applicant has not provided any information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's Sustainable Drainage Design Guidance, which can be found at the following address: <https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>.

(Case Officer Note: This has since been provided and details deemed acceptable)

Devon County Council Education - The proposed 6 family-type dwellings will generate an additional 1.5 primary pupil and 0.9 secondary pupils.

Teignbridge District Council have set out that they intend school facilities to be funded through CIL. It should be noted that this development will create the need for funding of new secondary school places. It is anticipated that these will require funding equivalent to £19,728 for secondary school facilities (based on the current DfE extension rate £21,921 of per pupil). These figures have been calculated in accordance with the County Council's education infrastructure plan and Section 106 approach and takes into account existing capacity in the surrounding schools. It is anticipated that these contributions could be provided for through CIL.

There is currently capacity at the designated primary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards primary education would not be sought.

If the application is approved we will deem the houses to be built and the number of school spaces considered to be available in Teignmouth will be reduced accordingly - this will be taken into account when calculating contributions from future applications.

Devon County Council Highways - The site is accessed off an unclassified County Route which is restricted to 30 m.p.h.

There is one personal injury collisions which has been reported to the police in this area between 1 January 2013 and 31 December 2017 which was recorded as slight.

There are no footways in this area.

This area has permission for the Trinity Lodge Nursery which had a number of parking spaces at the front entrance and before the ancillary car park was constructed at the rear, this was the only car park. This application for 6 dwellings would create fewer trips than the nursery.

Therefore the County Highway Authority would have no objections.

Housing Enabling Officer - Quantums – with 6 dwelling units proposed, this means that Policy WE2 adopted and up to date Local Plan threshold for affordable housing provision is triggered.

Recently-published National Planning Policy Framework advice also needs to be balanced in consideration of whether an affordable housing contribution would be required in this case and for small residential proposal such as this, the NPPF position of affordable housing thresholds conflicts with that of the Affordable Housing policy in the up to date adopted Development Plan.

Housing Enablers can advise on local evidence of housing need and pipeline of housing delivery to assist these considerations.

The Affordable Housing threshold set out in WE2 would require 25% affordable housing provision for Teignmouth (net of 4 dwellings because the proposal is effectively a windfall residential development).

Adopted LP Policy WE2 sets out a table of provision at para 4.7, which in this case would require the scheme to provide the equivalent of 1 Affordable Housing units. On balance Housing Enabling consider that it would be acceptable (although not the preferred option under Local Plan policy) for this development to make an off-site Affordable Housing contribution.

The development proposal shows a mix of 3 x 2 bed and 3 x 3 bed houses. An off-site contribution be calculated based on an average between a 2 and 3 bed house contribution as follows:

£78,976 for 2 bed houses,

£96,979 – for 3 bed houses.

Average between the two rates of contribution would be - £87,977

** Figures quoted from the updated 6 September 2016 Executive report whereby contribution amounts are subject to regular BCIS review (now updated October

2017). This would put the Local Plan-compliant affordable housing contribution rate in this case at £87,977 for 1 affordable dwelling liability in this case.

Evidenced shows that affordable housing need for Teignmouth is increasing rapidly and in these circumstances even small contributions to affordable housing provision can cumulatively make a big difference to providing for affordable housing needs. Recent data from Devon Home Choice shows there were 147 households from Teignmouth in housing need. In relative terms this is higher than the number of Dawlish households registered, with only Newton Abbot exceeding this for the numbers in housing need. Meantime the allocated housing site in Teignmouth does not have necessary consents in place, and is not scheduled to start construction.

Teignmouth Town has a high level of affordable housing need – making all affordable housing provision valuable – especially if this provision (via an off-site financial contribution) can be targeted to deliver specific aspects of evidenced local need, especially step-free or more accessible dwellings.

It is therefore suggested that an affordable housing contribution could be targeted to deliver affordable housing to meet this specific priority housing need for an affordable dwelling at Level 2 (former Lifetime Homes) standard. The key features of a level 2 property are highlighted below:

- Level or gently sloped approach plus parking nearby
- Lighting over primary entrance – 850mm clear opening width
- Manoeuvring space in main hall for wheelchair
- Entrance door to flat 850mm clear width/internal door width min 800mm
- Bedrooms – allow 750mm to sides and foot of bed
- Bathroom – walls strengthened for future fittings – minimum size to allow 1500mm turning circle
- Glazing no higher than 800mm and one handle no higher than 1200mm
- Service controls – within specified height range

Nationally Britain has an ageing population profile and Housing needs to make better provision for elderly residents. Looking at population predictions for Teignbridge, ONS statistics/predictions show that by 2020 the District will have 36,100 residents aged 65 and over (28% of the total population of the district). The provision of accessible/adaptable homes (level 2 in Building Regulations Part M4) is an important affordable housing priority for Teignmouth.

Conclusion – I trust that the advice outlined above will be of use to you in forming an assessment of the application. The Housing Enabling team objects to this planning application because it fails to provide much needed affordable housing contrary to Development Plan policy. The Enabling Team considers that in light of high levels of local housing need, the provision of affordable housing for non-major residential applications in the Teignmouth urban area, where the delivery of affordable housing is not coming forward, should remain a Development Plan priority.

(Case Officer Note: The applicant has agreed to provide off-site affordable housing contribution which would be secured by Section 106 agreement if minded to approve).

