

PLANNING APPLICATION REPORT

Case Officer: Adam Williams
Yealmpton

Parish: Newton and Noss **Ward:** Newton and

Application No: 1581/18/VAR

Agent:

Mr Mark Evans
Cedar House
Membland
Newton Ferrers, Plymouth
PL8 1HP

Applicant:

Mr S McCready
Briar Hill Farm, Court Road
Newton Ferrers
PL8 1AR

Site Address: Briar Hill Farm, Court Road, Newton Ferrers, PL8 1AR

Development: Variation of condition 2 (approved plans) following grant of planning permission 4131/17/VAR

Reasons for calling to committee

Application called to SHDC Development Management committee by Cllr Baldry for the following reasons;

1. It is overbearing and dominant in ridge height and in your face glazing.
2. There is no evidence of local need.
3. It is outside the settlement boundary.
4. Too large - 4 bed, 3 parking spaces, contrary to recently agreed Neighbourhood Plan
5. There have been many changes already to the April 2015 agreed conditions. These include the condition of it being a dwelling for the owner or his manager and for holiday use.

A reminder of the principle residence requirement in the NP.

Recommendation: Conditional approval

Conditions

Time limit
Accordance with plans
Permitted development restrictions
North facing ground floor windows to be obscure glazed
No further windows to be installed.
Non reflective glass
Drainage tests
Principle residence only

Key issues for consideration:

Principle of development
Design
Impact upon neighbouring properties

Site Description:

The site is currently clear following the demolition of the former barns. The site is immediately adjoining dwellings to the east and north, including the construction of a new dwelling adjoining the north east boundary which has started. The site is within the centre of Newton Ferrers and site marks the boundary of the extent of the built up area for the village. The surrounding area to the North West is used as a camping site and also comprises fixed holiday lets.

The Proposal:

The proposal seeks to alter the form of the development from a three dwelling terrace to three separate dwellings. The previous application was approved for the conversion of the holiday accommodation dwellings and manager's dwelling to 3 open market single dwellings.

Consultations:

- County Highways Authority – No impact
- Newton and Noss Parish Council – Objections; A neighbouring resident had raised concerns about the new ridge heights being significantly higher and the loss of amenity. A member considered the design was an improvement, another member agreeing if the height could be reduced. Concerns were raised about glazing to the front and the impact on the neighbouring property. Whilst the site had planning permission it was still outside the Village Development Boundary contrary to Neighbourhood Plan N3P11. **DECISION; Objection.** This was not a variation of the approved plan – it was a completely new design. The previously approved plan was a 'variation'. Contrary to: DP2 (must not be overbearing or have a dominant impact.) The ridge height of this application was considerably higher. The glazing to the front was very dominant. DP15 (1) (outside Village Development Boundary i.e. countryside – must meet essential, small scale and exceptional development needs.) Newton & Noss Neighbourhood Plan Referendum 28 June 2018; Neighbourhood Plan N3P-11 (b) evidence of local need. Neighbourhood Plan N3P-5 (d) 4 bed house = 3 parking spaces (garages would not normally be counted as parking spaces (examiner additional comment.)

In the event that this application was approved South Hams District Council Development Management was requested to take into consideration; the concerns of the neighbours at The Collett, the use of non-reflective glass to the front and rear and the condition Neighbourhood Plan N3P-12 (a) Principle Residence Requirement. (Vote; 6 in favour, 1 against, 1 abstention.)

- Drainage – apply the following condition - *The development hereby permitted shall not be commenced until a programme of trial holes and percolation tests (BRE digest 365 standard tests) are carried out in accordance with a scheme to be prior agreed in writing with the Local Planning Authority. Suds to be designed for a 1:100 year event plus 40% for climate change. If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be*

agreed with the Local Planning Authority and thereafter installed, maintained and retained in accordance with the agreed details for the life of the development.

