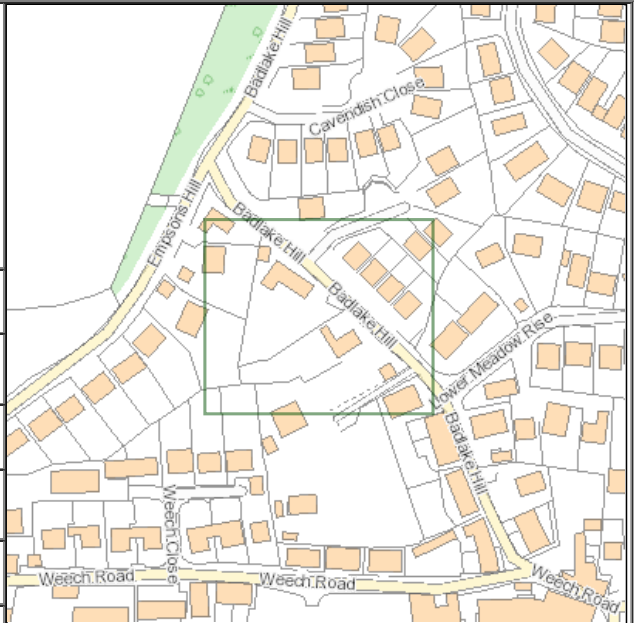


**Planning Committee Report**

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

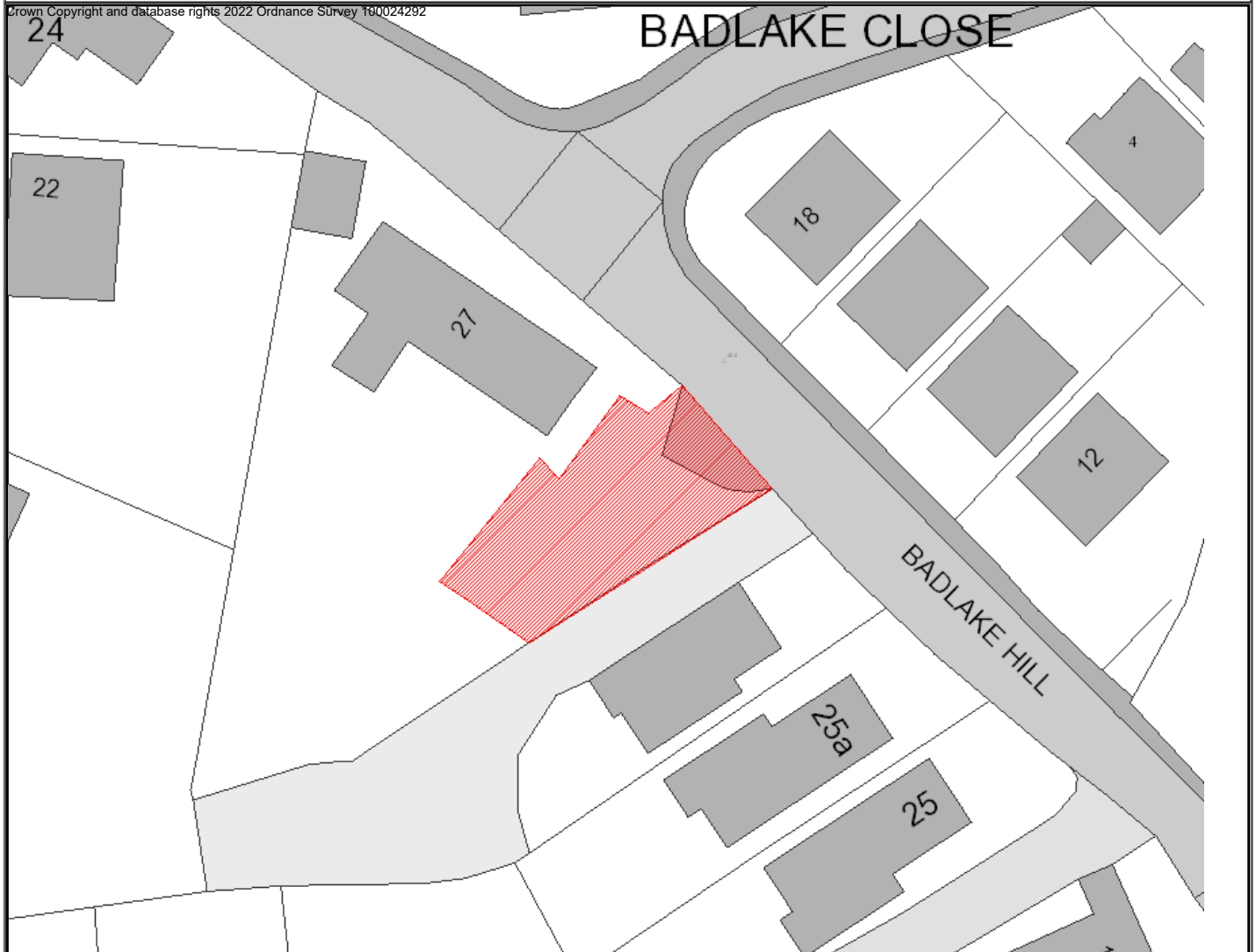
<b>Date</b>	14 June 2022 deferred for site visit on 17 May 2022
<b>Case Officer</b>	Gary Crawford
<b>Location</b>	27 Badlake Hill Dawlish Devon EX7 9BA
<b>Proposal</b>	Outline for one dwelling and integral garage (all matters reserved)
<b>Applicant</b>	Mr J Knowles
<b>Ward</b>	Dawlish South West
<b>Member(s)</b>	Cllr John Petherick, Cllr Gary Taylor
<b>Reference</b>	21/00150/OUT