6. REPRESENTATIONS

Twenty-nine letters of objection received to the application, raising the following summarised concerns/objections (see case file for full representations):

1. Concern area does not need more densely populated housing;
2. Proposal does not provide adequate parking arrangements and this will affect the road making it more dangerous for road users;
3. Concern that there is no pavement at this point on Buckeridge Road and will put pedestrians at greater risk of harm;
4. Concern about loss of land for educational purposes;
5. Road safety concerns about increased traffic and suitability of Buckeridge Road to serve additional housing;
6. Concern proposed building will overlook almost all surrounding buildings, and will result in loss of privacy;
7. Concern density of development will be overbearing and intrusive;
8. Concern that building design lacks architectural merit and is out of keeping with immediate neighbouring buildings;
9. Concern lack of affordable housing;
10. Concern about loss of existing classic Victorian architecture through the demolition of the existing building to facilitate the proposal;
11. Concern about increased risk of flooding from run-off from the proposed scheme;
12. Concern about impact on privacy to Convent Lodge, particularly from second floor proposed living room windows and concern also raised about loss of light to this property;
13. Concern that proposal is overdevelopment of the site;
14. Concern about loss of privacy to Grosvenor Terrace;
15. Concern about lack of outside space to provide distance between dwellings and existing neighbouring properties;
16. Concern about impact of construction vehicles on pipes along Buckeridge Road;
17. Concern development will cause overlooking and loss of privacy to Tremelling Lodge, Ferndale Road;
18. Feel proposals should be limited to chalet bungalows to reduce impact;
19. Proposals would give new owners nice views of the sea, but does not take into account the impact on the other houses in the vicinity.

7. TOWN COUNCIL'S COMMENTS

The Committee strongly recommends refusal of this application because of the proposed density and design of the illustrated dwellings. It is considered that there will be considerable overlooking from the top floor living areas particularly affecting properties in the adjoining Terrace. There is little amenity space and visibility from the access onto Buckeridge Road is compromised. If the Case Officer is minded to approve the Ward Member is requested to place this application onto Category B.

8. COMMUNITY INFRASTRUCTURE LEVY

The proposed gross internal area is 875.55. 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 340.90. The CIL liability

for this development is £87,803.40. This is based on 534.65 net additional m² at £125 per m² and includes an adjustment for inflation in line with the BCIS since the introduction 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.

