

**P/2011/0042/PA**

**St Marys With Summercombe Ward**

**55 Metherell Avenue, Brixham**

**Formation of new dwelling in curtilage with vehicular and pedestrian access**

### **Site Details**

Plot of land fronting Penn Lane, and lying between 31 Penn Lane and 55 Metherell Avenue, with a former electricity substation and public access to the allotments immediately to the south-east.

### **Relevant Planning History**

P/2006/1728 Land r/o 53-55 Metherell Avenue, house and garage, refused 15 December 2006.

### **Relevant Policies**

*Saved Adopted Torbay Local Plan 1995 - 2011, relevant policies:-*

- H2 New housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- CF6 Community Infrastructure contributions
- BES Built environment strategy
- BE1 Design of new development
- T25 Car parking and new development
- T26 Access from development onto the highway network.

Urban Design Guide - Adopted Supplementary Planning Guidance as part of the Torbay Local development Framework (LDD7), Urban design objectives A.1 (Background), A.4 (relationship to existing layouts), A.5 (local building forms and patterns of development) A.6 (local distinctiveness) and A.7 (scale, massing and height).

### **Proposals**

Permission is sought to continue the line of the existing terrace in order to provide 1 new dwelling at the side of the existing house. The curtilage shown for the new dwelling would include garden area fronting Penn Lane, with off street vehicular parking for 4 vehicles at the end adjacent to a disused electricity sub-station. The plans show a two storey, three-bedroom house.

### **Consultations**

Highways - Highways raise no objection, but note that a formal footway crossover will need to be constructed under license to Highways by a contractor qualified to carry out works on the public highway.

### **Representations**

Letters of representation have been received from several addresses and are reproduced at page P.200. Issues raised include:-

Road safety, impact on street scene, loss of privacy, traffic congestion, loss of on-street parking, lack of footpaths in the area, water run-off from proposed parking area onto Penn Lane and hence into surrounding properties.

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

The primary issues in this application are:-

*Is the land large enough to sustain a separate detached dwelling?*

The footprint of the building would be approximately 43 sqm and the plot of land available has an area of approximately 170 sq. m. This would be physically big enough, to allow for a house. The

house itself would be a similar size and shape to the other dwellings of which this would form the new end of terrace. The curtilage would provide space for off-street parking to serve both the existing and the proposed dwellings, together with room for bin storage, rotary clothes line and garden space as well. The site is therefore considered large enough to sustain a separate detached dwelling.

#### *Impact on residential amenity*

The plot of land is surrounded on all sides by other residential properties, but the proposed dwelling would not have any worse a relationship to the existing than is the case with any typical residential estate. The distance between the rear of the proposed dwelling and no. 31 Penn Lane would be approximately 24 metres and this exceeds the normally permitted minimum. The distance to the closest part of 44 Penn Lane on the other side of the road would be approximately 16.5 m, but this is a standard distance in the estate and the relationship would be side to front anyway. As proposed the layout would replicate the established pattern of development in the area, and is not considered to be likely to lead to any adverse relationships with neighbouring properties nor have the potential for unacceptable loss of privacy and amenity.

#### *Impact upon street scene*

The front face would line up with the other properties in Metherell Avenue by continuing the line of the existing terrace. There would be no loss of space in the street scene as this is a corner site in what is a spaciouly planned estate. The proposed dwelling would be closer to the street on Penn Lane than other properties in the area and would effectively break the building line at this point on Penn Lane. However, on balance, it is not considered that this relationship in the street would be sufficiently detrimental to the character of the area as to warrant refusal in this case.

#### *Parking and access issues*

Parking is shown for four vehicles off-street to serve both the existing and the proposed dwellings. This meets the required standards. Many of the representations are concerned about the potential loss of on-street parking, however, Officers are of the opinion that the provision of off-street parking is preferable and the plans include parking for the existing dwelling, which is not currently provided for. It would not be reasonable to refuse an application by virtue of its provision of off-street parking denying on-street parking.

#### *Policy arguments*

By virtue of the arguments made above, it would be difficult to conclude that the proposal is contrary to any relevant policy within the Saved Adopted Torbay Local Plan, and the Urban Design Guide, which forms Adopted Supplementary Planning Guidance to the plan. The issue of the impact on the character of the area through the proposal stepping forward of the building line on Penn Lane is a material consideration, however, in this instance it is considered that the development would not be significantly harmful to the streetscene.

