

PLANNING APPLICATION REPORT

Case Officer: Charlotte Howrihane **Parish:** Stoke Fleming **Ward:** Blackawton & Stoke Fleming

Application No: 3563/22/VAR

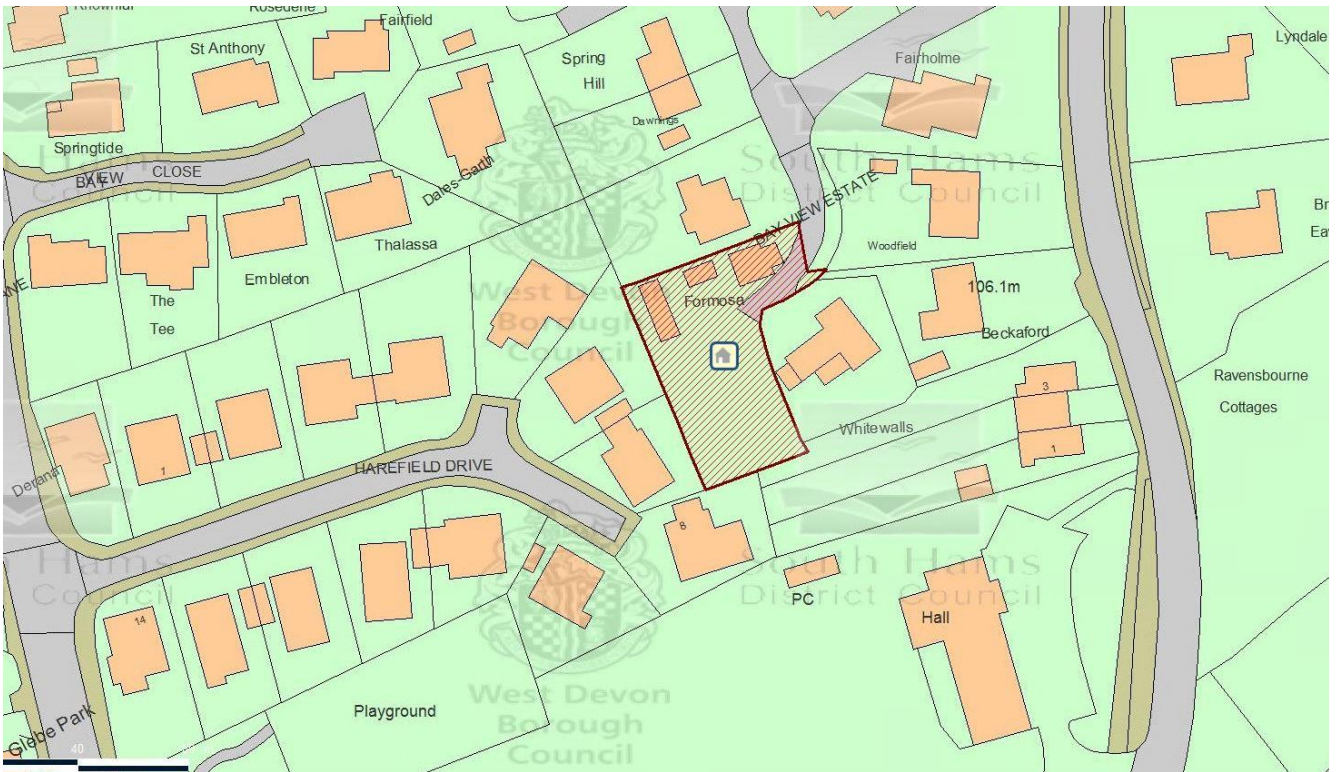
Agent:

Mr Steven Fidgett
1-2 Paris Gardens
London
SE1 8ND

Applicant:

Mr D Ferris
Plot 1
Parklands Bay View Estate
Stoke Fleming

Site Address: Parklands, Bay View Estate, Stoke Fleming, TQ6 0QX



Development: Application for variation of condition 1 (approved drawings) of planning consent 3542/16/VAR

Recommendation: Conditional approval

Reason application is at Committee: Cllr Reeve has brought the application to committee due to concerns about neighbour amenity.

Conditions:

- Accord with plans
- Floor levels and roof ridge to accord with approved details
- Parking to be provided for each dwelling prior to occupation
- Removal of PD rights
- Loft area to be used for storage only
- Hardsurfacing and means of enclosure to be provided prior to occupation
- Windows to north elevation to be obscure-glazed
- Unsuspected contamination

Key issues for consideration:

Whether or not the proposed amendments to the previously approved scheme are acceptable in terms of design, landscape, neighbour amenity

Site Description:

The site is a former builder's yard situated at the end of the Bay View Estate, a private cul-de-sac in Stoke Fleming. A large boundary wall runs along the eastern and southern boundary of the site, which borders properties in Harefield Drive, and a large hedge runs along the northern boundary between the site and Formosa, a two-storey dwelling to the north of the site.