[Online Details and Documents](#)

**RECOMMENDATION: OUTLINE APPROVAL**

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## 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:

- Lack of parking
- Reduced access
- Increased traffic levels on a narrow hill
- Overdevelopment of the site
- Biodiversity concerns with the removal of a green corridor

## 2. RECOMMENDATION

PERMISSION BE GRANTED subject to the following conditions:

1. Approval of the details of layout, scale, access, landscaping and appearance of the building(s), (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development shall be begun before the expiry of two years from the date of final approval of the reserved matters.
4. The development shall be carried out in accordance with the application form and the approved plans.
5. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority.
6. Prior to, or as part of the submission of any reserved matters application, a Carbon Reduction Plan shall be submitted to and approved in writing by the Local Planning Authority.
7. Prior to commencement of the development, the Planning Authority shall have received and approved a Construction Management Plan.
8. Prior to Commencement of Development, a scheme for providing an off-street parking space to serve No.27A Badlake Hill shall confirmed.
9. Any subsequent reserved matters application covering the appearance of the dwelling shall incorporate bat and bird roosting features.
10. An Electric Vehicle Charge point shall be installed prior to occupation of the new dwelling.

### 3. DESCRIPTION

#### The site

- 3.1. The site relates to the lower garden area of No.27 Badlake Hill, a detached dwelling within the settlement limits of Dawlish. The levels of the site slope steeply downwards from north west to south east. The site currently features an off-street parking area in the south east corner of the plot, adjacent to Badlake Hill. The site is located within a curlew breeding territory and wintering zone.
- 3.2. Planning permission was granted under application reference number 19/00245/FUL to sub-divide No.27 Badlake Hill into two separate dwellings in March 2019. Three detached dwellings have also recently been constructed immediately to the south of the site following the demolition of No.25 Badlake Hill.

#### The application

- 3.3 This application seeks outline permission for the erection of one dwelling with an integral garage with all matters reserved for future consideration.

#### Planning history

19/00245/FUL: Division of one property into two separate dwellings. Approved 11/3/2019.

19/01891/VAR: Variation of condition 2 on planning permission 19/00245/FUL (division of one property into two separate dwellings) to alter curtilage for new dwelling and change windows on south east elevation. Approved 22/11/2019.

#### 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 Conservation Area;
- Impact on residential amenity of surrounding properties;
- Biodiversity impacts;
- Land drainage/flood risk;
- Highway safety; and
- Carbon reduction.

#### Principle of the development

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

#### Impact upon the character and visual amenity of the area

- 3.5 As this application seeks outline permission for the erection of one dwelling with all matters reserved for future consideration, no details have been provided with regards to the scale, design or siting within the plot of the new dwelling. However, given the size of the plot, it is considered that the application site is large enough to

accommodate a new dwelling without adversely affecting the character and visual amenity of the area or resulting in an overdevelopment of the site.

#### Impact upon setting of listed buildings and Conservation Area

- 3.6 The Dawlish Conservation Area and four Grade II listed buildings (Bryony Cottage and Nos. 1, 3 & 5 Badlake Hill) are located approximately 110m to the south east of the application site. Due to the distance between the application site and the Dawlish Conservation Area and nearby listed buildings, and, given the existing built form located between the application site and Conservation Area and nearby listed buildings, it is considered that the erection of a new dwelling in this location would not affect the setting of the nearby listed buildings or the Conservation Area.
- 3.7 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.
- 3.8 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

- 3.9 There are currently four windows in the south east elevation of No.27 Badlake Hill and planning permission was granted in March 2019 under reference number 19/00245/FUL to sub-divide No.27 into two separate dwellings. A variation of condition application was subsequently approved under reference number 19/01891/VAR in November 2019 to vary the plans which were approved under planning permission 19/00245/FUL to remove all of the windows in the south east elevation of No.27 and to install new windows in both the front and rear elevations of this property.
- 3.10 Whilst no details have been provided with regards to the scale and siting of the new dwelling within the plot, given the size of the plot, it is considered that an additional dwelling could be accommodated within the site so that it is located a sufficient distance from No.27A that it would not result in any significantly harmful overbearing, overlooking or loss of light impacts upon No.27A. Due to the driveway which runs between the application site and No.25B Badlake Hill, and given that there are no windows in the north west elevation of No.25B, it is also deemed that a new dwelling could be accommodated within the site without resulting in any detrimental overbearing or loss of light impacts upon No.25B.
- 3.11 In addition, it is considered that the application site is of an adequate size that a new dwelling could be accommodated and would provide the future occupiers of this dwelling with a sufficient amount of internal floor space and external amenity space.

### Impact on ecology/biodiversity

- 3.12 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/> .
- 3.13 In the absence of bespoke mitigation, a Habitat Mitigation Regulations contribution of £876 per additional dwelling (mitigation amount required per additional dwelling at the date that this application was submitted on 24 February 2021) is required to offset in-combination recreation impacts on the SPA and/or SAC. A net gain of 1 dwelling is proposed, i.e. a total of £876.00 is required to be contributed.
- 3.14 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 £876.00 before development commences.
- 3.15 It is acknowledged that Natural England have commented in their consultation response to this application that further information is required. However, with the Unilateral Obligation in place, the LPA, as Competent Authority and drawing on Natural England's standing advice, is able to conclude that there will be no effect on the integrity of the European sites such that this does not constitute any reason for refusal of the development and it is not considered necessary to re-consult Natural England on this application.
- 3.16 The application site is located within both a cirl bunting breeding zone and wintering zone. The Council's Biodiversity Officer has been consulted on this application and she has commented that she does not consider that a wildlife survey is required for this outline application as the application site is right on the edge of the cirl territory zone and separated from the rest of cirl zone by other housing (mostly with smaller gardens). The Biodiversity Officer has commented that a bat/bird survey will be required if the applicant proposes to attached the new house to the old house. As this application seeks outline planning permission for a new dwelling with all matters reserved, it is not yet known if the new dwelling would adjoin the existing dwelling on the site.

### Land drainage/flood risk

- 3.17 The submitted application form details that surface water from the development would be disposed of via an existing water course. Whilst South West Water have confirmed that the applicant's proposed method to discharge surface water into a surface water body is acceptable, to ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems, it is considered necessary that a condition is included with any permission requiring the applicant to undertake infiltration testing to explore the possibility of disposing surface water from the development via soakaways first. Should infiltration testing demonstrate that infiltration is not viable on this site, the applicant will be required to submit details of an attenuation-based surface water drainage management system, with an off-site discharge point.