Representations:

Comments have been received from a local resident and the River Yealm and District Association and cover the following points

- A significant design change should constitute a new application and one which is outside the Village Settlement Boundary of the Newton and Noss Neighbourhood Plan (N3P-1a and b)
- The proposal should be for principle residence only (N3P-12a and b)
- Overlooking to The Bower, The Collett and dwellings on the western end of Court Road
- Impact on skyline by virtue of raised ground
- Surface water run off towards Parsonage Road
- Significantly higher ridge heights than previously approved
- Other dwellings nearby are single storey, the proposed have steep apices.
- Overlooking
- Light pollution

Relevant Planning History

4131/17/VAR - Removal of condition number 5 following grant of planning permission 37/0518/15/F to allow the dwellings to become open market dwellings – approved conditionally

37/2181/15/VAR Mr S McCready

Removal of condition 6 of planning consent 37/0518/15/F (to allow owner's accommodation to be stand alone property and not tied to the site) Conditional Approval

37/0518/15/F - Replacement of existing barns with two holiday homes and owners dwelling with storage space – approved conditionally

ANALYSIS

Principle of Development/Sustainability:

The site is located outside the Newton Ferrers Development Boundary, which is situated to the south west of the site. Newton Ferrers has a Development Boundary, which means according to Policy CS1 of the Core Strategy, development within the village is acceptable in principle. The application site lies outside the Development Boundary and it is classified as development within the countryside, this is also the same of the neighbourhood plan (N3P-1) which recently passed its referendum

The development Boundaries were designated in the Council's 1996 Local Plan and the policy designating them in the South Hams District Council has been saved. The National Planning Policy Framework, which post-dates these policies, advises that from a twelve month period (that expired in March 2013), due weight should be given to relevant policies in existing plans dependent on their consistency with the National Planning Policy Framework. The 1996 settlement boundaries have not been updated since and no development boundary review has been undertaken in the Core Strategy, although the neighbourhood plan does

have a development boundary. Paragraph 14 of the National Planning Policy Framework states that where relevant policies are out of date, planning permission should be granted unless there are any adverse impacts of doing so, that would significantly and demonstrably outweigh the benefits when assessed against the framework.

The site is located adjoining the existing settlement boundary and is immediately adjacent to other properties. As approval has already been given for 3 open market homes, the principle is already therefore established and the proposals merely seek to alter the design, the proposals represent a logical evolution of the scheme for the reasons outlined below.

The site is also within the AONB. In relation to landscape, Policy DP2, sub section 1, states that:

“Development proposals will need to demonstrate how they conserve and / or enhance the South Hams landscape character, including coastal areas, estuaries, river valleys, undulating uplands and other landscapes.”

Although outside of the development boundary, the site would still be seen within the built envelope of Newton Ferrer's being closely associated with existing buildings nearby, furthermore the principle of a building has already been established through 37/0518/15/F and its variation 4131/17/VAR. The proposals here seek to amend the design and the impact of the changes reduce the visual impact compared to the previous design as explained below.

Design and Landscape

The currently approved design of the dwellings was for a large terrace, however the roof scape featured different variations of type throughout the proposal, the approved principle elevation in particular appears confused with different protrusions, abrupt breaks in materials and glazing variations.

The proposed design subject of this application seeks a more consolidated design response for the site, the design and access statement represents a robust methodology for how the design evolved to its now presented version and displays a good understanding of the context of the site. The proposal seeks to separate the dwellings to three separate dwellings as opposed to a full solid terrace, this proposal therefore opens up the development which would appear less intrusive compared to a solid mass as previously approved. Although the alteration in roof pitch and type has increased the overall height of each dwelling measured at ridge height, the breaking up of the development and front facing gables means the development is lower at some points and devoid of development where the breaks are introduced. It is considered this reduces the overall mass of the development over the approved scheme and allows for natural light to pass through the space between which is an improvement over the demolished barn and the scheme as approved and demonstrates key principles of urban design in opening up development to reduce overall mass

The natural topography of Parsonage Road and surrounding buildings, particularly the development of 'The Bower' partially restricts views of the site from normal visual receptors passing down this road. Access to the site is achieved off Parsonage road, however this is only to serve the holiday park and the rear of the dwelling on the corner of Court Road and the access to the site.

In terms of the materials, a mixture of stone, render and slate is proposed and is representative of the immediate vernacular, stone is used for the walls running along the access road and adjacent the to the Bower and along Parsonage road, render used for some

properties along Parsonage Road and Court Road. The roof and first floor side facing walls will be slate hung, the rear elevation will comprise render and the principle elevation, its boundary walls and the garage will primarily comprise stonework. The level of glazing on the principle elevation has also been reduced following the submission of an amended plan to include some screens over the apex glazing, this all contributes to reducing the perceived mass and ensures the elements of the principle elevation are in proportion and not dominated by one overall element, such as glazing.