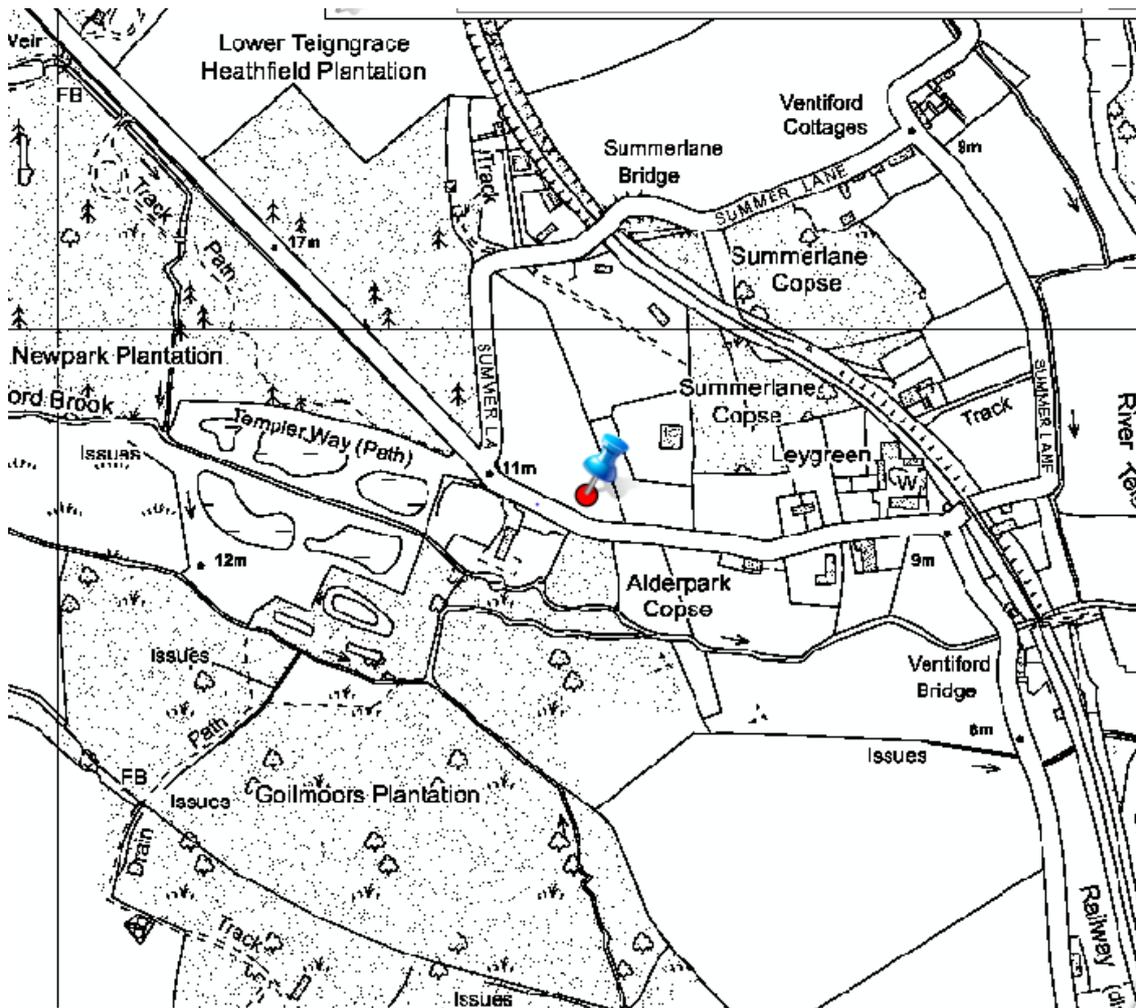
Business Manager – Strategic Place

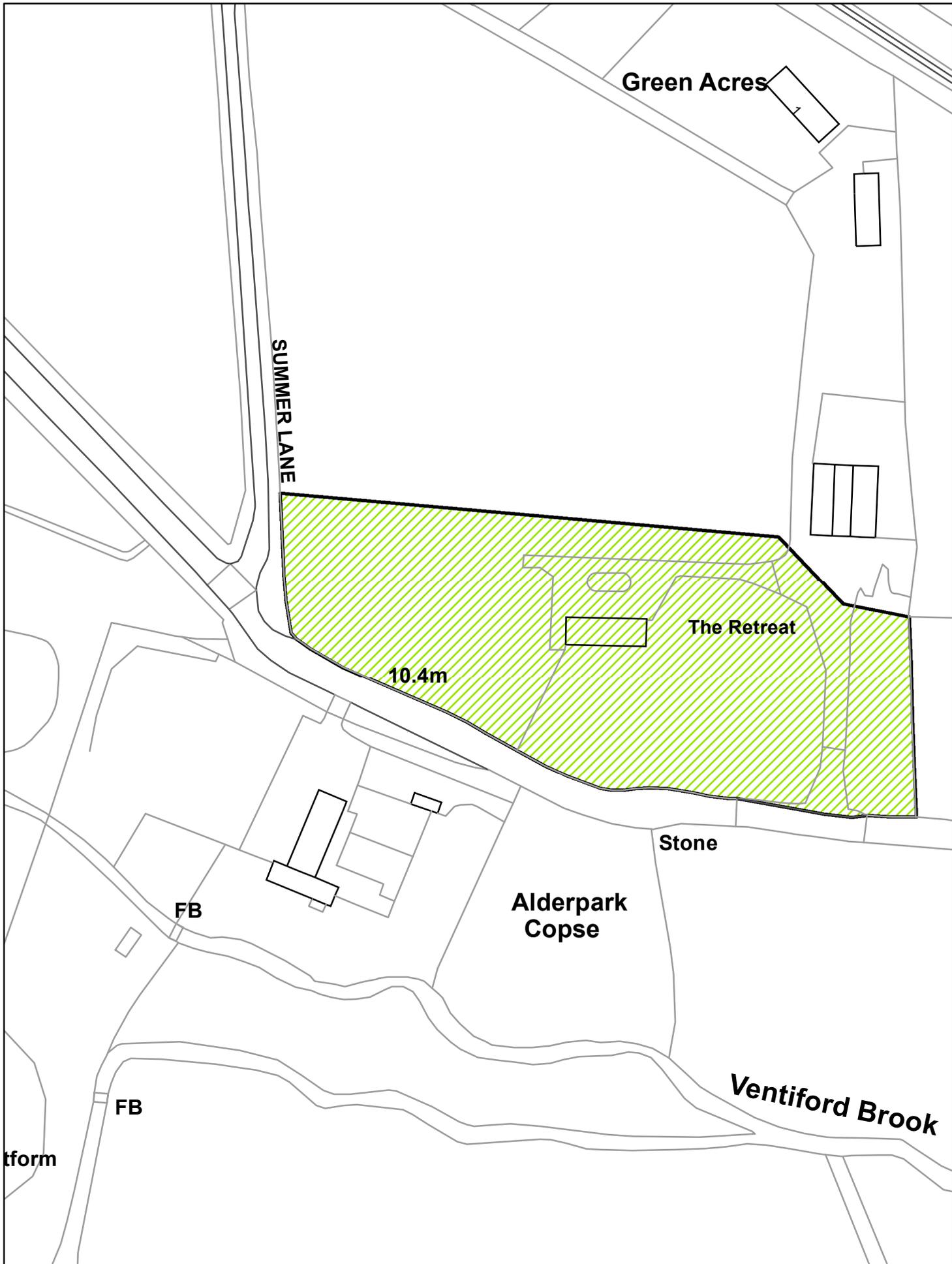
PLANNING COMMITTEE REPORT Tuesday 18 December 2018

CHAIRMAN: Cllr Dennis Smith



APPLICATION FOR CONSIDERATION:	TEIGNGRACE - 18/01759/FUL - Greenacres - Alterations to existing gypsy and traveller site including the relocation of 1 existing pitch and creation of 7 additional pitches (8 pitches in total), amenity buildings, landscaping and surface water drainage	
APPLICANT:	Westcountry Land	
CASE OFFICER	Rosalyn Eastman	
WARD MEMBERS:	Councillor Thorne Councillor Rollason	Kingsteignton West
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=18/01759/FUL&MN	





1. REASON FOR REPORT

Councillor Thorne requested Committee consideration if the Case Officer is recommending approval due to:

1. Overdevelopment of the area – severely affecting the balance in the community and hence character of the hamlet/village
2. Flooding concerns for the site and area
3. Traffic issues and dangerous entrance
4. Poorly serviced by infrastructure of schools/medical/social facilities

2. RECOMMENDATION

PERMISSION BE GRANTED subject to conditions addressing the following matters:

1. Standard 3 year time limit for commencement
2. Development to be carried out in accordance with the approved plans
3. No external lighting unless details first submitted for approval
4. Gypsy/traveller occupancy only
5. No business use
6. Limit pitches to 8 (each comprising 1 static caravan, 1 space for a touring caravan and vehicular parking)
7. Maintenance of visibility splays
8. Works to proceed in accordance with agreed drainage strategy including foul
9. Details of location of septic tank to be submitted for approval
10. Retention of hedgerows and agreement to new boundary treatments
11. Landscaping to be carried out in first planting season after commencement and thereafter maintained

3. DESCRIPTION

Site Description

- 3.1 The site is a relatively flat parcel of land of just under a hectare located to the east of Teigngrace in the Countryside.
- 3.2 The site is on the north side of the road through Teigngrace. The site lies in Flood Zone 1. It is not within an Area of Great Landscape Value.
- 3.3 The site benefits from Planning permission for 5 gypsy and traveller pitches: however, to date only one has been delivered and it is understood that in the current ownership and configuration, the remaining 4 pitches are unlikely to be delivered.

