

Application Number

P/2019/0420

Site AddressLand To Rear Of Broadway
Dartmouth Road
Brixham
TQ5 0LH**Case Officer**

Mr Alexis Moran

Ward

Churston With Galmpton

Executive Summary

This is a Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling within a site that has outline approval for up to ten dwellings. The site is located within the Churston/Galmpton village envelope.

The submitted layout plan broadly follows the housing density and established urban grain of the villages of Churston and Galmpton. It is considered that the form, layout and design of the proposed development would be compatible with the appearance and character of the surrounding area. Consequently it is, on balance, considered to be appropriate for conditional reserved matters approval, having regard to the Development Plan, and all other material considerations.

Recommendation

Approval, subject to the conditions detailed at the end of this report. The final drafting of these conditions, and addressing any new material considerations that may come to light, to be delegated to the Assistant Director of Planning and Transport.

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House (a Grade II Listed Building). Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south.

The site is located within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding.

A Tree Preservation Order covers the eastern and northern boundaries of the site; these trees are considered to be important to the visual character of the area. The site area measures 0.27 hectares.

The site is located within the Churston/Galmpton Village Envelope in the Torbay Local Plan. This identifies it as an area which could provide appropriate levels of housing provided that it would be in keeping with the density and character of the area.

Detailed Proposals

This is a Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling and associated development.

The dwelling is proposed to be a coach house with two parking spaces and would include a double garage for unit 8 of the associated development, which is the subject of a previously approved application for reserved matters (P/2018/0852) for a development of 9 units. The dwelling under consideration would be the tenth unit associated with Outline permission P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access, approved 17.08.2015).

The dwelling is shown as being finished in render with natural slate to the roof.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- Brixham Peninsula Neighbourhood Plan

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Summary Of Consultation Responses

Natural England - No objection

SWW - No Objection

Highways - *The Adopted Torbay Highway Design Guide policy states 5 dwellings and over on a new site should be encouraged to be adopted by the LHA, but to date the Developer has not contacted the LHA to prepare a section 38*

Agreement with this Council.

The current layout does not show a suitable turning head that conforms with Today's Adoptable Standards.

If the Developer intends to adopt the access road then the proposals are contrary to the above policy.

Arboricultural Officer - The Arboricultural Statement TC190104-AS-03.2019.RevA seeks to show the previous refusal, based on the arboricultural input, is not substantiated.

The Statement counters the two points of refusal which are a) the plot would be overshadowed and b) future occupiers are likely to apply pressure to lop or fell the trees.

Point A – the overshadowing - is countered by showing that the orientation/location of the property is to the south and west of the tree line and therefore will not be in shade when using the BS5837:2012 shade arc.

Point B – future occupiers are likely to apply pressure to lop or fell the trees – is countered by way of an explanation of tree form, the orientation and internal layout of the plot, a reasoned pruning specification (which also includes a reference to the previous application for use as a car parking area which was approved), a comment on the amenity that the closest trees to the proposed plot 10 are of less significance than the surrounding trees and the argument that the trees subject of the tree preservation order will not be owned by the occupiers of plot 10.

Conclusion: Point A – shadowing of the property – is successfully rebutted by the arboricultural statement using the industry standard, BS5837:2012, for shade arc.

Point B – future pressure to fell – the relationship of the trees to plot 10 are such that the recommended pruning will provide sufficient amenity separation from the development. This will result in the regular/cyclical pruning of the trees to maintain the separation distance and to ensure the relationship between the building and the trees is sustainable. The internal layout shows the primary living areas furthest away from the trees. Although the trees subject of a TPO will be within the adjacent garden an application can be submitted by a third party to carry work out tree works irrespective of whether the work can be carried out potentially leading to pressure to carry works out.

The Arboricultural Appeal statement, ref TC190104-AS-03.2019.RevA, successfully counters the arboricultural aspect of refusal notice.

Recommendation:

The development of plot 10 can proceed without significant harm to the trees subject to.

- *A detailed Arboricultural Method Statement (AMS) be submitted and approved prior to the commencement of development.*
- *A Tree Protection Plan be submitted and approved prior to commencement of development (can be included within the AMS).*
- *A detailed landscape scheme be submitted and approved prior to commencement of development.*

Senior Historic Environment Officer - *The proposal will not have a detrimental impact on the character or setting of the Grade II Listed Weary Ploughman.*

Summary of Representations

None

Relevant Planning History

P/2018/0837 - Reserved matters relating to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Tenth unit only. Refused 23.01.2019

P/2018/0852 - Reserved Matters application in relation to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.). Approved 23.01.2019

P/2016/0772 - Removal of condition re P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Condition 3 - Traffic calming measures. Approved 19.04.2017

P/2016/0206 - Submission of Reserved Matters relating to layout, in relation to P/2014/0687 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access) 30.06.2016

P/2015/0097 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 17.08.2015

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 13.10.2014

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues / Material Considerations

The key issues are:

1. The principle of the proposed development
2. Design and scale
3. Impact on residential amenity
4. Other considerations

1. The Principle of the Proposed Development

The principle of residential use of the land for up to ten dwellings was established by the granting of outline planning permission, which related to access only, under planning reference P/2015/0097.

2. Design, Scale and Layout

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

The centres of Churston and Galmpton Villages consist of terraced cottages however the wider area encompassed by the Village Envelope has a varied character in terms of design, dwelling forms and plot sizes.

In the main, the external materials of dwellings within the village envelope consist of render and stone. The proposed dwelling is to be finished in render with UPVC timber effect doors and windows, and natural slate.