The overall context of Newton Ferrers and Noss Mayo is an eclectic mix of 18th/19th century dwellings, post war dwellings and some modern examples contemporary dwellings, the proposals therefore represent a blending of styles found in the locality, its vernacular roof form, stone work, slate hanging and glazing give a grounded but contemporary approach to design for this site.

The proposals provide appropriate numbers of parking spaces and space for landscaping on the site. In general, given the close relationship to the development boundary and the semi-rural nature of the site it is considered that the design of the dwellings is acceptable.

Neighbour Amenity:

The north eastern elevation of the row of dwellings does not result in any overlooking of adjoining properties because the rear is almost a blank façade with very high level glazing at the apex of the roof pitch, above head height, the ground floor has high level windows, however it is considered that the low level windows should be obscured and to be achieved through condition. It is considered that the height of the windows, plus the distance between the buildings ensures that significant overlooking would not occur to the Collet, nor the dwelling under construction, although the relationship between the proposal and existing neighbouring dwellings is tight, the principle is already established through the previous approval. Despite this, the breaking up of the dwellings is considered to reduce the overall mass and will represent a lesser degree of overbearing.

In terms of the amenity of future occupiers there are no side facing windows facing each other, the front glazing is also recessed which provides privacy for front amenity spaces. Whilst there is little rear amenity space this was accepted through the approval of the initial scheme.

Highways/Access:

The County Council Highway Authority raises no objections to these proposals. Although the parking proposals are contrary to the neighbourhood plan policy N3P-5, it is considered the site is not as constrained in respect of on street parking as much of Newton and Noss. In balancing the land available to the applicant, what was approved prior to this S.73 application and the positive changes to design, in this instance, what would amount to 9 parking spaces is not considered to be appropriate at this site, 6 parking spaces are proposed and is considered acceptable.

Neighbourhood Plan

The Neighbourhood Plan for Newton and Noss has been adopted since the previous application. This application has to be determined in accordance with the development plan and the policies within the Neighbourhood Plan unless material planning considerations indicate otherwise. The relevant policies include Policy N3P-3 (Development Policy Areas) Policy N3P-11 (Balanced Housing Stock and Local Housing Needs and Policy N3P-12 (Second Homes and Principle Residence Requirement).

In a recent High Court case (Stefanou v Westminster City Council 2017) the assessment can take into account and give weight to the fact that there is an extant planning permission for the site. This is often referred to as the fall-back position. When assessing the weight to be afforded to the fall-back position consideration should be given to the likelihood of the other scheme going ahead, the merits of the two schemes and the nature and purpose of the change in policy. In this case a material start has taken place and the council is not aware of any factors which would stop the applicant proceeding with the previous scheme. It is considered therefore that conflict with Policies N3P-3 and N3P-11 already exists because of the extant permission which exists for 3 dwellings in this location and therefore it is not considered that a demonstration of Local need is required.

Turning to policy N3P-12, the application of this condition needs to be considered in the planning balance, because the fall-back permission is without principle residency. Unlike Policies N3P-3 and N3P-11 it would be difficult to refuse a S.73 application on principle because of a lack of demonstration of Local Need as the possibility of 3 dwellings exist, but in relation to Policy N3P-12 it could be argued that in line with the current development plan, and as this permission would replace a previous permission, then a principle residency condition should be secured as it is required by the development plan. Whilst the design is much improved over the previous design this improvement is not considered to outweigh the importance of securing principle residency. The community have expressed a dissatisfaction with the number of second homes and holiday homes in the locality, impacting its social sustainability, and this has been expressed within their Neighbourhood Plan. Having had regard to the fall-back position, the existing development plan and the improved scheme, a principle residency condition is considered reasonable. It is understood that one of the dwellings will be for the applicant who resides in the locality and it would not be unreasonable or out of the realms of possibility for the other two dwellings to be for permanent residence in line with the Neighbourhood Plan. Paragraph 12 of the revised NPPF states that 'Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed' in this instance, an improved design is not considered enough of a material gain which would forgo the need to comply with Policy N3P-12 of the Newton and Noss Neighbourhood Plan.