### Highway safety

- 3.18 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.
- 3.19 The existing dwelling is currently served by a driveway and garage in the north of the plot and a parking area in the south east corner of the plot. It is proposed that the new dwelling would be accessed off Badlake Hill where the existing parking area is located. A site plan has been provided which demonstrates that off-street parking spaces would be provided for No.27, No.27A and the proposed new dwelling. To ensure that there is sufficient parking to serve No.27A, it is considered necessary to include a condition with any approval which requires that the off-street parking space for No.27A is provided prior to the commencement of the development for a new dwelling which this application seeks permission for.
- 3.20 As this application seeks outline permission with all matters reserved for future consideration, no details have been provided with regards to access for the new dwelling, although the submitted site location plan indicates that parking to serve the new dwelling would be provided at the front of the site. Any reserved matters application would require detailed plans to be submitted to demonstrate that a suitable access from Badlake Hill to serve the new dwelling could be provided. Whilst the proposal would result in an increase in the number of vehicles using Badlake Hill, given that this proposal seeks permission for one dwelling, it is considered 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.
- 3.21 Due to the narrow nature of Badlake Hill and the surrounding roads in the immediate vicinity of the application site, it is considered necessary to include a pre-commencement condition with any permission which states that no development shall be carried out until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority.
- 3.22 The proposed development is therefore considered to be acceptable in respect of highways safety.

### Carbon reduction

- 3.23 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 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 either prior to, or as part of the submission of any reserved matters application. In addition, it is also recommended that a condition shall be included with any approval requiring that an electric vehicle charge point shall be installed prior to the occupation of the new dwelling.

### Conclusion

- 3.24 The proposed development is considered to be acceptable and therefore it is recommended that outline planning permission be granted subject to conditions.

## **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

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:**

A wildlife survey is not required. The site is right on the edge of the curtilage zone and separated from the rest of curtilage zone by other housing (mostly with smaller gardens).

A bat/bird survey will be required if the applicant proposes to attach the new house to the old house.

#### **TDC Drainage Engineers:**

#### Comments dated 10 June 2021

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/>

#### Comments dated 10 January 2022

The use of soakaways would be acceptable if the applicant can demonstrate this to be workable, on the basis of adjacent site infiltration is a viable means at this location (21/02744/FUL). Can the applicant demonstrate that a suitably sized soakaway (100yr+40% climate change uplift) is :

5m from all proposed and existing buildings.

2.5m from all site boundaries.

If this can be shown then a suitable condition can be included for detailed design.

If this is not possible there is a public surface water which the applicant can connect into at a controlled rate. This would need to be attenuated and suitable storage provided. Given the size of the site this is likely to be in the region of 1 l/s to provide a reasonable sized control structure. Again a condition can be provided for detail design if the attenuation storage can be shown to be accommodated in the site. The front of the site appears to have limited space to accommodate this within the plan submitted.

#### **South West Water:**

No development will be permitted within 3 metres of the public sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

#### **Natural England:** Further information required.

This development falls within the 'zone of influence' for the Dawlish Warren SAC and the Exe Estuary SPA, as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in these areas are 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured.

Natural England's advice is that this proposed development, and the application of these measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via



an appropriate assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

This is because Natural England notes that the recent People Over Wind Ruling by the Court of Justice of the European Union concluded that, when interpreting article 6(3) of the Habitats Directive, it is not appropriate when determining whether or not a plan or project is likely to have a significant effect on a site and requires an appropriate assessment, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site. The ruling also concluded that such measures can, however, be considered during an appropriate assessment to determine whether a plan or project will have an adverse effect on the integrity of the European site. Your Authority should have regard to this and may wish to seek its own legal advice to fully understand the implications of this ruling in this context.

Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment of this proposal is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), Natural England must be consulted on any appropriate assessment your Authority may decide to make.

## **6. REPRESENTATIONS**

A site notice was erected.

15 letters of objection and one letter of comment have been received which raised the following concerns:

- Overdevelopment.
- Increase in traffic.
- Impact on parking.
- Highway safety.
- Impact on local infrastructure.
- Overbearing.
- Noise and disturbance.
- Pollution.
- Impact on wildlife.

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

### **Dawlish Town Council:**

Recommends refusal of this application for the following reasons:

- Lack of parking
- Reduced access
- Increased traffic levels on a narrow hill
- Overdevelopment of the site
- Biodiversity concerns with the removal of a green corridor

## **8. COMMUNITY INFRASTRUCTURE LEVY**

This is an outline application. CIL liability will be calculated when the reserved matters application is submitted.

## **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**