Bearing this in mind it is considered that in essence the proposed appearance and design, having regard to the form and materials, complies with Policy DE1 of the Torbay Local Plan.

The layout of the proposal would place the dwelling in close proximity to the protected trees on the eastern boundary of the site. The previously refused application on this site P/2018/0837 included the following reason for refusal:

The siting and orientation of the proposed dwelling on the plot in close proximity to protected trees would cause overshadowing of the property and the external amenity area which would result in a poor standard of accommodation for the proposal's future occupiers, contrary to Policy DE3 of the Local Plan. The conflict that is likely to emerge between the protected trees and the proposal's occupiers is likely to result in pressure to lop or fell trees that are protected for their amenity value. The proposal is therefore contrary to policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

However after the submission of further justification from the applicant has resulted in the Council's Arboricultural Officer advising that this relationship is acceptable subject to conditions, one of which is prior to commencement.

There are two parking spaces below the proposed dwelling associated to it which would meet the standards required by Policy TA3. Bin storage and cycle parking were conditioned on the outline consent (P/2015/0097); therefore these details will need to be submitted at a later date.

Bearing the above points in mind, the proposal is deemed to be in accordance with Policies C1, H1, DE1 and TA3 of the Local Plan.

The most relevant Brixham Neighbourhood Plan policies for this application are Policies BH3, BH4, BH5 & E7. These policies require development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings, to provide a good quality of residential environment and to retain and enhance the landscape character of the area. The proposal is considered to comply with these policies.

It is however considered that conditions requiring further details of boundary treatments, further detail of hard and soft landscaping and its implementation and the removal of permitted development rights for all extensions to the buildings and within the plots, including means of enclosures, should be added to any granting of planning permission. The addition of these conditions is considered necessary in order to ensure the development accords with the aforementioned policies in future.

The Weary Ploughman public house, which is a Listed Building, is in excess of 50m away from the site. Given this distance it is considered that there would be no harm to this heritage asset as a result of the development of this site. The proposal would not be of detriment to the character or setting of the Listed Building and would therefore comply with Policy HE1 (Listed Buildings).

3. Impact on residential amenity

The proposed coach house complies with the internal floor area standards of Policy DE3 (Development amenity). It would be above garages for up to 4 cars, 2 of which would belong to a separate unit within the site, there is also an area of hardstanding adjacent to the dwelling which appears to be for car parking.

The previously refused application on this site P/2018/0837 included the following supplementary reason for refusal:

The ground floor parking layout and proximity of the external parking area to the south of the proposed dwelling has the potential to cause an unacceptable level of noise and disturbance which would cause harm to the amenities of the future

occupiers of the proposed dwelling. Moreover, the need to provide parking for unit 8 in this location indicates that the proposal would lead to an overdevelopment of the site. The proposal is therefore contrary to Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

However further analysis of the relationship between the ground and first floor and additional justification from the applicant has been provided.

The parking spaces for unit 8 would be located beneath the proposed dwelling. It is considered that the layout of accommodation proposed is optimal with regards to the parking layout below and on balance would not result in an unacceptable level of noise and disturbance to the extent of warranting the application being refused. It is also noted that future occupiers/owners of this property would be aware of the parking layout and potential impacts prior to living there.

Policy DE3 has a guideline for garden sizes to be at least 55 square metres, the proposed layout shows that this is achievable albeit that the garden would partially be under the protected trees on the eastern boundary.

On balance, the proposal is deemed to comply with Policy DE3 of the Local Plan.

4. Other Considerations

Ecology

This reserved matters application does not result in any further impact on ecology.

Transport and access

Access details have been approved prior to the submission of this application. Highways have advised that the turning area within the site is not in accordance with the Torbay Highway Design Guide. As such the internal road could not be adopted. However in this instance the applicant wishes for part of the internal road to be private.

S106

A section 106 agreement was completed as part of the Outline application (P/2015/0097).

Community Infrastructure Levy

As the Outline application was approved prior to the adoption of CIL, the legal agreement entered into above is the means for obtaining contributions in relation to the development.

Statement on Human Rights and Equalities Issues

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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

EIA

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Conclusions

The proposal is considered to be acceptable for conditional approval, having regard to the Local Plan, and all other material considerations.

Conditions

1. No development above damp proof course level shall take place until details of the proposed cladding materials (walls and roof) and openings, along with the proposed hard landscaping, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

2. Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

3. Prior to the commencement of development a detailed arboricultural method statement, which shall include a tree protection plan, shall be submitted to the Council for its approval in writing. The approved arboricultural method statement and tree protection measures shall be carried out in full during the construction phase. This information is required prior to the commencement of development in order to ensure that the trees protected by a Tree Preservation Order are damaged during the construction phase.

Reason: In order to ensure no detrimental impact to the protected trees and in the interests of the amenities of the area and to accord with policy C1 of the Torbay Local Plan 2012-2030.

4. Prior to any development above damp proof course level, details of all proposed soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

Reason: In interests of visual and local amenity and in accordance with Policies C1, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to the proposed dwelling within the application site, and no outbuildings or other means of enclosures shall be erected within the garden area of this dwelling house, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

6. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

7. The dwelling hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the approved plans has been provided in full. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

TA2 - Development access

TA3 - Parking requirements

H1 - New housing on identified sites

C1 - Countryside and the rural economy

C4 - Trees, hedgerows and natural landscape

BH3 – Delivery of new homes

BH4 – Housing development (brownfield)

BH5 - Good design

E7 – Protecting semi-natural and other landscape features