The Proposal

- 3.4 The subject application seeks permission for the stationing of 8 gypsy and traveller pitches, just 3 additional to those that have previously been permitted at the site.
- 3.5 The proposal is for eight traveller pitches, each to provide space for one static caravan, one touring caravan and space for vehicular parking as well as a day room. Following feedback from the Gypsy and Traveller Forum and consideration of those who have been identified as needing provision, 4 of the pitches would be of

a sufficient size to accommodate a family-sized caravan whilst four would be smaller.

- 3.6 The site incorporates visitor parking and an informal area of open space/for play.

Consideration

The Principle of the proposal – policy and need

- 3.7 In principle, Policy WE6 of the Teignbridge Local Plan, Homes for the Travelling Community, considers that gypsy and traveller pitches are appropriate in the countryside. This is reinforced by the extant permission on the site.
- 3.8 There is a need for 70 pitches over the life of the Plan and it was anticipated, at the time of adoption, that those pitches would, in part, be delivered through the strategic allocations at South West Exeter and West of Newton Abbot.
- 3.9 Through the application process at South West Exeter, it has been determined that the provision of gypsy and traveller pitches could be on site or could be through off-site delivered provision elsewhere.
- 3.10 The subject proposals are a partnership looking to meet a portion of the need arising from that allocation.
- 3.11 The off-site provision is required as a consequence of funding/financial constraints not only on the developers but also potentially on mortgagees. This is a difficulty that Officers are looking to resolve more widely but timescales do not permit resolution at this stage.
- 3.12 The delivery of pitches at this site is therefore of direct relevance to the delivery of the pitches allocated at South West Exeter.
- 3.13 This is important to note as our 2018 G&T supply statement includes, for example, both 3 pitches at South West Exeter and 3 additional pitches at Haldon – leading to an element of double counting. The Statement considers that we have a supply of 14 pitches against a requirement of 9. When all double counting is removed, it is my view that we have a supply of 9 pitches – but that relies on the subject site being built out to accommodate 5 pitches.
- 3.14 It is officers' view that these figures only serve to illustrate the vulnerability of our 5 year supply position to very small fluctuations in delivery and permissions, etc., and therefore where there are appropriate proposals to deliver additional pitches to meet the wider need of the community, these should be considered positively – in line with our general duty to consider proposals positively as expressed through the NPPF.
- 3.15 The other relevant consideration for the delivery of pitches in the countryside is the accessibility of services.
- 3.16 The site is approximately 2km from St Catherine's Primary School at Heathfield – if using the cycle bridge. The cycle bridge renders Heathfield significantly more accessible than the new school at Newcross, which would be 3-4km distant.

- 3.17 On balance, it is considered that this location is no less accessible than many other locations across the district and in light of the extant permission on the site – as well as its current circumstances – the development of the site for 8 pitches (3 additional pitches) is considered to comply with Policy WE6.
- 3.18 This provision is considered to fully comply with the requirements of national and local planning policy for the provision of homes for the travelling community.

Drainage and Flood Risk

- 3.19 The location of the site close to Flood Zone 3 has been considered by the Environment Agency. The Environment Agency originally objected to the proposal, however following the submission of additional information by the applicant team, this objection has now been removed.
- 3.20 If the site's main access were blocked, there are alternative safe routes away from the site and the proposal will not make flooding in the area any worse.
- 3.21 The proposal incorporates permeable surfacing and identifies a number of swales that will be used to mitigate any surface water run-off from the site.
- 3.22 A Drainage Report was commissioned by the Applicants, which it is considered satisfies the concerns originally raised by Teignbridge District Council's Engineers; therefore providing works are carried out in accordance with the recommendations in the report the proposals are acceptable from a drainage point of view. This includes provision for foul drainage. A condition requiring the delivery of surface water and foul drainage is included in the recommendation above.

Impact upon the character and visual amenity of the area/open countryside

- 3.23 The site benefits from permission for 5 gypsy and traveller pitches. It is not considered that the inclusion of three additional pitches would have any materially different impact on the character and visual amenity of the area than the extant scheme.
- 3.24 There are not considered to be any landscape or visual impact reasons for refusal of the proposal.

Impact on residential amenity of surrounding properties

- 3.25 The site is discreetly sited and has substantial natural boundaries to the south that are proposed to be retained.
- 3.26 These boundary treatments, together with a condition requiring details of new boundary treatments to be approved, coupled with the distances to neighbouring/ adjoining properties (including those to the north), mean that it is not considered that there would be any unacceptable impact on residential amenity.

Impact on ecology/biodiversity

- 3.27 With the site boundaries being retained and enhanced and a condition restricting the installation of external lighting, it is not considered that there will be any unacceptable impact on biodiversity at or around the site.

Highway safety

- 3.28 The proposal will continue to use the existing entrance location. DCC have identified that a 17 x 2 metres visibility splay would be acceptable and a condition will be applied to ensure that appropriate visibility is secured.
- 3.29 The site will have adequate visibility and currently has sufficient depth to ensure there would be no unacceptable impact on highway safety as a consequence of the proposals. DCC Highways do not raise any objection.
- 3.30 There is no highways safety or access reason for refusal of the proposal.

Conclusion

- 3.31 It is considered that this proposal accords with Policy WE6 of the Teignbridge Local Plan. The flooding concerns raised in representations have been addressed to the satisfaction of the Environment Agency and Teignbridge District Council's Engineering department.
- 3.32 It is therefore recommended that permission is granted.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A (Presumption in Favour of Sustainable Developments)

S1 (Sustainable Development Criteria)

S2 (Quality Development)

WE6 (Homes For the Travelling Community)

EN2A (Landscape Protection and Enhancement)

EN4 (Flood Risk)

EN8 (Biodiversity Protection and Enhancement)

EN9 (Important Habitats and Features)

EN11 (Legally and Protected Priority Species)

National Planning Policy Framework

National Planning Practice Guidance

Planning Policy for Traveller Sites

5. CONSULTEES

Environmental Health - Note that a Site Licence will be required

Drainage - Raise no in principle objection but request additional details.

