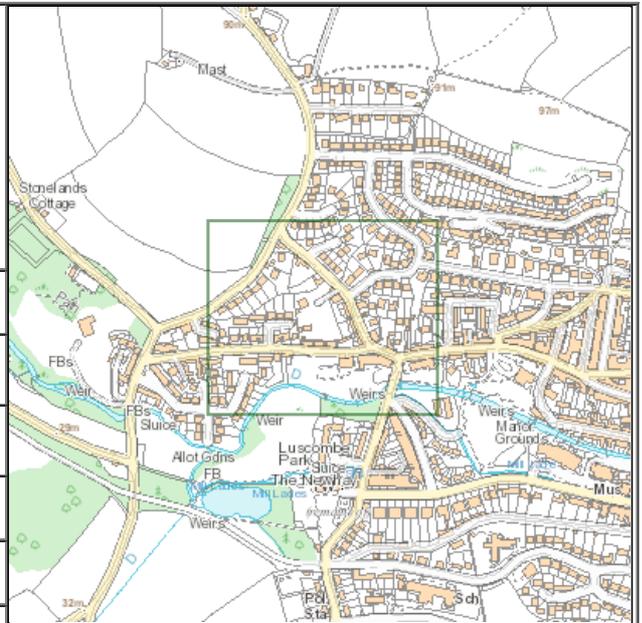


**Planning Committee Report**

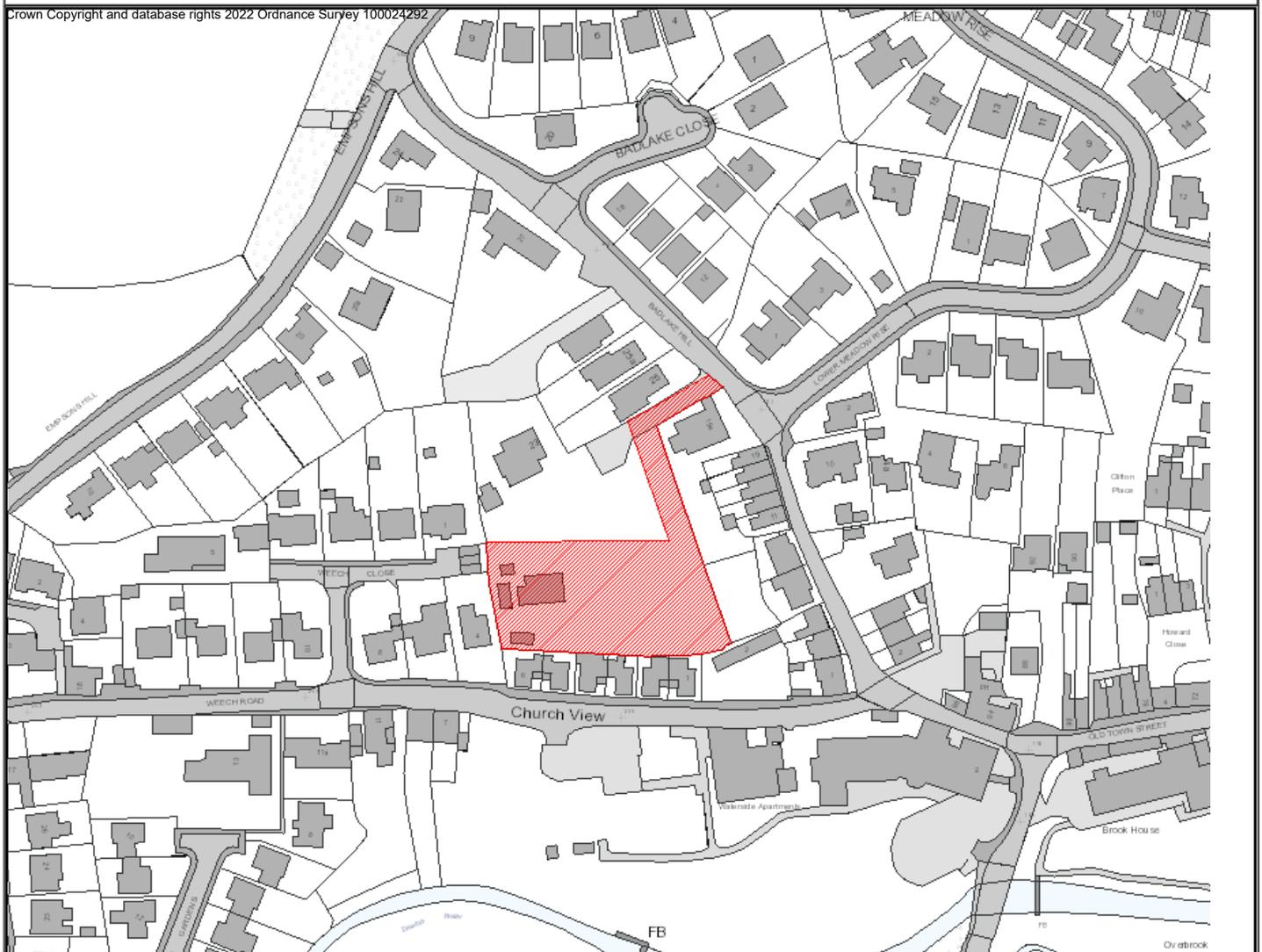
**Chairman: Cllr. Linda Goodman-Bradbury**