The site is within the settlement boundary identified in the Stoke Fleming neighbourhood plan, as well as the South Devon AONB.

The Proposal:

Various planning permissions have previously been granted on the site for the erection of two bungalows. One has been constructed and is occupied, and one is partially constructed. This application seeks to vary the design of the partially-constructed bungalow in the following ways:

- Removal of chimney
- Relocation of integrated garage door from south elevation to east elevation
- Three additional openings to south elevation (two windows and rooflight)
- South elevation- garage door replaced with standard door and window
- Replacement of window to east elevation with entrance door
- North elevation- car port blocked up and replaced with window, removal of door
- West elevation- window replaced with full length patio doors

Consultations:

- County Highways Authority- no highways implications
- Parish Council: objection: *'Although the footprint of the building remains unchanged the re-modelling of the structures has been extensive and the Council thinks they amount to considerably more than a minor variation. In particular: The plans indicate a ridge height of 5324mm but in fact the building has been constructed on a plinth, not shown on the plan, which is just short of a metre high and which would result in an overall height of around 6150mm. That has been aggravated by a significant increase in the pitch of the roof, meaning that the ridge height must now be in the region of 6500mm, possibly more. That can easily be seen when compared with the surrounding properties that originally were of similar height. The original, 2013, drawings showed a height of 4500mm, later increased to 5000mm, now shown as 5324 but probably more than 2000mm greater than the 2013 roof height. It was noted, when the roof was being constructed that the trusses were of the type used when creating living areas on the first floor. Apertures have been created on the roof, probably intended to take Velux windows. The previously separate garage building has now been merged with the house so that on the north and south sides a solid, massive expanse of wall and roof 20 metres long and dominating the adjoining property. We understand that the conditions attached to the last variation stipulated that floor and ridge heights must be strictly adhered to.'*

Representations:

Twelve objections have been received, along with six letters of support, and one undecided comment. These representations can be seen in full on the Council website, but can be summarised as follows:

Objections:

- The dwelling has already been built without planning permission
- Changes will impact on amenity of neighbours
- Out of context with the site setting
- Overbearing and dominant within the neighbourhood
- Retrospective planning should not be allowed
- Permission was previously refused for a two storey dwelling but currently proposal is two storey
- Additional windows directly in front of Formosa (neighbour to north) will cause overlooking
- Increased ridge height and roof pitch is overbearing
- Misleading plans
- Blocks sunlight to Formosa
- Approval will set a precedent for retrospective application
- Full planning application should be submitted
- No datum point means the dwelling is higher than it should have been
- Velux windows would overlook dwellings in Harefield Drive
- Dwelling has not been built in accordance with the approved plans

Support:

- Letter of support received from engineer who set out the project confirming the dimensions are correct
- Only minor changes proposed to the development
- Site was previously used a commercial so residential use is more positive
- Good development
- Previous builders store was much larger
- Relocation of the garage avoids the need for a shared drive with the neighbouring dwelling
- Houses have been designed to be easily accessible both internally and externally
- Timber frame construction slightly reduces the size of the structure
- Changes have been considered to make house more practical and eco-friendly
- Loft space will allow for storage and the maintenance of the mechanical ventilating and heating recovery system
- Amendments have made the dwelling more energy efficient
- Incorporating the carport into the garage improves the design

Relevant Planning History

- 51/0984/96/1- Outline application for the erection of two bungalows- refusal
- 51/2078/96/3- Demolition of building and construction of two bungalows- conditional approval
- 51/0207/02/F- Renewal of permission 9/51/2078/96/3 for demolition of building and construction of two bungalows- conditional approval
- 51/2045/03/F- Demolition of builder's store and construction of two bungalows- conditional approval
- 51/1208/13/F- Revision to approved application 51/2045/03/F for the erection of two 1.5 storey homes- refusal
- 1618/16/VAR- Variation of condition no. 2, 3 and 4 of planning consent 51/0207/02/F to allow for a minor material amendment to plot 1- withdrawn (following vote to refuse at Development Management Committee)
- 3542/16/VAR- Application variation of condition numbers 2, 3 and 4 following grant of planning permission 51/2045/03/F to allow changes to approved plans- conditional approval

ANALYSIS

1.0. Principle of Development/Sustainability:

- 1.1. The principle of the development has been established through the previous grant of planning permission, which was commenced and therefore remains extant.
- 1.2. Since the last permission was granted in 2016, the policy background has changed, with the adoption of the Joint Local Plan (JLP) in March 2019, the adoption of the Stoke Fleming Neighbourhood Plan (SFNP) in March 2019, and the revisions to the National Planning Policy Framework (2021).
- 1.3. The site remains in an area where residential development is supported, being within the settlement boundary defined by the neighbourhood plan. The proposed amendment does not alter the number of dwellings proposed, and the principle of the development remains acceptable.

