

**P/2011/0158/HA**

**St Marys With Summercombe Ward**

**House Number 1, Accessed Off St Marys Road, Adjacent To Nurton House, Castor Road  
Brixham**

**Retention of as built decking with proposed screen hedging to boundary**

### **Site Details**

The site at plot 1, St Marys Road, Brixham (one of two plots; P/2007/0193/PA) is a recently completed detached dwelling adjacent to Nurton House, which is itself a detached property set within a substantial curtilage at the junction of Castor Road with St. Mary's Road, Brixham. There is an Area Tree Preservation Order (1999.15 G1) on the site and the site is within the Horseshoe Bat 5 km foraging zone. There was a previous application to retain the decking which was refused. (See History)

### **Relevant Planning History**

P/2009/0564 – Erection of timber deck (Retrospective). Refused 20.07.09.

Reason for refusal; The proposal, by reason of its design, size and siting is of an overbearing nature which will have an adverse effect on the character and amenity of the streetscene and will have an adverse impact on the privacy of the neighbouring residential properties. As such the proposal is contrary to the objectives of Policies BES, BE1 and H15 of the Torbay Local Plan 1995-2011 and guidance in The Urban Design Guide May 2007 an adopted Supplementary Planning Document to the Local Development Framework 2006-2026.

P/2007/0193 – 2 detached dwellings with vehicular/pedestrian access (off St Marys Road). Permitted 31.05.07.

P/2006/1300 - Erection of 2 houses with garages, formation of access onto St Marys Road. Permitted 09.10.06.

Enforcement history;

2009/0166/EN Erection of timber decking. Closed 21.10.10.

The enforcement officer has accepted that the time scale for enforcement action following the refusal of P/2009/0564 was in excess of what is acceptable and normal practice. He recalls that there was some intimation that an appeal was going to be lodged and this would have meant that it would be held in abeyance although no appeal subsequently came in. The enforcement officer subsequently met with the agent who was to submit a revised scheme which would address the objections of the LPA. This application was submitted on 14th February 2011.

### **Relevant Policies**

*Saved adopted Torbay Local Plan 1995-2011*

- H9 Layout, design and community aspects; all new residential schemes should demonstrate a high standard of design, taking account of the defining characteristics of the existing environment and where possible enhancing it
- H15 House extensions; seeks to ensure that extensions would not dominate or have any other adverse effect on the character and appearance of the original property or the streetscene in general nor cause harm to the amenity of nearby properties e.g. through overlooking, overbearing impact, loss of light or privacy
- BES Built environment strategy; seeks to conserve or enhance the built environment
- BE1 Design of new development; promotes good design
- BE2 Landscaping and design; proposals for new buildings should incorporate landscaping of the site at an appropriate scale and relating to the character of the surrounding area

### **Proposals**

This is a retrospective application to regularise an existing timber deck to the rear of Plot 1 St Marys

Road. The deck is 9 metres wide and extends from the rear of the dwelling by 5 metres with the floor of the deck being approximately 2 metres high from the rear garden level at the highest point to the western side and the top of the hand rails a further metre higher.

This differs from the previously refused application to retain the deck (P/2009/0564) in that as part of the application a beech hedge (*Fagus sylvatica* to be planted as whips 600-900mm high, bare root planted in double staggered rows @ 0.3 m centres) is proposed to be planted along the western side of the property and deck at the lower garden level, between the house and the bank which has some deciduous tree screening.

The originally approved plans (P/2007/0193) showed the rear garden to be raised and levelled with a patio at the current level of the deck extending approximately 2.8 metres deep from the rear elevation.

## **Representations**

Brixham Town Council – Representative attended Site Review Meeting

Objections received.

Summary of reasons for objection;

- 1) Overlooking and loss of privacy
- 2) Trees and hedges only screen decking at certain times of year
- 3) Size and height of decking

The application was previously considered at a Site Review Meeting held on 31st March 2011. Following a discussion with Councillor Baldrey (Torbay council) and Councillor Lomas (Brixham Town Council) the application was referred to the Development Management Committee for determination.

The representations are re-produced at Page B.200.

## **Key Issues/Material Considerations**

The main issues relating to this application are the impact of the decking on neighbouring amenity and the streetscene in the area.

### *Impact on streetscene*

It should be noted that the original application for the construction of the property (Plot 1 in P/2007/0193) shows the rear garden to be raised/levelled out to a similar level as the proposed deck to form an approximately 2.8 metre deep patio to the rear of the house. This would have required retaining walls to hold the additional earth. No screening was indicated to the side of the rear garden/patio area facing St Marys Road, although it is likely that a balustrade would have been required along the side(s) and rear of the raised patio in the interests of health and safety. An approximately 1.8 metre high fence on top of a retaining wall was indicated to the eastern boundary with the adjoining new house (Plot 2) and at the entrance to the access drive off St Marys Road to the front of Plot 1.

The timber deck with open balustrade is visible in the streetscene, as it is in an elevated position above the road, but it should be noted that it is partially screened/obscured in the summer months by the leaf cover from the deciduous trees on the boundary. It is more prominent in the winter months, but a raised patio with retaining walls (as originally indicated on the approved plans) would also have been visible/prominent in the streetscene.

The proposed beech hedge at the lower garden level would initially help screen the underbuild below the decking which is clad with decking planks. This would be of benefit to the appearance of the streetscene but would not necessarily

(depending on eventual height) screen occupiers/users of the deck from neighbouring properties. However, in the summer months as previously noted, when the deck would be most used, there would be additional tree screening from the existing deciduous trees along the boundary.

### *Impact on neighbouring occupiers*

Whilst a larger elevated area has resulted, than previously approved, any overlooking or loss of privacy is considered to be insignificant or insufficient to warrant refusal due to the relationship with neighbouring properties and the distances involved. Objections have been received from owner/occupiers of a property to the west of the site on the opposite side of St Marys Road and from Nurton House to the north east of the site. However, the front windows at 1 St Marys Road are some 21 metres off the decking which is facing the front garden areas of the properties on the opposite side of St Marys Road rather than the private rear garden areas. Nurton House is also well set off (some 22.5 metres at the closest point) and at an oblique angle to the decking and any overlooking is mainly towards the access drive and front curtilage of this property, which has a substantial garden area.

An appropriate planning condition requiring solid screens or balustrades to be erected to the side(s) of the deck could be added if members considered it to be necessary.

If it is considered that the deck should be removed a patio area, raised to the same level as the decking but shallower by approximately 2.2 metres could be erected, as approved in the original planning permission, subject to details of the proposed retaining walls and any fencing being submitted to and approved in writing by the Local Planning Authority (Condition 6 of P/2007/0193/PA).

**Sustainability** - The decking replaces an approved raised patio which would have involved infill and the use of retaining walls

**Crime and Disorder** - No special issues

**Disability Issues** - No special issues

### **Conclusions**

It is considered that there is insufficient direct overlooking or loss of privacy towards any windows or private rear garden areas from the enlarged decking area to warrant a refusal/enforcement action to remove or reduce the deck on the grounds of detrimental impact on neighbouring residential amenity. The proposed beech hedge at lower garden level, together with the existing trees on the boundary, would help screen the underbuild/deck to the benefit of the appearance of the streetscene.

### **Recommendation**

Committee Site Visit; Conditional Approval

### **Condition(s):**

01. The planting of the proposed beech hedge shall be carried out in accordance with the specification on the approved Drawing No 30a in the first planting season following the date of this approval or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with the objectives of Policy H9 and BE2 of the saved adopted Torbay Local Plan 1995-2011.