

Application Number

P/2013/0302

Site Address

Land Off Penn Lane
Adj. 19 And 21 Penn Lane
Brixham
TQ5 9NR

Case Officer

Mr Scott Jones

Ward

St Marys With Summercombe

Description

Erection of dwelling

Executive Summary/Key Outcomes

The proposal seeks to provide a dwelling within a redundant site to the rear of 19-21 Penn Lane, Brixham, sunken below the existing ground level and served via a long graduated access that runs between No. 19 and 21 Penn Lane.

The key issues are considered to be in regard to the quality of the residential environment, the impact upon the local character, amenity matters for adjacent occupiers and highway safety.

The proposal is considered to result in the overdevelopment of a restricted site. The scheme will result in a poor residential environment within a hollow, with restricted outdoor space, a limited outlook and a poor aspect. The back-land form of development is considered out of keeping with the established character and the introduction of vehicle movements and manoeuvring adjacent to the rear of neighbouring residential plots is considered detrimental to amenity through noise and disturbance.

The impact on the safety of highway users should be considered following a response from the Authority's Highway Department, which is pending at the time of writing this report.

Notwithstanding the fact that the plot is long redundant and there is a desire to look for the efficient use of land, it is not accepted that the proposal is the only, or best, use of the site so that it may warrant approval where substantive issues stand.

Recommendation

Refusal:

- Poor residential environment
- Not in keeping with the local character and appearance
- Impact upon neighbouring living conditions (due to vehicular movements)
- Lack of a signed s106 to provide necessary infrastructure funding

Members will also need to consider the matter of highway safety following the pending comments of the Authority's Highway Department.

Statutory Determination Period

8 weeks, expired 11 May, determination delayed due to the need for committee consideration, given the extent of local representation and the site's previous planning history.

Site Details

Parcel of vacant overgrown land off of Penn Lane, comprising of a long narrow access strip between the residential properties Nos. 19 and 21 Penn Lane, which opens to a head at its southernmost end. The site backs on to a small industrial estate (Metherell Avenue Industrial Estate) and sits adjacent to a residential property to the east (21A Penn Lane). There is a change of levels, with a retaining wall on the boundary with the parking area of the industrial estate, which is at a lower level.

There is a history of planning applications for the erection of buildings on this site, including for dwellings, an industrial building and a domestic garage, the majority of which have been refused.

The land is included in the area allocated as a Small Business Area Policy E4(7) Castor Road, as it was formerly an access lane to Castor Farm, which has now become the Metherell Industrial Estate. For historical reasons it was therefore included in the Employment Land designation, but in the event it was not used as an access to the industrial estate. The wider part of the site, which is at higher level to the industrial estate, was originally to have been excavated to provide car parking for the workshops.

Detailed Proposals

Two-bed bungalow with attached garaging, sited within the southern head of the site, set adjacent to a turning area at the end of the long narrow access driveway. The bungalow is to be set at a lower level to the existing ground, with between 1.5 - 2 metres of excavation required. There is limited outdoor amenity space with the building tight to the borders to both sides and the rear, with parking and manoeuvring space shown to the front. The rear and side walls are blank and windows are limited to the northerly twin-elevation to serve the two bedrooms and the lounge. Attached garaging is also shown.

Summary of Consultation Responses

Drainage: As the proposal identifies that surface water will be disposed off via soakaways, prior to the grant of permission investigations in respect to the ground conditions should be undertaken and submitted in order to confirm that the ground conditions are suitable for soakaways.

South West Water: No objection subject to foul flows only being connected to the public sewer.

Highways: Pending comments.

Building Control: Raise fire brigade access issues, pertaining to all parts of the dwelling being accessible within 45metres of the adjacent highway where access is restricted. Measures to mitigate this distance in respect to fire access should be considered.