Housing - The Housing Enabling team have been working with Teign Housing and others to build on the success of the site at Haldon Ridge, Kenn to find an opportunity to deliver further rented accommodation for the gypsy and traveller community in Teignbridge.

The Greenacres proposal, now that it includes pitches suitable for both families and smaller households, will go a long way to meeting our evidenced need for rented accommodation in the District and is to be welcomed.

It will be managed by Teign Housing and that management has proven to be a key benefit of the Haldon scheme that I am sure can be replicated here. TDC Housing Enabling Team are fully supportive of this application which has also been consulted upon and supported by the Teignbridge Gypsy and Traveller Forum.

DCC Highways - There have been previous application for pitches which have been approved.

This application is for a total of 8 pitches, the access shown on the plan is for 17 metres x 2 metres with no obstruction over 600 mm this would be acceptable, for the speeds in this area.

The number of trips 8 pitches could generate would not be a considered as severe and there are no highway safety issues with this site.

Therefore the Highway Authority would have no objections to the application.

DCC Minerals - Given that the proposal involves the revision of the layout for a facility that benefits from an extant planning permission, it is considered that no increase in the degree of sterilisation or constraint of the underlying mineral resource will occur. Devon County Council therefore has no objection in its role as mineral planning authority.

Environment Agency - No objections.

South West Water - Note the location of the water main bisecting the site

6. REPRESENTATIONS

17 representations have been received in relation to the application. Of these, 16 are objections with one in support.

The objections raise the following relevant planning matters:

1. Question the need for more pitches
2. Flooding and drainage
3. Area of Great Landscape Value
4. Against policy/Local Plan
5. Highways
6. Traffic
7. Drainage
8. Over SWW water main
9. Ecology
10. Lack of amenities in area
11. No footway or pathway for children to walk to school
12. Designated as open countryside
13. Outside of the settlement boundary

7. PARISH COUNCIL'S COMMENTS

National Planning Policy Framework:

Proposed development fails NPPF 2018 Environmental Objective as does not protect or enhance the natural environment. Site is in a designated Area of Great Landscape Value. (Teignbridge Local Plan 2013-2033)

Planning Policy for Traveller Sites 2015.

Policy A

7. In assembling the evidence base necessary to support their planning approach, local planning authorities should:

a) Pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers' accommodation needs with travellers themselves, their representative bodies and local support groups)

This has not been done. Furthermore, both the local Gypsy community and the Local Settled community strongly object to the application.

Policy B Planning for traveller sites.

10. Local planning authorities should, in producing their Local Plan:

a) Identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.

01/04/2012 figures have been used in the application – the 2017 figures should be used. (The latest that have been provided by Teignbridge District Council) Application states there is insufficient provision for the next five years, this is incorrect.

The figures to 2022 show that the 5-year supply is fulfilled.

Teignbridge Local Plan 2013-2033.

SWE1 South West of Exeter Urban Extension should be developed as proposed – this is specifically in the Teignbridge Local Plan and there is 92 hectares there for the supply of 24 Gypsy and Traveller Pitches amongst 2,000 homes. 1 hectare out of this allocation should be easy to achieve.

Perhaps the question should be asked of both Westcountry Land and Bovis Homes, why they do not wish to have this development on their site, where it would comply with the Teignbridge Local Plan and not be on land designated as Open Countryside?

WE6A Homes for the Travelling Community

A site of 18 pitches is allocated at Haldon Hill

NA1 Houghton Barton

A site of approximately 160 hectares is allocated at Houghton Barton to deliver a sustainable, high quality mixed-use development, which shall:

c) Deliver at least 1,800 homes with a target of 20% affordable homes

d) Secure delivery of 24 Gypsy and Traveller pitches.

11. Criteria should be set to guide land supply allocations where there is identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria-based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community.

No identified need. The interests of the settled community have not been considered.

13. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

a) Promote peaceful and integrated co-existence between the site and the local community

Existing balance has proved sustainable; any more development could adversely affect co-existence and will imbalance the community. The local Gypsy community was strongly represented at the Parish Council meeting and they do not want the application approved. The reasons given were:

1 They felt that the existing balance works well with the settled community.
2 The revised application is to accommodate single units rather than double units, so will not be used by Gypsy families. This would mean mixing Gypsy and Traveller communities on the same site, which does not work. Teignbridge District Council are aware of this.

g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans

Proposed development is in Flood Risk Zone 2. Letter from Environment Agency dated March 8th 2012 for original application 12/00676 states that the proposed development area is susceptible to surface water flood – advised to avoid buildings in this area.

Environment Agency have objected on these grounds.

Policy C: Sites in rural areas and the countryside

14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

Ley Green comprises 13 traditional houses and 10 Gypsy/Traveller units. An additional 7 Gypsy/Traveller units in this small hamlet is not of a scale appropriate to this rural setting. NA1 and SWE1 in the Teignbridge Local Plan 2013-2033 have a ratio of 1:75, not 1:1.

Policy H: Determining planning applications for traveller sites
22. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Outside Local Plan as the proposed development is located in Open Countryside.

23. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

There are no bus services in Teigngrace and TDC have previously refused an extension to an existing dwelling in Teigngrace on the grounds of sustainability. "14/00280/FUL. 1. The proposed development lies outside of the defined settlement limits of Newton Abbot and remote from facilities and services. In the absence of any clear overriding justification it is considered contrary to Policies S1 (Sustainable Development Criteria) and S22 (Countryside) of the Teignbridge Local Plan 2013-2033."

25. Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Dominates Local Community of Ley Green. Ley Green comprises 13 traditional houses and 10 Gypsy/Traveller units. An additional 7 Gypsy/Traveller units in this small hamlet will dominate this area of Open Countryside. NA1 and SWE1 in the Teignbridge Local Plan 2013-2033 have a ratio of 1:75, not 1:1.

Highways:

Access is onto Teigngrace Road, a single-track road with a 60 m.p.h. speed limit and is adjacent to a bend.

The road is used by many cyclists and forms part of the busy local cycle network. The existing entrance does not comply with the current planning permission. D.C.C. Highways are using this specification for their response. Current splay is around 9 metres (instead of 17 metres) with a 1.8 metres high fence/hedge instead of a 0.6 metres high boundary.

D.C.C. Highways in original site application 12/00676 state vehicle movement per unit as 6 daily two-way movements. i.e. 7 units will equate to 84 additional vehicle movements per day.

Previous application 15/00262/FUL had 1 parking space for a car plus a touring caravan. This application has 2 car parking spaces plus a touring caravan.

Drainage:

Existing development has created increased water flow towards the housing in Ley

Green and this has been reported to D.C.C. Highways and Teignbridge District Council on numerous occasions.

We cannot afford any increase in run-off water from the site as the drainage on the main Teigngrace road cannot cope with the amount of water running down it during heavy rain and has been flooded a number of times due to this run-off. Proposed SUDS scheme will not work in winter when the water table is high and the clay soil is waterlogged.

It seems unlikely that the recommendations in the consultation response from Drainage can be complied with as the land becomes waterlogged during the winter months as mentioned in the previous application 15/00262/FUL 'Applicants Contamination Statement', Plate 4, "This area was noticeably waterlogged at the time of the investigation".

Local residents have complained to Teignbridge District Council of effluent draining from the site – and this is with only 1 pitch built.

SWW Water Main:

The site lies right on top of the main Torquay SWW Water Main. This is not a suitable site for the proposed development.

'The Retreat' is built on top of the SWW Water Main.

Planning Enforcement:

The Parish Council and local residents have previously repeatedly raised concerns regarding highways, flooding, drainage, mains water pipe location and failure to comply with planning permission, both for the original application 12/00676/COU and previous application 15/00262/FUL.

Teignbridge District Council have repeatedly ignored the issues Teigngrace Parish Council and others have raised regarding this site. It is good to see that the Environment Agency and SWW are now reinforcing what we have been saying for the last 6 years. Teigngrace Parish Council will be contacting D.C.C. Highways and requesting that they review their decision, given that the entrance does not comply with the current planning permission.

8. COMMUNITY INFRASTRUCTURE LEVY

This development is not liable for CIL because it relates to a use of the land and does not create any residential floorspace.

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.

Business Manager – Strategic Place

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TEIGNBRIDGE DISTRICT COUNCIL

PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

DATE: Tuesday 18 December 2018

REPORT OF: Business Manager – Strategic Place

ENFORCEMENT REPORT

REFERENCE NO: 16/00208/ENF

DESCRIPTION OF DEVELOPMENT

NEWTON ABBOT: 32 Devon Square, Newton Abbot

OBSERVATIONS

1. In May 2016 planning permission and Listed Building Consent (references 16/00569/FUL and 16/00521/LBC) were granted for the conversion of offices into a dwelling including demolition of rear extension and construction of replacement extension at 32 Devon Square, Newton Abbot.
2. In June 2016 the Council received a complaint that the building works at 32 Devon Square were not being carried out in accordance with the approved plans.
3. Investigations revealed that works were being carried out to convert the property, but these works involved creating a house of multiple occupation. However, at the time no further action was taken as a planning application and an application for Listed Building Consent (references 16/01402/COU and 16/01403/LBC) were being considered to change the use from offices to house of multiple occupation. These were subsequently refused. Although building works continued, there would be no planning breach regarding the use of the property until the number of occupants exceeded 6.
4. In addition, the Council also received a complaint about works being carried out in the rear garden to create a raised platform. Investigations revealed that an area of raised ground had been created. As the works involved raising the ground levels by more than 0.3 metres above the original ground level and were attached to the boundary wall that is listed, planning permission and Listed Building Consent would have been required. This resulted in a planning application and an application for Listed Building Consent (references

TEIGNBRIDGE DISTRICT COUNCIL

16/02232/FUL and 16/02233/LBC) being submitted for the retention of raised seating area. However, these were subsequently refused.

5. As the applications for the use of the property as a house of multiple occupation and the raised seating area had been refused further action was being considered. However, an appeal was subsequently submitted for the refusals of the change of use and another planning application and application for Listed Building Consent (references 16/03175/FUL and 16/03176/LBC) were submitted for change of use of offices to house of multiple occupation (revised scheme). As such enforcement action was put on hold whilst these were being determined.
6. On 10 April 2017 the appeal against the original applications to change the use from offices to House of multiple occupation was dismissed and in June 2017 the applications for the revised scheme were refused. However, a further appeal was submitted but this was subsequently dismissed on 10 January 2018.
7. In the meantime works were substantially completed and it seems that the number of occupants was 8.
8. As part of the conversion works the basement was also refurbished and divided into two rooms. Although it subsequently appeared that the rooms were not used as bedrooms the refurbishment works required Listed Building Consent which was also refused with subsequent appeals dismissed.
9. Following the various applications for planning permission and Listed Building Consent that were refused and appeals dismissed, it was clear that an unauthorised use was occurring and unauthorised works had been carried out both internally and externally. To resolve the matter the owner was contacted to agree a time period for reducing the number of occupants and to remove the unauthorised works that had been carried out in the garden and the basement.
10. As part of the correspondence with the owner a Planning Contravention Notice (PCN) was served to determine which rooms were occupied but to date this has not been returned, though the owner claims the numbers have been reduced to 6.
11. More recently it has been brought to the Council's attention that a tenth room is being advertised to let as part of the house share. The advertisement stated that there is currently 9 people already occupying the property. As this is clearly resulting in a house of multiple occupation, planning permission would have been required for the use. As no planning permission has been granted a planning breach is occurring.
12. In this instance the use of the property as a house of multiple occupation is considered unacceptable as it impacts on the architectural integrity of the listed building. It also impacts unacceptably on the character and appearance

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of the Conservation Area. In addition the use fails to secure a good standard of amenity for the existing adjacent occupiers at 33 Devon Square. This is contrary to Policies S1A (Presumption in favour of Sustainable Development), S1 (Sustainable Development Criteria), S2 (Quality Development) and EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework. As such to ensure the use ceases it is necessary to issue an Enforcement Notice to prevent more than 6 people occupying the property.