Conclusion

These proposals are considered to be acceptable and have been recommended for approval, subject to the imposition of appropriate conditions.

Other Matters:

Questions have been raised over whether these changes should amount to a new application. The previous variation (4131/17/VAR) sought to change the development from 2 holiday homes and an owners dwelling to 3 open market dwellings. The three homes approved still had a use class of C3, albeit a restricted one, and the previous applications sought to lift those restrictions and was approved. This variation still proposes three dwellings, the spirit and nature of the development hasn't changed and merely amounts to a change in design.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

CS10 Nature Conservation

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP4 Sustainable Construction

DP5 Conservation and Wildlife

DP7 Transport, Access & Parking

DP11 Housing mix and tenure

DP12 Tourism and Leisure

DP15 Development in the Countryside

DP16 Conversion and Reuse of Existing Buildings in the Countryside

South Hams Local Plan (please delete as necessary)

SHDC 1 Development Boundaries

Emerging Joint Local Plan

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION
(as considered by the Full Councils end Feb/Early March 2017)**

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities
SPT3 Provision for new homes
TTV31 Development in the Countryside
TTV32 Residential extensions and replacement dwellings in the countryside
DEV1 Protecting amenity and the environment

Neighbourhood Plan

The Newton and Noss Neighbourhood Plan had passed its referendum which was run on the 28th June.

N3P-4 – Development and Construction

N3P-5 – Movement and Parking

N3P-9 – Protecting the Landscape

N3P-12 – Second home and 'Principal Residence' Requirement

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which permission 4131/17/VAR was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

1. The development hereby approved shall in all respects accord strictly with drawings numbered PL011 rev P1, PL012 rev P1, PL013 rev P1, PL009 rev P1, PL010 rev P1, PL007 rev P1, PL005 rev P1, PL006 rev P1, PL004 rev P1, PL002 rev P1, PL001 rev P1, PL014 rev P1 received by the Local Planning Authority on the 21/05/2018 and plan number PL008 rev P2 received by the Local Planning Authority on the 31/07/2018

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning authority other than those expressly authorised by this permission:-

(a) Part 1, Class A (extensions and alterations)

(b) Part 1, Classes B and C (roof addition or alteration)

(c) Part 1, Class D (porch)

(d) Part 1, Class E (a) swimming pools and buildings incidental to the enjoyment of the dwellinghouse and (b) container used for domestic heating purposes/oil or liquid petroleum gas)

(e) Part 1, Class F (hardsurfaces)

(f) Part 1, Class G (chimney, flue or soli and vent pipe)

Reason: To exercise control over development which could materially harm the character and visual amenities of the development and locality.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) Order 2015 (or any Order revoking and re-enacting this Order) the north facing ground floor windows in the dwelling hereby permitted shall be glazed in obscure glass, be fixed closed and thereafter so maintained.

Reason: To protect the amenity and privacy of residents of adjoining property.

5. Notwithstanding the provisions of the Town and country Planning (General Permitted Development) Order, 2015 (or any Order revoking and re-enacting this Order) no further windows other than those authorised by this permission (and only in the form specified on the approved plans) shall be created.

Reason: To protect the amenity and privacy of the adjoining properties

7. The development hereby permitted shall not be commenced until a programme of trial holes and percolation tests (BRE digest 365 standard tests) are carried out in accordance with a scheme to be prior agreed in writing with the Local Planning Authority. Suds to be designed for a 1:100 year event plus 40% for climate change. If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage alternative shall be agreed with the Local Planning Authority and thereafter installed, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development.

8. The accommodation hereby permitted shall only be occupied as a person's sole, or main place of residence.

Reason: To ensure that the accommodation is not used for holiday purposes or as a second home in accordance with the Newton and Noss Neighbourhood Plan Policy N3P-12

INFORMATIVES

1. The responsibility for ensuring compliance with the terms of the approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details can render the development unauthorised and vulnerable to enforcement action.

2. This authority has a pro-active approach to the delivery of development. Early preapplication engagement is always encouraged. In accordance with Article 35(2) of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended) in determining this application, the Local Planning Authority has endeavoured to work proactively and positively with the applicant, in line with National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed.