

Application Number

P/2012/0743

Site AddressAllways
Teignmouth Road
Torquay
Devon
TQ1 4TA**Case Officer**

Mr Adam Luscombe

Ward

St Marychurch

Description

New dwelling in grounds of existing property with new improved entrance and vehicular/pedestrian access

Executive Summary/Key Outcomes

The proposed development site is a large plot of land and would be large enough to sustain a dwelling. The Highways Authority support the proposal because they consider that the proposed new access arrangements for the proposed and the existing dwellings would be an improvement.

However, there are relevant policy considerations that would need to be overcome in order to support the proposed development. The most relevant Local Plan policies relate to the site lying in an Area of Great Landscape Value 'AGLV' (L2), a Coastal Preservation Area 'CPA' (L3) and a Countryside Zone 'CZ' (L4). Although these policies do not preclude development, they make clear that development likely to affect the quality of the landscape without being required for the economic or social well being of the locality should not be permitted.

The Council's Landscaping Officer and the Arboricultural Officer do not object in terms of the impact of the proposal upon the landscape or upon trees. However, this part of Teignmouth Road is very much a transition zone between the rural countryside beyond and the village envelope of Maidencombe, because it is characterised by low density large dwellings in a green setting. This current proposal to subdivide one of the curtilages would run counter to the established policy position of resisting development within gardens in this area, as it would increase the density of development and set a precedent that would lead to the urbanisation of a semi-rural environment. Recent similar planning appeal decisions indicate that the proposal should be refused on this basis.

However, given the balance of this recommendation and the sensitive nature of the location, it is suggested that Members should visit the site for themselves first to assess whether or not they consider the site could sustain a dwelling.

Recommendation

Site visit: Refusal on policy grounds.

Site Details

Large plot of land, approximately 0.15 hectare in size lying to the south of Teignmouth Road, beyond the settlement boundary of Maidencombe village and part of a string of

large properties set in spacious grounds combining to form an urban/rural transition to the countryside.

Detailed Proposals

Permission is sought for a detached split level dwelling in between "Allways" (Teignmouth Road) and "Torside" (Sladnor Park Road). It is land within the curtilage of "Allways", currently serving as garden space. The plans show a 4 bedroomed property, with dormers providing light into the first floor of accommodation, and a double garage at lower ground floor level. The property would have three floors of accommodation on its north-eastern elevation, but only two on the south-western elevation. Access to the site would be repositioned to allow for one single point of access/egress off Teignmouth Road serving both the existing property ("Allways") and the proposed development. There is a significant tree presence within the site, particularly on the south-west, south-east and north-east boundary, but these are relatively unaffected by the proposal.

Summary Of Consultation Responses

Highways Authority: Considers the centralising of the access within the site to be an improvement in terms of highway safety due to the increased visibility it would provide. One extra dwelling would not significantly increase danger on the main road. The development would trigger a sustainable transportation contribution which should be used to improve cycle links into Torquay. See full comments reproduced in the representations bundle.

RSPB: Notes that the site is within 250 metres of potential breeding territory for the Cirl Bunting (a protected species). Recommends that if permission is granted the proposal should include boundary hedgerows and nesting opportunities so that existing ecosystems and biodiversity is not adversely affected.

Arboricultural Officer: Notes that the site does not contain any TPO trees and is not within a Conservation Area. Therefore the trees on site have no statutory protection. His further comments regarding the Tree Protection Plan are awaited.

Summary Of Representations

Letters of representation have been received (in support and objecting) and are reproduced at page T.201. The main thrust of the comments made are :-

Comments in favour

- No objection in principle to a house, but needs redesign or realignment to protect privacy.
- The new driveway would improve access/egress onto Teignmouth Road.
- Anything that improves the access to 'Allways' would be appreciated
- Would be acceptable if it was re-aligned or more boundary screening introduced.
- It provides housing.

Comments against

- Previous similar applications have been refused on appeal
- Would result in a loss of privacy for neighbours.
- No improvement to road safety.
- Would set a precedent.
- Need more detail of the proposal
- Trees and hedging would be lost.