- 13 As for the unauthorised works that have been carried out, it is necessary to issue an Enforcement Notice to seek the removal of the raised seating area in the rear garden, as it is considered to be unacceptable on the architectural integrity and visual amenity of the listed building and the adjacent listed buildings. The works also impact unacceptably on the character and appearance of the Conservation Area. These works are also contrary to Policies S1A (Presumption in favour of Sustainable Development), S1 (Sustainable Development Criteria), S2 (Quality Development) and EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework.
- 14 In addition it is necessary to issue a Listed Building Enforcement Notice to ensure the inappropriate materials that have been applied to the walls and floor, and the internal partitions that have been installed in the basement are removed. These works are contrary to Policy EN5 (Heritage Assets) of the Teignbridge Local Plan 2013-2033 and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework.

RECOMMENDATION

The Committee is recommended to resolve i) serve an Enforcement Notice for the unauthorised change of use of the property to a house of multiple occupation. ii) serve an Enforcement Notice for the unauthorised construction of the raised seating area in the rear garden and iii) serve a Listed Building Enforcement Notice for the unauthorised works carried out in the basement of the property. A period of six months should be given for compliance. In the event of the Notices not being complied with, the Solicitor be authorised to take action as necessary under Sections 178 and 179 of the Town and Country Planning Act 1990 and Section 43 of the Planning (Listed Buildings and Conservation Areas) Act 1990

WARD MEMBERS: Cllrs J Hook & Hayes



TEIGNBRIDGE DISTRICT COUNCIL

PLANNING COMMITTEE

CHAIRMAN: Cllr Dennis Smith

DATE: Tuesday 18 December 2018

REPORT OF: Business Manager – Strategic Place

ENFORCEMENT REPORT

REFERENCE NO: 12/00192/ENF

DESCRIPTION OF DEVELOPMENT

CHUDLEIGH: Land at Graeden Park, Milestone Cross, Chudleigh

OBSERVATIONS

1. On 10 January 2008 planning permission (reference 07/04869/FUL) was granted for the temporary stationing of an agricultural worker's dwelling for a period of 3 years. As part of the permission a condition was attached that required the temporary dwelling to be removed and the land restored to its former condition on or before 10 January 2011.
2. Following an investigation, it was apparent works had been carried out to commence the construction of the temporary dwelling but had clearly not been removed by 10 January 2011. As such, the Council issued a Breach of Condition Notice on 13 July 2012 for an unauthorised temporary agricultural workers dwelling which was required, by condition 1, to be removed on or before 10 January 2011. As there is no right of appeal against a Breach of Condition Notice, this Notice came in to effect immediately with six months given to comply by removing the unauthorised temporary agricultural workers dwelling.
3. As it was clear that the requirements of the Breach of Condition Notice had not been complied with the Council instigated prosecution proceedings. However, when the matter was brought before the Courts in 2014 it became apparent that the person who was believed to be in control of the land was not, so the case had to be withdrawn.
4. Since the Court case was withdrawn the Council has been in continued correspondence with the landowner to try and resolve the matter. As it was clear that the matter was not going to be resolved further, Court proceedings

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were instigated in 2017. At that time the Council were advised that the planning permission for which the Breach of Condition Notice was based on was not actually implemented. The reasons to support this were that the building was not temporary, but permanent, and was in a different location to the one approved. Furthermore, the conditions attached to the planning permission had not been discharged.

5. Having taken legal advice in this instance it was agreed that no further action should be taken over the non-compliance with the Breach of Condition Notice. It was determined that further action should be taken by issuing an Enforcement Notice for the construction of an unauthorised dwelling. To help with the investigation the Council served a Planning Contravention Notice on the landowner. In response, we were told that the dwelling was completed and occupied in 2013, which would make it immune from enforcement action as it would have been in place for more than four years.
6. Although it was claimed the dwelling may be immune from enforcement action being taken it is considered that from various site visits by Officers in 2013, 2015, 2016 and 2017 the dwelling was not substantially completed and occupied until 2016 at the very earliest and possibly later. As such, it is considered the dwelling constructed has not been substantially completed for the necessary four years to be immune from enforcement action being taken.
7. From ongoing investigations it is noted that as well as the new dwelling that has been constructed the owner has been living in the existing barn. Since 2007, the owner has been living in mobile homes that have been joined together to form a dwelling in one of the agricultural buildings. Although no planning permission has been granted for the residential use, it was noted from a Planning Contravention Notice that was served in March 2012 that the mobile home had been incorporated into the building, so that it was no longer moveable. However, although the residential use of the structure within the barn may be immune from enforcement action being taken this has never been definitively established through the submission of a Certificate of Lawfulness.
8. Having determined that the BCN that was issued could not be enforced and the new dwelling has not been substantially completed long enough to be immune from enforcement action, the Council has met with the owner's agent and it was envisaged that a planning application would be submitted to determine whether the building could be retained. However, to date no application has been submitted.
9. Following recent correspondence with the owner's agent it is proposed to submit a Certificate of Lawfulness to establish the dwelling within the agricultural building. Once this has been approved a planning application will be submitted for the retention of the new dwelling.
10. In this instance it appears that both structures are currently being used in conjunction with one another for residential purposes. However, as the matter has been ongoing for a considerable time and there is no guarantee any

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applications will be submitted, the Council must consider enforcement action for the unauthorised dwelling that has been built.

11. The new dwelling is located in the Countryside outside the settlement limits of Chudleigh. Furthermore, no agricultural or forestry reasons have been submitted to support the need to have the dwelling on the land for those purposes. For these reasons the new dwelling is contrary to Policies S1A (Presumption in favour of Sustainable Development), S1 (Sustainable Development Criteria), S22 (Countryside) and WE9 (Rural Worker's Dwellings) of the Teignbridge Local Plan 2013 – 2033.
12. Although the matter should be brought to a conclusion in this instance it is considered that to progress the case the owner should be allowed to submit the Certificate of Lawfulness to establish the dwelling that exists within the existing agricultural building. If this is submitted and approved then providing a planning application is submitted shortly afterwards to determine whether the new dwelling can be retained and the original dwelling is removed then this should be allowed. However, if this does not occur then formal action should be taken.

13. HUMAN RIGHTS

“ARTICLE 1 - Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

As can be seen from the second paragraph above the use of land may be regulated and enforced by the local planning authority provided it acts within its statutory powers.

The sections of the Town & Country Planning Act 1990 outlined above are the statutory powers for planning enforcement. Therefore there is no breach of human rights under the First Protocol Article 1.

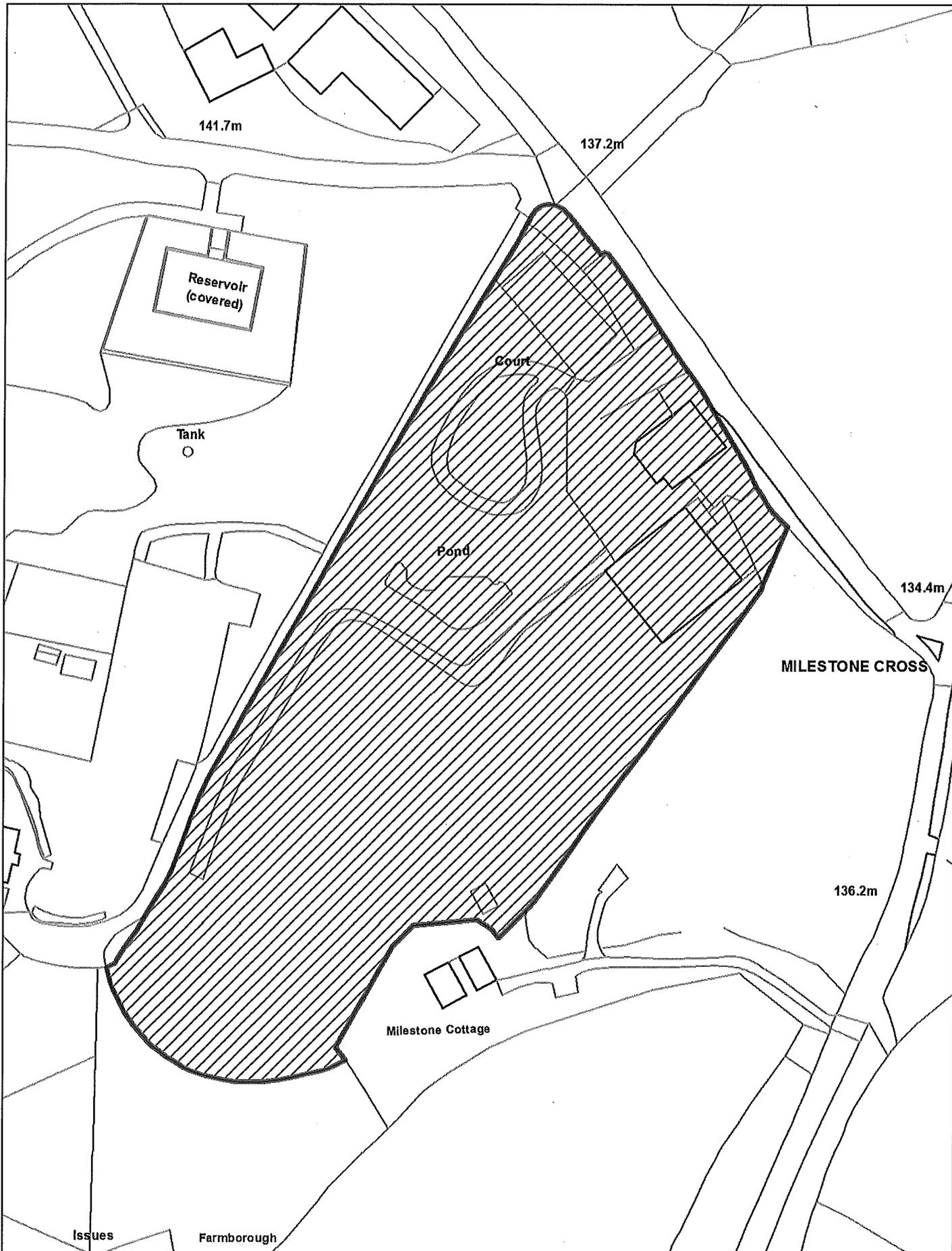
RECOMMENDATION

The Committee is recommended to defer any further action for a period of two months as a Certificate of Lawfulness is expected to be submitted and determined. If the Certificate is approved but no planning application is submitted within one month of the

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decision to determine whether the new dwelling can be retained then an Enforcement Notice should be served. The Notice should ensure the unauthorised dwelling is removed from the land within six months. If a Notice is served but not complied with, the Solicitor be authorised to take action as necessary under Sections 178 and 179 of the Town and Country Planning Act 1990.

WARD MEMBERS: Cllrs Keeling & Evans



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