

**Application Number**

P/2013/0979

**Site Address**

Pine Lodge  
Sladnor Park Road  
Torquay  
Devon  
TQ1 4TF

**Case Officer**

Mrs Ruth Robinson

**Ward**

St Marychurch

**Description**

Provision of a dwelling on adjacent land

**Executive Summary/Key Outcomes**

This application involves the construction of a dwelling within a domestic garden area. The site lies within the defined Countryside Zone and within a Coastal Preservation Area and Area of Great landscape Value.

Similar applications in the locality have been consistently refused in the past and appeals routinely dismissed, as they are contrary to Local Plan policy.

In 2012 planning permission for a dwelling in the garden at Allways, Teignmouth Road was granted by the Development Management Committee, contrary to officer advice. This property is next door to the application site. This has led to the submission of this application for a similar form of development.

Officer's opinion is that the application is unacceptable when judged against local plan policies, however, in view of the decision on Allways it has been agreed with the applicant that the decision should be referred to DMC.

**Recommendation**

Refusal, as the development is contrary to Local Plan policy L4 as the site is within the defined Countryside Zone and policies L2 and L3, due to the impact on the special landscape character of the area.

**Statutory Determination Period**

8 week statutory determination period expires on the 31st October.

**Site Details**

The application site comprises a large domestic garden and dwelling accessed from Sladnor Park Road. It forms part of a small group of similar suburban style properties laid out in spacious plots which merges with the post war ribbon development along the Teignmouth Road.

The existing dwelling is substantial and the garden very large. This is typical of many properties around the Maidencombe area. Allways, which won approval for the inclusion of an additional dwelling within its garden in 2012 is sited next door and the existing dwelling on the site is located some 2-3 metres from the south eastern boundary of the application site.

The garden is relatively level and is defined by mature hedgerows and sporadic tree growth.

### **Detailed Proposals**

The application proposes the construction of a large 2 storey domestic dwelling with a new vehicular access onto Sladnor Park Road.

### **Summary Of Consultation Responses**

*Highways:* Have no objection to the proposal.

### **Summary Of Representations**

The occupant of Allways objects for a variety of technical reasons to do with completion of the form, inappropriate development within the Countryside Zone, adverse impact on amenity from overlooking, light pollution, proximity, loss of trees, possibility of additional infill development with attendant risks to character of Countryside Zone and traffic impact and claims that their permission was an infill development unlike this proposal. This representation is available in PDF format for Members consideration.

### **Relevant Planning History**

P/2012/0743: New Dwelling in grounds of Allways, Teignmouth Road: approved contrary to Officer advice

There is a long history of applications for dwellings within domestic gardens within the Maidencombe area. These have been consistently refused primarily as they are contrary to Local Plan policy L4 which resists sporadic residential development within the defined Countryside Zone. Appeals have been routinely dismissed due to non compliance with the adopted local Plan.

These are:

P/2008/0121: The Barn Teignmouth Road: Additional dwelling Refused as contrary to policy, overdevelopment, highways and impact on trees. Appeal dismissed.

P/2005/0936: Langley Manor Teignmouth Road: Additional dwelling: Refused as contrary to policy and highways. Appeal dismissed.

- P/2004/1578: Curtilage of Combe Mount Teignmouth Road: Additional dwelling: Refused as contrary to policy, highways and residential amenity. Appeal dismissed.
- P/2004/1351: Land curtilage of West Winds Teignmouth Road: Additional dwelling: refused as contrary to policy: Appeal dismissed.
- P/2003/0754: Brantfell Ridge Road: Additional dwelling: Refused as contrary to policy and impact on landscape character. Appeal dismissed.

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

The key issues are the local plan framework, amenity, trees, wildlife and S106 contributions.

#### Local Plan Framework

The Local Plan is quite clear in seeking to resist residential development within the defined countryside zone unless it meets strict criteria.

The reasons for this are that such development, outside village boundaries, will alter the face of the countryside by creating sprawl that will ultimately erode its open, rural character and lead to merging of existing settlements. It is also necessary to preserve the special character of the towns and villages and to maintain their settings and to concentrate new building development in the existing urban area which is a more sustainable approach to providing new homes due to the proximity of shops and services.

In terms of new residential development policy L4 only allows dwellings for which there is a proven agricultural need and infill development within the existing areas of settlement. The justification to the policy makes it clear that new residential would only be considered acceptable within the existing village settlements. In this case, within the boundaries of Maidencombe village.

This ambition to protect the character of the countryside is picked up in the NPPF policy 55 which suggests; similarly that new development within existing villages may be acceptable to support services but that new isolated homes in the countryside zone should be avoided.

The Maidencombe area is predominantly rural and characterised by large properties, often fringing through routes, many of which have large expansive gardens, and many of which could, in functional terms, easily accommodate new houses. That this has not happened is largely due to the local plan designation which has successfully acted to prevent inappropriate new dwellings which cumulatively would have had a profound effect on the rural character of the area.

It is necessary to apply this policy consistently if the protection of the countryside character is to continue. Decisions that set the policy framework aside for no good reason will create a precedent for new residential development within garden plots throughout the area that will ultimately erode its special, open character. That a plot is big or screened is not a sufficient reason to disregard the policy framework and such an approach would undermine the means of protecting the countryside function and landscape character as there are many plots in the Maidencombe area that would fit this description. It is also the case that screening cannot be guaranteed in perpetuity and the loss of the hedgerow, along Teignmouth Road in this case, would immediately expose the site to wider views.