<b>Date</b>	14 June 2022 deferred for site visit on 17 May 2022
<b>Case Officer</b>	Gary Crawford
<b>Location</b>	Land At 23 Badlake Hill Dawlish Devon EX7 9BA
<b>Proposal</b>	Four dwellings
<b>Applicant</b>	Mr Trankle
<b>Ward</b>	Dawlish South West
<b>Member(s)</b>	Cllr John Petherick, Cllr Gary Taylor
<b>Reference</b>	21/02744/FUL



[Online Details and Documents](#)

**RECOMMENDATION: PERMISSION GRANTED**



## **1. REASON FOR REPORT**

Dawlish Town Council have requested that this application is referred to the Planning Committee for determination if the case officer is recommending the application for approval for the following reasons:

- Overdevelopment of the site.
- Road safety concerns due to vehicle and pedestrian constraints.
- There is already an issue with pollution due to building works in the area so further development would compound it.
- Absence of a biodiversity report with provisions.
- Lack of a specified drainage engineering plan and construction management plan.
- The negative impact on residents and nearby listed buildings.

## **2. RECOMMENDATION**

**SUBJECT TO:** Compliance with the Joint Approach to Mitigation of Impacts on the Exe Estuary / Dawlish Warren nature conservation sites

**PERMISSION BE GRANTED** subject to the following conditions:

1. Standard three year time limit
2. Works shall proceed in accordance with approved plans.
3. Prior to commencement of development on any part of the site, the Planning Authority shall have received and approved a Construction Management Plan (CMP).
4. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system, including design exceedance flow routes and boundary treatment details have been submitted to, and approved in writing by, the Local Planning Authority.
5. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority.
6. Prior to commencement of development, a methodology statement detailing how carbon emissions will be reduced during construction and/or during occupation of the dwellings shall be submitted to and approved in writing.
7. The existing trees/shrubs and hedges shall be retained.
8. Any builder implementing the works hereby approved must be provided with a copy of the ecologist's report prior to undertaking any demolition works and must follow its recommendations. The recommendations and mitigation works shall be carried out in

accordance with the details in the approved report prior to first use of the new dwellings hereby approved.

9. Prior to development above the damp proof course, a plan shall be submitted to and approved by the Local Planning Authority showing:
  - The design of bat boxes, swift boxes and bee bricks that will be installed in the structure of the dwellings;
  - The location of the boxes/bricks in suitable areas around the development. The boxes/bricks shall be provided at a rate of 1 bat box and 2 swift box per dwelling, however swift boxes shall be erected in clusters, to better suit swifts and sparrows which nest communally.
  - The location of 13cm x 13cm square hedgehog holes that will be included at ground level in every garden fence and every garden wall, to maintain maximum permeability for this species.
10. Electric Vehicle Charge points shall be installed at each dwelling, prior to occupation of that dwelling.
11. Prior to development above the damp proof course, the details of boundary treatments and refuse storage shall be submitted to and approved in writing by the local planning authority.
12. The dwellings hereby approved shall not be brought into use until the parking areas detailed on the approved plans have been completed and these areas shall thereafter be retained for the life of the development.
13. Some Permitted development restrictions on proposed properties.