#### *Community Infrastructure contribution*

The Council has decided in line with Central Government legislation and advice from the Government Office for the South West that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. This is made quite clear in policy CF6 of the Saved Adopted Torbay Local Plan. According to the 'Planning contributions and affordable housing supplementary document, update 2', adopted by the Council in June 2010, planning infrastructure contributions due are now based on floorspace to be created. The proposed dwelling would have a footprint of 86 metres sq. (covering both of its floors), and on this basis, the amount owed would work out as follows:

Municipal waste and recycling	- £50
Sustainable transportation	- £2350
Lifelong learning	- £300
Green space and recreation	- £2050

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TOTAL	£ 4750
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This amount falls below the suggested threshold of £5,000 within the update paper, adopted in June 2010, however, the Local Development Framework Working Party considers that this threshold should be removed. Full Council are expected to ratify that change in policy on 24 March. It will also be confirmed at that Council meeting whether the removal of the threshold should apply to applications such as this or only to new applications received after 24 March.

If the s106 contribution is payable in this case, the amount due as a planning contribution would normally be proffered by way of either a legal agreement under s106 of the Town and Country Planning Act 1990 (as amended), or by way of a Unilateral Undertaking. Alternatively, the monies due could be paid upfront, thus avoiding the need for any formal legal agreement and solicitor's costs. In recognition of saved time and saved costs, there is an early payment discount of 5% for up front payments.

#### **Sustainability -**

This is a brownfield site, and so would be a highly sustainable use for the land, in compliance with the relevant national and local policy guidance in this regard. However, this should not take precedent over other interests of acknowledged importance.

#### **Crime and Disorder -**

Unlikely to be an issue, so long as the developer incorporates the latest home security devices, the site has been used for fly tipping in the recent past and this development will reduce the likelihood of such anti-social behaviour taking place in future.

#### **Disability Issues -**

It is expected that the applicant could achieve a relatively level access from the parking area to the front door, and therefore this would not be in breach of Part M of the Building Regulations.

#### **Conclusions**

The proposal is considered to meet all of the relevant considerations of acknowledged importance, and is not therefore considered to be contrary to relevant policy considerations. This is a good use for a brownfield site and does not over develop the site. All the usual facilities that an additional dwelling would require have been designed into the scheme. The proposal is therefore acceptable, subject to agreement on the Planning Obligation for a community infrastructure contribution, should this be required pending the outcome of the Full Council meeting on 24 March.

#### **Recommendation**

Committee Site Visit; Conditional Approval. In the event that Full Council decides on the 24 March to remove the £5,000 threshold for current applications the recommendation would also be subject to the signing of a s106 agreement in terms acceptable to the Executive Head of Spatial Planning.

#### **Recommendation:**

Conditional Approval

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

01. The development shall not be used/occupied until the vehicle parking areas, and the access thereto from the public highway shown on the approved plans has been provided and made available for use. This area shall then be kept permanently available for parking and access purposes to serve the development at all times thereafter.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available, in the interests of highway safety and to ensure accordance with policies T25 and 26 of the Saved Adopted Torbay Local Plan (1995 – 2011).

02. The development hereby approved shall not be commenced until details of the colour type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development have been submitted to and approved by the Local Planning Authority.

Reason: To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies H2, BES and BE1 of the Saved Adopted Torbay Local Plan and the Urban Design Guide which is an Adopted Supplementary Planning Document forming part of the Torbay Local Development Framework 2005-2026.

03. Prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage, and policy EP11 of the Saved Adopted Torbay Local Plan (1995 – 2011).

04. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment), (No.2) (England) Order 2008 (or any order revoking and re-enacting that order), no development of the types described in Schedule 2, Part 1 (classes A - E, inclusive) shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To allow the Local Planning Authority to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and the area in general, in accordance with policy BE1 of the saved adopted Torbay Local Plan (1995-2011).

**Informatives:**

01. A Sustainable Drainage Solution such as a soakaway should be designed and constructed in accordance with Building Research Establishment Digest 365. A Sustainable Urban Drainage System should be designed and constructed in accordance with Construction Industry Research and Information Association Document 522 for surface water disposal (Clean surface water and roof water should be kept separate from foul drainage systems).