- Access difficulties from Teignmouth Road.
- Would restrict light to neighbouring property

Relevant Planning History

Nothing specifically for this plot of land, but the following decisions made for new dwellings in the vicinity have all been refused.

P/2008/0121 A gate house lodge at The Barn, Teignmouth Road, refused 26.03.2008 for reasons of policy, Highways, trees and overdevelopment. Subsequent appeal dismissed by letter dated 28 November 2008 and is reproduced at Page T.201.

P/2005/0936 Dwelling at Langley Manor, Teignmouth Road, refused 28.07.2005 for reasons of policy and highways. Subsequent appeal dismissed by letter dated 25 May 2006 and is reproduced at Page T.201.

P/2004/1578 Erection Of 3 bedroom bungalow (in outline), refused 17 November 2004 for reasons of policy, highways and residential amenity. Subsequent appeal dismissed by letter dated 26 July 2005 for reasons of impact upon landscape and highways and reproduced at Page T.201.

Key Issues/Material Considerations

Principle and policy -

It is with this issue that careful consideration needs to be given. The site lies within an 'Area of Great Landscape Value' as defined by policy L2 of the Saved Adopted Torbay Local Plan, a 'Coastal Preservation Area' (policy L3) and a 'Countryside Zone' (L4). These policies make clear that development likely to affect the quality of the landscape without being required for the economic or social well being of the locality should not be permitted.

It is a relevant material consideration that there have been 3 examples of other applications for dwellings in the area over the past 8 years, and all were turned down by the Local Authority. Impact upon the rural landscape that predominates in the area was cited as a reason in all 3 cases, although there were in each case other justifiable planning reasons as well. Nevertheless, this standpoint was supported on appeal, and Members should refer to the appeal decision notices which have been reproduced as part of this agenda.

Members may consider it relevant that the decisions were made in 2005, 2006 and 2008, and circumstances do change over time. The recent Scotts Meadow decision, in which the Inspector concluded that Torbay does not have a 5 year housing land supply is of relevance, however, it is considered that this is not overriding in this case as the development would not have a significant material effect on the Bay's housing land supply. In addition, the adoption of the NPPF is a material consideration, however, it is argued that the development does not meet the NPPF tests in relation to the presumption in favour of sustainable development due to the location of the proposed dwelling in a semi-rural environment outside of the established settlement boundary.

As such, given the relatively recent appeal decisions there is an understanding that a similar decision should be reached in this instance. Members would have to argue that this particular proposal did not impact upon the wider landscape setting if they were to

consider approval. It is doubtful that this could be the case, and therefore it is advised that the proposal should be refused in line with the precedent set by the appeal decisions and in line with current Local Plan policy.

Highways and parking issues -

The Highways Authority are not objecting to this current application, whereas the appeal decisions referred to above did include additional highway reasons. The Highways Authority consider that this current proposed new access arrangements for the proposed and the existing dwellings would be an improvement on that which currently exists, and so they support the proposal.

They do ask for consideration of a Sustainable Transportation contribution to help towards providing cycle lanes towards Torquay. The proposal more than meets the requirements of policy in respect of off-street parking, providing a double garage and surface parking facilities. Therefore there cannot be a Highways objection in terms of the impact upon Teignmouth Road, nor can there be a parking objection. The proposal clearly meets the objectives of policies T25 (parking) and T26 (access).

Landscaping, Arboricultural and Biodiversity issues

The Council's Landscaping Officer is of the opinion that the proposal can be made to fit in to the site and be screened to an extent from the wider landscape. It needs to be borne in mind that there is an existing large mature hedge and tree belt along the Teignmouth Road frontage, and it is not intended to alter this apart from the new access point. The dwelling would therefore not have a significant visual impact.

The Arboricultural Officer notes that none of the trees at the site are covered by a TPO, and the site is outside of the Maidencombe Conservation Area. There is therefore no statutory protection for the trees and they could be taken down lawfully. However, it is helpful that the proposal is intending to retain the best and most significant trees on the site.

The Council has a duty to consider biodiversity and nature conservation, particularly given the more rural nature of the area. The only known protected species that could reasonably be concluded to inhabit the area is the Cirl Bunting. Records show that this species has been noted to have been nesting in the area in the past. The Cirl Bunting thrives on unimproved pasture land, and so would be largely absent from the proposal site which is a domestic garden. Nevertheless, the intention to keep the hedgerows on the boundary would help the species, and it is noted that the RSPB would not object on this basis.

Residential amenity

The proposal site is a large plot by any standard and is reflective of the low density of development that currently exists in the area. The nearest property (wall to wall) to the proposed new dwelling would be 'Oakdene' to the south and that would be approximately 28 metres away. This is far in excess of the distance normally considered to be acceptable to avoid overlooking and loss of amenity, and given the tree screen it is intended to retain on the boundary, it is doubtful that a loss of amenity argument would be upheld on appeal.

S106/CIL -

It is the Council's policy to seek appropriate financial contributions from developers

under S106 of the Town and Country Planning Act and the legislative requirements of Part 11 of The Community Infrastructure Levy Regulations 2010, towards community infrastructure stemming directly from development and in terms of the resultant pressures on local social, physical and environmental infrastructure. The Council has decided in line with Central Government legislation and advice from the (former) Government Office for the South West that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. This is made quite clear in policies CFS, CF6 and CF7 of the Saved Adopted Torbay Local Plan. The proposal to provide a new residential dwelling at this site is therefore liable to a planning obligation under S106 of the Town and Country Planning Act to offset the costs that would arise from this proposal.

The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March of last year (2011). The amount of the required 'developer contribution' for this proposal would therefore be evaluated in line with this adopted revision to the policy. According to this document, contributions due for residential proposals are now based on floor space to be created. Contributions would be due in this instance for the following items - municipal waste and recycling, sustainable transportation, education, lifelong learning, and green space/recreation. This would amount to a contribution of £8160 for this dwelling.

Strategic Transportation have asked for the Sustainable Transportation element (of £3610) to be used towards improved cycling facilities along the main road in the direction of Torquay. This is an identified and much needed facility which the Council is unable to fund by itself and the contribution from this dwelling would help achieve this ambition.

Conclusions

The proposal is considered to be contrary to policy and unacceptable in principle, this stance is supported by recent appeal decisions and would meet the policy tests. As the technical considerations in relation to highways, parking, landscaping, arboricultural, biodiversity and residential amenity considerations have been resolved it is important that members visit the site and consider the proposal in context.

Planning Inspectors have previously identified that free-standing separate dwellings in this area would cause harm to the more rural character of the surrounding area, and this does set a precedent for consideration of this current proposal. It is not considered that circumstances have changed to alter this stance, and so the application is recommended for refusal on landscape and green environment policy issues - namely L2, L3 and L4.

Condition(s)/Reason(s)

01. The site is within the Countryside Zone, an Area of Great Landscape Value and the Coastal Preservation Area as defined by the Saved Adopted Torbay Local Plan. The formation of an additional dwelling in the garden of the existing property would result in an inappropriate form of development when judged against the criteria of the relevant policies L2, L3 and L4. The dwelling would occupy part of the existing garden to "Allways" and would result in the creation of a more urbanised form of development that would be out of character with the

rural spacious layout of adjacent plots. This would adversely affect the special landscape character of the Countryside Zone, Area of Great Landscape Value and Coastal Preservation Area. It would also set an undesirable precedent for similar proposals elsewhere in the vicinity, which accumulatively would totally alter and eventually destroy the rural feel to the character of this low density area.

Relevant Policies

H15	House extensions
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
CF7	Educational contributions
W7	Development and waste recycling facilities
LS	Landscape strategy
L2	Areas of Great Landscape Value
L3	Coastal Protection Areas
L4	Countryside Zones
L8	Protection of hedgerows, woodlands
L9	Planting and retention of trees
NC5	Protected species
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
T3	Cycling
T25	Car parking in new development
T26	Access from development on to the highway