

**Application Number**

P/2012/1103

**Site Address**

Woodah  
377 Babbacombe Road  
Torquay  
Devon  
TQ1 3TB

**Case Officer**

Mr Alexis Moran

**Ward**

Wellswood

**Description**

Formation of new house in grounds of existing house with vehicular and pedestrian access off Lydwell Park Road

**Executive Summary/Key Outcomes**

The application comes before this Development Control Committee at the request of the Chair.

The application relates to the addition of a new dwelling to be located next to the existing property which is located on a steep section of the site, vehicular access is provided on to Lydwell Park Road.

Although the siting, massing and design of the property is considered to be acceptable, insufficient evidence has been provided to determine whether the proposed access and driveway would affect the trees which are protected by a Tree Preservation Order. It is critical that this information is submitted and agreed prior to any positive recommendation, given the visual prominence of the trees it is not considered that the information can be submitted via a condition.

In the absence of this information the recommendation is to refuse the application.

**Recommendation**

Refusal

**Statutory Determination Period**

24 November 2012 – this application has expired due to the loss of the previous officer to secondment and to allow the applicant to provide additional information.

**Site Details**

The site, Woodah, 377 Babbacombe Road, Torquay, is a detached residential property located within a large plot which is covered by an area Tree Preservation Order.

## **Detailed Proposals**

The application seeks permission for the addition of a new dwelling with a vehicular and pedestrian access off of Lydwell Park Road.

The proposed dwelling is to be located next to the original property, to the North of the site, which is on steeply sloping land. The proposed dwelling will comprise of a ground floor garage and utility room with a first and second floor of living and leisure accommodation.

## **Summary Of Consultation Responses**

*Highways Officer:* The visibility requirements were calculated following a speed survey and are satisfactory therefore the Highway Department have no objections to this application. For access to the parking area a formal footway crossover would need to be constructed under licence to the highways department by a contractor who is suitably qualified to work on the Public Highway with the relevant £5million public liability insurance.

*Strategic Transportation:* Request that the SPD is applied to provide a contribution of £3,610 (in line with the table found in Appendix 1 of Planning Contributions and Affordable Housing SPD Update 3) based on the creation of a new dwelling in excess of 120m<sup>2</sup>. This contribution will support the enhancement of walking and cycling links in the area of the development, connecting with the nearby Local Centre on Ilsham Road and National Cycle Network. This will provide improved sustainable links locally though walking and further afield through cycling in a safe and accessible way. This accords with the Local Authority policy document aiming to improve sustainable transport opportunities and enabling travel by sustainable modes, particularly for short journeys. The works are described within the Local Transport Plan 3, Devon and Torbay Strategy 2011-2026 and is a Foundation Scheme detailed within the Local Transport Plan 3 Implementation Plan (Part B: Torbay) March 2011, section 7 – particularly 7.1 and 7.2. At least one secure cycle parking space should be available for each dwelling. If within a garage(s), the bike(s) must be accessible with a car still inside. If a new separate store such as a shed is proposed, it should have a secure lock and be separate to the bin storage area.

*Arboricultural Officer:* The information submitted is insufficient to prove what impact there would be on tree roots as a result of the construction of the driveway. Other than the detail regarding how construction and final access would be dealt with all other matters had been addressed by their arboricultural consultant. Unfortunately, the Local Authority would be unable to recommend this to be suitable to be discharged by conditions and unable to support any application unless the required information was submitted.

### **Summary Of Representations**

14 letters of objection were received, the majority of these raised issues of highways safety in relation to the new vehicular access. Other issues raised related to:

- Noise
- Loss of privacy
- Loss of trees
- Overbearing

These letters have been re-produced at Page T.200.

### **Relevant Planning History**

ZP/2011/0662      House in grounds of Woodah, a positive officer response was given 26.10.2011

ZP/2011/0391      House in grounds of Woodah, a negative officer response was given 07.06.2011

### **Key Issues/Material Considerations**

The key issues to consider in relation to this application are its massing, height, layout, the impact it would have on the character and appearance of the streetscene, the amenity and privacy enjoyed by the occupiers of neighbouring properties and the effect on the trees which are the subject of a Tree Preservation Order.

It is considered that the proposed design, siting and massing of the proposal would be acceptable.

Due to the level of the proposed dwelling in relation to its neighbours it is not considered that its addition would have a significant impact on the privacy and amenity of neighbouring properties to the extent of warranting a refusal. The relationship to the existing property is considered to be acceptable.

Provided that evidence could be submitted to determine the level of impact there would be on the trees, the proposal would not have a significant impact on the character and appearance of the streetscene in the area.

Although a number of letters objected to the new vehicular entrance of highways safety grounds, the Highways Officer has not objected to the proposal and it is therefore considered to be acceptable.

Regardless of the above points, it is not possible to recommend the application for approval without further information in relation to the impact of the driveway on the trees which are the subject of a Tree Preservation Order. This information has been requested but has not been submitted as such the application must be

recommended for refusal.

### **S106/CIL -**

As part of this process the application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay, in order to make the development acceptable in planning terms.

In this instance, the SPD indicates that a financial contribution will be required. A calculation of the contribution, based on the type and size of development proposed and including any relevant mitigation, is provided below:

#### **FINANCIAL CONTRIBUTION:**

Proposed Dwelling		
Waste Management	£	50.00
Sustainable Transport	£	3610.00
Lifelong Learning	£	470.00
Education	£	1660.00
Total	£	5790.00
5% Discount for early payment = payable as an up-front payment	£	290.00
	£	5500.00

This calculation has been undertaken in accordance with the Council Adopted Planning Contributions and Affordable Housing Supplementary Planning Document and updates thereof and complies with both the Community Infrastructure Levy (CIL) Regulations and National Planning Policy Framework (para 204) tests of reasonableness as being:

- a) Necessary to make development acceptable in planning terms.
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

As such negotiations on this amount are non-negotiable without full open-book viability assessments

### **Conclusions**

Without sufficient arboricultural information being submitted the proposal is not considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

### **Condition(s)/Reason(s)**

01. Insufficient information has been submitted to ascertain the impact the

construction of the driveway would have on the trees on the site which are the subject of a Tree Preservation Order and as such the proposal does not satisfy that the scheme is concomitant with policies L8 and L9 of the saved adopted Torbay Local Plan 1995-2011.

**Relevant Policies**

- H9 Layout, and design and community aspects
- L8 Protection of hedgerows, woodlands and o
- L9 Planting and retention of trees
- BES Built environment strategy
- BE1 Design of new development