### **3. DESCRIPTION**

#### The site

- 3.1 The site relates to the lower garden area of No.23 Badlake Hill, a detached dwelling understood to have been built in approximately 1935, within the settlement limits of Dawlish. The site lies adjacent to Dawlish Conservation Area.
- 3.2 The site slopes steeply from north down to south, with the host dwelling occupying land to the far north.
- 3.3 At the time of application, the site accommodated a large outdoor building which features an indoor swimming pool. It is proposed for this building to be demolished as part of the proposals.
- 3.4 The site is predominately surrounded by residential development, which is laid out in a linear form. Pockets of open space are dispersed between residential estates providing a gentle contrast to the built development. Again, the topography of the area is relatively steep sloping.
- 3.5 The site is bound to the north and east by further garden area, whilst the residential properties of Weech Road lie to the immediate south, and Weech Close to the west of the site.

- 3.6 The garden area of No.23 Badlake Hill currently comprises approximately 2,850m<sup>2</sup>. Outline planning permission for the erection of up to two dwellings on the site, with all matters reserved for future consideration except that of access has been granted twice previously under reference numbers 16/00610/OUT and 19/00360/OUT.
- 3.7 Planning permission for four dwellings on the site was refused under reference number 21/00084/FUL in November 2021 as it was considered that due to the size of the plot, the proposed erection of four detached, two storey dwellings with detached garages would result in an overdevelopment of the site, with the new dwellings sited in close proximity to the houses in Weech Road (to the south). In combination with their proposed positioning at a higher level, it was deemed that the proximity of the proposed dwellings was such that there would be an unacceptable loss of privacy to Nos. 1-6 Church View, Weech Road.

### The application

- 3.7 The current application seeks full planning permission for the erection of four, two storey detached dwellings with detached garages. In order to attempt to overcome the reason for the refusal of application 21/00084/FUL, the layout of the four dwellings has been altered so that Plots 1 and 2 are sited further away from the dwellings in Church View. Plots 3 and 4 have been re-orientated approximately 90 degrees within the site and the footprints of these dwellings have been reduced in size. Access to the site is currently achieved off Badlake Hill and the proposal seeks to utilise the same access, with the access road running down the eastern boundary of the site to serve the new dwellings.
- 3.8 Officers raised concerns with regards to potential overlooking and loss of privacy impacts upon No.4 Weech Road from the first floor windows in the rear elevations of Plots 3 and 4. Subsequently, revised plans have been submitted during the course of this application to set Plots 3 and 4 further away from the boundary with No.4 Weech Road in order to reduce the potential overlooking and loss of privacy impacts upon this property.

### Main issues

The main issues for consideration are:

- Principle of the development;
- Impact upon the character and visual amenity of the area;
- Impact upon setting of listed buildings and the character and appearance of the Conservation Area;
- Impact on residential amenity of surrounding properties;
- Biodiversity impacts;
- Impact on trees;
- Land drainage/flood risk;
- Highway safety;
- Carbon reduction; and
- Other matters.

### Principle of the development

- 3.9 The application site is located within the Dawlish settlement limit as depicted in the Local Plan 2013. As such, the principle of new dwellings is deemed acceptable, subject to compliance with other relevant policies of the Local Plan.

Impact upon the character and visual amenity of the area

- 3.10 Planning permission for four dwellings on the site was previously refused under reference number 21/00084/FUL in November 2021 as it was considered that due to the size of the plot, the proposed erection of four detached, two storey dwellings with detached garages would result in an overdevelopment of the site, with the new dwellings sited in close proximity to the houses in Weech Road to the south of the site.
- 3.11 In order to attempt to overcome the reason for the refusal of application 21/00084/FUL, the layout of the four dwellings has been altered so that Plots 1 and 2 are sited further away from the dwellings in Church View. Furthermore, Plots 3 and 4 have been re-orientated approximately 90 degrees within the site and the footprints of these dwellings have been reduced in size. On balance, officers consider that the alterations to the layout of the four dwellings within the site have sufficiently overcome the previous reason for refusal relating to an overdevelopment of the site and the impact of the proposal upon the character and visual amenity of the area is deemed to be acceptable.