Summary of Representations

Five letters of objection received, which raised the following points;

- Lack of suitable access / highway danger
- Amenity impacts, noise, car lights, general disturbance, privacy
- Same disturbance to residential amenity as cited as reason to dismiss the recent appeal for a domestic garage on the site
- Poor residential environment created

One letter of support on behalf of the client has been submitted citing that there has been a previous residential approval and that the area is included within the Torbay Housing Land Monitor and has been included within the emerging local plan.

It is noted that the letter in support refers to the housing land monitor and emerging Local Plan. However, the housing land monitor does not designate or allocate sites, but is solely a monitor of present and historic permissions. This site is not currently listed within the most recent housing land monitor, due to the age of the sole permission on the site. In addition, the site is too small to be listed within the emerging local plan and it is not known to be designated specifically within the emerging neighbourhood plan (again due to its size).

Relevant Planning History

P/1989/1922 Erection of Detached Bungalow with Parking Spaces - REF / APPEAL DISMISSED - *failed in respect to all 3 main issues (not in keeping with the character and appearance of the area, the effect upon the amenities of neighbouring*

occupiers and the effect on highway safety) and did not offer any over-riding reason that it was the only use of the land which would otherwise lie derelict.

- P/1995/1159 Erection of Detached Dwelling (As Revised By Plans Received 20th May 1996 And 17th June 1996) – APPROVED - *Dwelling (and part of access lane) to be on excavated land at the lower level of the industrial estate (up to 2 metres lower).*
- P/1996/0950 Erection of Detached Dwelling (Revised Scheme) - REF / APPEAL DISMISSED - *failed in respect to key issues (being out of character with the surrounding pattern of residential development - being cramped overdevelopment, leading to unacceptable impacts upon local amenity through noise and disturbance borne from vehicular movements, and offering a poor residential environment for a residential unit set at a lower level through proposed excavation).*
- P/1997/0144 Erection of Detached Dwelling - REF / APPEAL DISMISSED - *failed in respect to key issues (being out of character with the surrounding pattern of residential development - being cramped overdevelopment, leading to unacceptable impacts upon local amenity through noise and disturbance borne from vehicular movements, and offering a poor residential environment for a residential unit set at a lower level through proposed excavation).*
- P/1999/1923 Erection of Detached Dwelling (Revised Scheme) - REF
- P/2010/1076 Formation of double garage - REF
- P/2011/0276 Formation of double garage - REF / APPEAL DISMISSED - *failed on the main issue of the effect of the proposal upon the amenity of adjoining occupiers through noise and disturbance.*

Key Issues/Material Considerations

The key issues are considered to be in regard to (1) the quality of the residential environment proposed, (2) the impact upon the character or appearance of the area, (3) the effect upon local amenity and (4) Highway access and safety.

1. The quality of the residential environment proposed -

The dwelling is shown to be set at a level of up to 2 metres below the existing ground, served by a gradual descending driveway access with no apparent

outdoor amenity space. The rear and side walls are blank and are set in close proximity to the rear retaining wall and the proposed fencing that will be set above it. Windows are limited to the northerly twin-elevation that serves the two bedrooms and the lounge.

The building would be set within a hollow, with windows limited to a poor aspect in terms of natural light and with limited outlook over a tight parking head. The dwelling would be provided with little usable outdoor amenity space. As such, the proposal is considered to be a poor residential environment with facilities not commensurate with what would be expected from such a dwelling.

It is noted that the scheme is similar to that which was approved by the Authority following an application in 1995 (see planning history above related to P/1995/1159). However, when judged on present planning merit this is not considered a reason to support the proposal. Indeed a subsequent appeal decision for a dwelling that was not sunken, cited that the Inspector concurred with the view of the appellant that the previously sunken dwelling would be built in something of a pit and, despite the design being tailored to the site, it would result in an unsatisfactory development.

The 1995 application was approved in 1996. That decision was made some 17-18 years ago and was both preceded and followed by refusals and dismissed appeals on the site. Although it is a part of the relevant planning history and, as such, has been given due consideration, given the passage of time and the change in policy since the 1995 decision, little weight has been attached to it. Greater weight in this case has been attached to current policy and other live material considerations along with the most recent decision on the site which was a dismissed appeal in 2011 for a garage.