It cannot be argued that Sladnor Park Road, which is a small suburban estate of post war dwellings qualifies as an existing village settlement. It more properly forms part of the sporadic post war ribbon development that occupies both sides of Teignmouth Road for most of its length between the outskirts of Torquay and the boundary with the neighbouring authority. Describing this stretch of 'strung out' ribbon development as an 'existing settlement' would open the door to many similar applications which would have a harmful effect on the character of this attractive route through defined and protected countryside and blur the distinction between urban settlement and its rural setting.

Applications for 2 new dwellings at Rock House, Rock House Lane were approved by DMC at the September meeting. Their location in the countryside zone renders them contrary to established policy however, an exception was argued as the dwellings would replace existing structures within the grounds of the plot, and profit from the sale of the dwellings will be secured through a S106 agreement for restoration of Rock House. As a Grade II listed building, in a poor state of repair, this can qualify as 'enabling development' which allows, under guidance in the NPPF, the relevant policies to be set aside.

Notwithstanding the decision reached at Allways, it is argued that a precedent has not been so set as to restrict the Local Planning Authority to making decision contrary to its Local Plan policies.

It is the case that if this application is allowed, in the absence of any material reason to set aside the policy, it will make it difficult to defend similar applications for infill development in the plots that range along this part of Teignmouth Road and beyond which will result in the more open character of development which does exist being eroded and the boundaries between urban Torquay and its more rural hinterland will become increasingly blurred. This will have a profound impact on the landscape character of the area contrary to the aim of policies L2 (Area of Great Landscape Value) and L3 (Coastal Preservation Area) which are designed to preserve the special landscape qualities of the area by precluding development that would affect the scenic qualities of the area.

Thus, in policy terms the creation of a new dwelling in this location is contrary to policy L4, L2 and L3 of the Adopted Local Plan.

#### *Amenity*

The occupant of Allways, the property next door, is concerned about the impact on their amenity through proximity, loss of privacy, light pollution and further infill. Their property is located very close to the existing boundary although there is some 18 meters between the dwellings at the closest point and it is well screened with planting. It is not considered that the impact on amenity is sufficient to warrant refusal of planning permission.

#### *Trees/Wildlife*

The neighbour to the site has raised concerns about the loss of trees and impact on wildlife. The trees are largely confined to the boundaries of the site and there are some fine specimens. The 2 best trees, a beech and a western red cedar are more central to the plot and are retained as part of the scheme. Whilst the tree report concedes that there may be pressure to fell arising from the shading created by some of the boundary trees, the proposed building is designed and sited to avoid anything other than a marginal impact. In terms of wildlife, a preliminary ecological study identifies that the hedgerow is of significance and it should be managed and retained. It is not affected by the current proposal.

#### **S106/CIL -**

Based on the SPD the scheme should deliver £50 waste, £3610 sustainable transport, £470 Lifelong learning and £2370 Greenspace contributions. This has not been secured and needs to form an additional reason for refusal of planning permission.

#### **Conclusions**

The scheme to construct an additional dwelling in this location is contrary to Local Plan policy L4 as it is within the defined Countryside Zone where new dwellings are precluded unless within existing settlements or for proven agricultural need. The reason for restricting new dwellings in this location is to preserve the open rural character of the countryside and to prevent urban sprawl that would result in the merging of existing settlements. This property forms part of a small post war estate of spaciouly laid out dwellings and it merges with the ribbon development that occupies either side of Teignmouth Road from the edge of urban Torquay to the boundary with the neighbouring authority.

Approval of this application would make it hard to resist similar applications in other similar plots in the locality that would erode the open character merging urban Torquay with its hinterland. This impact on landscape character would be contrary to policies L2 and L3 of the saved adopted local plan which are designed to preclude development that would harm the special landscape character of the area. Similar applications over recent years have been

consistently refused due to the failure to conform to Local Plan policies in relation to the location of new homes in the countryside and the impact that such development will have on the protected landscape character of the area. Many of these cases have been tested on appeal and dismissed.

The recent decision at Allways Teignmouth Road, which went against Officer advice, has prompted this application and in view of this, it has been agreed with the agent to refer the application to DMC for consideration rather than refuse under delegated powers.

### **Recommendation**

That Planning permission should be refused for the following reasons:

1. The site is within a defined countryside zone where protecting rural character is an identified priority. Policy L4 of the Saved Adopted Local Plan indicates that new dwellings are only permissible within existing settlements or where there is a proven agricultural need. The inclusion of an additional dwelling in this domestic garden outside a defined settlement would be contrary to this policy and result in a more urbanised character of development which would act to erode the sporadic, more spaciouly laid out 'ribbon' form of development along Teignmouth Road and in the wider L4 area. It would also make it more difficult to resist similar infill schemes which would cumulatively erode the open rural character of the area and act to blur the distinction between urban Torquay and the more rural hinterland. This would be harmful to the special landscape character of the Area of Great Landscape Value and Coastal Preservation Area. As such the proposal is contrary to policies L4 L2 and L3 of the Saved Adopted Torbay Local Plan 1995-2011.

2. The scheme should deliver community infrastructure contributions in line with the Adopted SPD 'Planning Contributions and Affordable Housing' in order to mitigate the impact of the scheme on the local area. The scheme does not secure this and as such it is contrary to the provisions of the SPD and to policy CFS and CF6 of the Saved Adopted Torbay Local Plan 1995-2011.

### **Relevant Policies**

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