Impact upon setting of listed buildings and the character and appearance of the Conservation Area

- 3.12 Policy EN5 of the Local Plan seeks to protect and enhance the area's heritage, with proposals required to take account of the significance, character, setting and local distinctiveness of any heritage asset. It outlines that development should respect and draw inspiration from the local historic environment.
- 3.13 As outlined above, the site lies adjacent to the Conservation Area of Dawlish (located to the south of the site). As such, the proposal has been assessed in terms of its potential impact on the character and appearance of this conservation area, in addition to the potential impact on the nearby listed buildings. Such buildings are predominately Grade II listed and include 'Bryony Cottage' to the south-east (approximately 15m from the site); No. 5 (Chilmack) further to the south east (approximately 30m from the site); No. 3 'Cobblestones' and No. 1 'Old Badlake House' approximately 38m to the south east.
- 3.14 Whilst the proposal may result in some impacts upon the setting of the nearby listed buildings and conservation area, given the distance between the proposed new dwellings and the nearby listed buildings and conservation area, and given the existing residential development at Nos. 1-6 Church View, Weech Road and within Badlake Hill, it is considered that the proposal would not result in any significantly adverse impacts upon the setting of the nearby listed buildings or conservation area that would constitute harm.
- 3.15 In coming to this decision the council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.

- 3.16 In coming to this decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

Impact on residential amenity of surrounding properties

- 3.17 Policy S1 of the Teignbridge Local Plan details that proposals will be required to perform well in terms of their impact on the residential amenity of existing and committed dwellings, particularly privacy, security, outlook and natural light.
- 3.18 Planning permission was refused previously for four dwellings on the site under reference number 21/00084/FUL as it was considered that due to the close proximity of the proposed dwellings to Nos. 1-6 Church View, in combination with their proposed positioning at a higher level, the dwellings proposed would have resulted in an unacceptable loss of privacy upon Nos. 1-6 Church View.
- 3.19 In the current proposal of, Plots 1 and 2 are sited further away from the dwellings in Church View so there is a back-to-back distance of approximately 23m between Plot 1 and No.1 Church View and a back-to-back distance of approximately 20m between Plot 2 and Nos. 2 & 3 Church View. Whilst there may be some overlooking and loss of privacy impacts upon the properties in Church View from Plots 1 and 2, it is considered that the proposed new dwellings would be sited a sufficient distance from the properties in Church View not to result in any significantly harmful overlooking or loss of privacy impacts upon the properties in Church View.
- 3.20 Plots 3 and 4 have been re-orientated approximately 90 degrees within the site and the rear elevations of these properties would face towards the side boundary with No.4 Weech Road rather than towards the properties in Church View. Officers raised concerns with regards to potential overlooking and loss of privacy impacts upon No.4 Weech Road from the first floor windows in the rear elevations of Plots 3 and 4. Subsequently, revised plans have been submitted during the course of this application to set Plots 3 and 4 further away from the boundary with No.4 Weech Road in order to reduce the potential overlooking and loss of privacy impacts upon this property. Again, whilst there may be some overlooking and loss of privacy impacts upon the rear garden of No.4 Weech Road from the upper floor windows of Plots 3 and 4, given the suburban environment of the application site where potential observation from first floor windows is commonplace, it is considered that the proposal would not amount to a significant impairment of neighbouring living conditions.
- 3.21 It is deemed that the proposed new dwellings would be located a sufficient distance from neighbouring dwellings that they would not result in any significantly harmful overbearing or overshadowing impacts upon any neighbouring properties.
- 3.22 It is considered that the proposed new dwellings are of a sufficient size in terms of their internal floor area and the future occupiers of the new dwellings would have access to an adequate amount of external amenity space.

### Impact on ecology/biodiversity

- 3.23 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/> .
- 3.24 In the absence of bespoke mitigation, a Habitat Mitigation Regulations contribution of £902 per additional dwelling is required to offset in-combination recreation impacts on the SPA and/or SAC. A net gain of 4 dwellings is proposed, i.e. a total of £3,608.00 is required to be contributed.
- 3.25 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 £3,608.00 before development commences.
- 3.26 Once the Unilateral Obligation is in place, the LPA, as Competent Authority, will be able to conclude that there will be no effect on the integrity of the European site(s) such that this does not constitute any reason for refusal of the development. At this stage, as we are clear what the required mitigation is for these impacts and how it can be secured, in line with the joint approach, we have been able to conclude that there will be no effect on the integrity of the sites as permission will only be granted once compliance with the joint approach is secured.
- 3.27 A protected species survey has been submitted which found no signs of roosting bats or nesting birds. The report includes a suite of mitigation measures (lest bats/birds are present at the time of works) and biodiversity enhancement measures and TDC's Biodiversity Officer has requested that these are secured via a condition if planning permission is granted.