2. The impact upon the character or appearance of the area -

The proposal is to be set behind the established line of buildings providing a dwelling within a cramped space with little curtilage. Although the sunken nature of the proposal would lessen the prominence of the building within the area, it would no doubt be apparent within the local built environment. Previously Inspectors have noted that although there are examples of plots behind the general alignment, conclusions were formed that these were not examples to follow in an area characterised by a more typical pattern of development.

In regard to present merit such concerns are maintained that the proposal would not be in keeping with the character and appearance of the area.

As such, the scheme would be contrary to Local Plan Policy and policy guidance in the National Planning Policy Framework in respect of local character and distinctiveness.

3. The effect upon local amenity -

With consideration of the levels and distances involved to neighbouring plots and properties, it is unlikely that the building or its use would result in undue levels of overlooking or loss of privacy, or loss of light or outlook.

However, the proposed vehicular access, with resultant manoeuvring, access and egress of vehicles, would introduce a degree of noise and disturbance towards the rear of adjacent residential plots. Previously Inspector's have concluded that it would be unreasonably detrimental to the amenities of neighbouring residents to introduce such activity. A view that was most recently upheld in 2011, wherein the Inspector dismissed an appeal for a domestic garage on the land. All matters considered there appears no reasoned case to suggest that these recent amenity concerns are no longer valid.

4. Highway access and safety -

The proposed vehicular access for the dwelling is via a restricted entrance off a relatively narrow road, with what appears to be extremely limited lines of sight for vehicles exiting, or indeed for vehicles using Penn Lane to appreciate that a vehicle may be exiting the site.

In supporting previous proposals on this site, precedents along Penn Lane have been cited. However, officers concur with Inspectors' past decisions in reaching the view that although there are other points of access in the vicinity of a similar type, they are not regarded as desirable precedents which should justify an exception to required standards in this case.

The Authority's Highway Department have been consulted and comments are awaited. It is however noted that the consultation response regarding the recently refused garage proposal stated that highways giving regard to due precedent would raise no objection.

S106/CIL -

The application seeks to provide a dwelling, which through occupancy would create additional pressures upon local and social infrastructure. If supported, contributions should be secured through the development process to provide for infrastructure provision as mitigation. The Council's adopted SPD Planning Contributions and Affordable Housing: Priorities and Delivery, together with the Update 3 advisory paper, outlines the level of obligations which should be sought, which are detailed below.

Scale of development proposed: 1 dwelling (1 @ 75-94m² floor area)

Level of contributions triggered by the development:

Sustainable Transport:	£ 2350 adjusted for SDLR =	£2183
Greenspace and Recreation:	£ 2050 adjusted for SDLR =	£1883
Lifelong Learning:	£ 300 adjusted for SDLR =	£ 133
Waste & Recycling:	£ 50	
South Devon Link Road	£ 500	
Administration (5%)	£ 237	

Total: £ 4987* (+ the Council's legal fees approx £500)

*5% discount should the amount be paid up front prior to the issuing of a positive decision.

The scheme fails on wider planning merit and hence negotiations towards an agreed S106 have not been furthered. The absence of one should however be cited as a reason for refusal.

Conclusions

Notwithstanding a lone historic approval (1996) for a similar scheme on this site, the proposal is considered overdevelopment of a restricted site that provides a poor residential environment within a hollow. The dwelling would have restricted outdoor space, a limited outlook and a poor aspect.

The back-land form of development is also considered out of keeping with the established character and the introduction of vehicle movements and manoeuvring adjacent to the rear of neighbouring plots is considered detrimental to amenity.

The impact on the safety of highway users should be considered following a response from the Authority's Highway Department, which is pending.

Notwithstanding the fact that the plot is long redundant and there is a desire to look for the efficient use of land it is not accepted that the proposal is the only, or best, use of the site that should warrant approval where substantive issues stand.

Condition(s)/Reason(s)

- 01.
- 02.
- 03.
- 04.

Relevant Policies-