### Impact on trees

- 3.28 TDC's Senior Arboricultural Officer commented on previously refused application 21/00084/FUL that there were no arboricultural objections as no trees worthy of protection by a tree preservation order that contribute to the visual amenity of the wider area are adversely affected by the proposal. It is considered that these comments are also relevant for the current application.

### Land drainage/flood risk

- 3.29 Following the submission of additional information during the course of the application, the Council's Drainage Engineers have confirmed that the proposed surface water drainage strategy for the development is acceptable. However, the Drainage Engineers have recommended that that pre-commencement planning conditions requiring the submission of the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction and the proposed permanent surface water drainage management system should be included with any permission.

### Highway safety

- 3.30 It is noted that a number of representations have been received which have raised concerns with regards to highway safety impacts, an increase in traffic from the proposal and the impact on parking in the vicinity of the site.
- 3.31 The existing dwelling is currently accessed off Badlake Hill via a private driveway and the proposed new dwellings will be accessed via the same driveway, with a separate access branching off along the eastern boundary adjacent to the rear of the properties on Badlake Hill. Devon County Council's Highways department have been consulted on the current application and have raised no objections to the proposal.
- 3.32 Devon County Council's Highways department commented on previously refused application 21/00084/FUL that the number of vehicle trips the proposed development is likely to generate is unlikely to have a severe impact on the existing Highway Network. Given that the current proposal seeks permission for the same number of dwellings as application 21/00084/FUL, it is considered that the Highway Authority's comments on application 21/00084/FUL are also relevant to the current application. The Highway Authority requested that a pre-commencement condition requiring the submission of a construction management plan should be included with any approval and it is deemed that a construction management plan is also required for the current application.
- 3.33 The proposed development is therefore considered to be acceptable in respect of highways safety.

### Carbon reduction

- 3.34 To reduce the carbon emissions arising from the development in accordance with Policies S7 and EN3 of the Local Plan, it is considered necessary to include a pre-commencement condition with any permission requiring a methodology statement detailing how carbon emissions will be reduced during construction and/or during occupation of the dwelling to be submitted prior to the commencement of the development. In addition, it is also recommended that a condition shall be included with any approval requiring that electric vehicle charge points shall be installed for each dwelling, prior to the occupation of each dwelling.

### Other matters

- 3.35 TDC's Environmental Health department have commented that they have no objections to the proposal with regards to contaminated land.
- 3.36 Devon County Council's Education department have commented that the proposed increase of four family-type dwellings, would generate an additional 1 primary pupil and 0.6 secondary pupils. However, as there is currently capacity within the primary schools and secondary school for the number of pupils likely to be generated by the proposed development, a contribution towards education has not been sought for this development.

## Conclusion

- 3.37 The proposed development is considered to be acceptable and therefore it is recommended that planning permission be granted subject to conditions and a completed legal agreement for a habitat mitigation contribution.

## **4. POLICY DOCUMENTS**

### Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S7 Carbon Emission Targets

S21A Settlement Limits

EN3 Carbon Reduction Plans

EN4 Flood Risk

EN5 Heritage Assets

EN7 Contaminated Land

EN8 Biodiversity Protection and Enhancement

EN11 Legally Protected and Priority Species

EN12 Woodlands, Trees and Hedgerows

### National Planning Policy Framework

### National Planning Practice Guidance

## **5. CONSULTEES**

### **TDC Biodiversity Officer:**

The site is within the 10km impact zone for the Exe Estuary SPA and Dawlish Warren SAC, where new housing must make a financial contribution to mitigating in-combination recreation impacts. The proposed development would require a contribution of  $4 \times \text{£}902 = \text{£}3,608$ .

The ecological survey found no sign of bats or birds in any of the outbuildings, but make recommendations for careful demolition in case any have moved in by the time or works.

To minimise biodiversity loss and to achieve a net biodiversity gain, please require the retention of existing trees/shrubs and hedges and the installation of bat bird and bee boxes.

### **TDC Drainage Engineers:**

#### Comments dated 16 December 2021

In reference to the submitted surface water drainage strategy report reference 21002-C-DS dated August 2021, the applicant should fully explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation tank). Examples of these source

control components could include Rainwater harvesting, permeable paving (which could be underdrained), formalised tree pits and filter drains.

The design for exceedance flows shall include the construction of a 300mm high bund along the Southern boundary of the site (rear of the properties at Church View) to contain exceedance/blockages flows within the application site. Clear boundaries must be maintained to allow water to track along this bund.

Clear boundaries must also be maintained between the houses.

#### Comments dated 16 March 2022

The surface water drainage strategy for the proposed development for 4 dwellings at 23 Badlake Hill, Dawlish is acceptable however, I would recommend that the following pre-commencement planning conditions are imposed:

1. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system, including design exceedance flow routes and boundary treatment details have been submitted to, and approved in writing by, the Local Planning Authority, The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the attached Drainage Statement produced by Trace Design, document ref: 21002-B-DS - version 5, dated 15<sup>th</sup> March 2022.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems and to ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

2. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site and shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk to the surrounding area.

**TDC Environmental Health (Contaminated Land):** No objections.

**TDC Senior Arboricultural Officer:**

Comments received for application 21/00084/FUL

There are no arboricultural objections, as no trees worthy of protection by a tree preservation order that contribute to the visual amenity of the wider area are adversely affected by the proposal.

### **DCC Highways:**

Recommend that the Standing Advice issued to Teignbridge District Council is used to assess the highway impacts. Devon County Council's Highways Officer has verbally advised that his comments for previously refused application 21/00084/FUL are applicable for the current application.

Comments received from DCC Highways on 10 February 2021 for application 21/00084/FUL

### **Observations:**

The access to the proposed dwellings will use the existing private driveway to No.23 off Badlake Hill with an extended private driveway from this existing driveway down to the proposed four dwellings. Badlake Hill is an unclassified road restricted to 30mph.

There have been no person injury collisions reported to/by the police between 01/01/2015 and 31/12/2019, on Badlake Hill in the vicinity of the site.

The access arrangement has been approved, albeit for 2 dwellings, and permission is still current for this arrangement under planning application no. 19/00360/OUT.

The proposal is to increase the number of dwellings to 5 and to incorporate the following improvements to the approved layout;-

1. The existing driveway section serving No. 23 will be increased in width as shown on drawing no. 20/20/01.
2. The new section of the proposed access driveway has been increased in width from 3.0m to 4.1m.
3. A passing bay has been included to the proposed access driveway as per drawing no. 20/20/01 to benefit vehicle access and egress from the proposed dwellings.
4. Two additional visitor car parking spaces have been detailed on the access drawing above and below the passing bay for the additional benefit of the proposed dwellings.
5. A new turning head has been detailed to the end of the access driveway for the benefit of vehicles entering and exiting the proposed development.

The number of vehicle trips the proposed development is likely to generate is unlikely to have a severe impact on the existing Highway Network.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as local highway authority, recommends that the following conditions shall be incorporated in any grant of permission:

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan.

**DCC Education:**

The proposed increase of 4 family-type dwellings, will generate an additional 1 primary pupil and 0.6 secondary pupils.

There is currently capacity within the primary schools and secondary school for the number of pupils likely to be generated by the proposed development. Therefore a contribution towards education will not be sought for this development.

## **6. REPRESENTATIONS**

A site notice was erected.

16 letters of objection and one letter of comment have been received (full details are available on the file) which raised the following concerns:

- Increase in traffic.
- Highway safety.
- Impact on parking.
- Unsafe access.
- Impact on local infrastructure.
- Impact on wildlife.
- Impact on listed buildings.
- Overdevelopment.
- Overlooking/loss of privacy.
- Noise and disturbance.
- Surface water run-off.
- Noise pollution.

## **7. TOWN / PARISH COUNCIL'S COMMENTS**

**Dawlish Town Council:**

Recommends refusal for the following reasons:

- It is overdevelopment of the site - the layout is still poor; four houses are still too many and they are positioned too close to existing properties
- Road safety concerns due to vehicle and pedestrian constraints, increasing additional pressure on the existing constrained road layout. There would continue to be poor visibility and safety concerns for pedestrians due to limited pavement if traffic were to increase. Pedestrian safety on the proposed road junction with Badlake Hill would compromise safety

- There is already an issue with pollution due to building works in the area so further development would compound it
- Absence of a biodiversity report with provisions
- Lack of a specified drainage engineering plan and construction management plan
- The negative impact on residents and nearby listed buildings

## **8. COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is 564.48 sq m. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 129.35. The CIL liability for this development is £51,378.11. This is based on 435.13 net m<sup>2</sup> at £85 per m<sup>2</sup> 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.

## **10. HUMAN RIGHTS ACT**

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

**Business Manager – Strategic Place**