2.0. Design:

- 2.1. The proposed amendments would not significantly affect the overall external appearance of the dwelling. The rearrangement of the fenestration would not alter the domestic character of the dwelling, and the hipped roof design would retain the bungalow appearance of the dwelling. The materials would be unchanged and in keeping with the local vernacular, as required by policy DEV20 of the JLP.

3.0. Landscape Impact:

- 3.1. Concerns have been raised in the objections received about the development in the context of the Bay View Estate and the surrounding landscape. These objections include the dominance of the dwelling, and the site context.
- 3.2. Policy DEV20 and DEV23 of the JLP require development to have regard to the local pattern of development, and respect the local landscape character. Policy H2 of the SFNP requires development to respect the scale and character of the existing and surrounding buildings, and be in keeping with the area within which it is located. Policy H3 of the SFNP supports development where the scale and form of proposed development would be in keeping with the existing surrounding residential properties.
- 3.3. The Bay View Estate includes a mix of property sizes and styles, including bungalows and two-storey dwellings, with a variety of materials visible to these properties. There is no singular style or features to the street scene.
- 3.4. The ground level within the estate becomes more elevated as it rises from north to south. Ridge heights of dwellings therefore rise along with the ground level, meaning that properties become higher towards the north, creating a stepped appearance to the building heights. The application site is to the south of the estate, and is therefore at a relatively low ground level compared to other dwellings. The ridge height of the proposed dwelling remains lower than Formosa, the immediate neighbour to the north, which is a two-storey dwelling.
- 3.5. The amendments would not interrupt the existing stepped ridge heights of dwellings within the estate, and the dwelling would remain of a scale and design that is in keeping with the residential character of the local landscape.
- 3.6. Various representations make claims about the ridge height of the dwelling, some considering the property to now exceed 6m. The Case Officer, along with a colleague from Planning Enforcement, have visited the site and measured the dwelling. The

ground floor level to the ridge (internal) is 5.1m, with an additional 0.7m brick plinth below the floor level.

- 3.7. Whilst the exact height of the ridge is likely to be disputed, the dwelling is largely constructed and can therefore be seen in situ, meaning that the impact of the building on the surrounding landscape, as well as the neighbour impact, can be seen and assessed. Officers consider that the height of the dwelling is proportionate with surrounding dwellings, and the development is acceptable in terms of landscape impact and accords with the relevant JLP and neighbourhood plan policies.

4.0. Neighbour Amenity:

- 4.1. Objections have been raised about the impact of the proposal on the amenity of neighbouring properties, including Formosa, a two-storey dwelling immediately to the north of the site, and Harefield Drive, a cul-de-sac of bungalows to the west.
- 4.2. Objections have been made from a neighbour in Harefield Drive which states that additional velux windows proposed in the roof would impact their privacy. Officers note that two rooflights are proposed, one to the south, and one to the east elevation, neither would therefore face the properties in Harefield Drive.
- 4.3. The properties in Harefield Drive are bungalows, with a tall stone boundary wall between these bungalows and the application site. Officers are satisfied there is a significant enough separation between the bungalows in Harefield Drive and the application site that the minor increase in roof height would not be overbearing to these properties. Overall, the impact on residential amenity of these neighbours would be no more harmful than that of the previously approved scheme.
- 4.4. The objections from Formosa in relation to neighbour amenity also relate to overdominance and overlooking. Officers note that Formosa is a two-storey dwelling, which is at a higher ground level than the application site, and Officers cannot agree that the proposed dwelling would therefore be overbearing to this neighbour. Whilst the proposed dwelling is very close to the boundary of Formosa, this distance is unchanged from the previous approval. Three additional windows are proposed to the north elevation of the dwelling, but a condition is proposed to require these windows to be obscure-glazed, to prevent any overlooking between Formosa and the application site. Officers also note that there is a large boundary hedge on between the properties which provides some screening, although this is not within the control of the applicant.
- 4.5. The south elevation would face the bungalow constructed as part of the same original permission. As there is a reasonable distance between the properties, Officers are not concerned about the impact of these properties on one another. Similarly, the west elevation faces the access road through the Bay View Estate, and so does not cause any concerns regarding neighbour amenity.
- 4.6. This application can only consider the changes proposed to the scheme- the principle of the development, or matters already approved cannot be revisited. When assessing whether the proposed changes have any additional impact on neighbouring properties, Officers are satisfied that these changes are not significant enough to result in any additional harmful impact, and the proposal therefore complies with policies DEV1 and DEV2 of the JLP, and policy H3 of the SFNP which relate to neighbour amenity.

5.0. Highways/Access:

5.1. The site relocates the existing garage but the garage remains integrated within the dwelling, as well as parking provision to serve the property. The proposed amendments there raise no additional concerns with regards to highways matters.

6.0. Other matters:

- 6.1. Objections have complained about the fact that this is retrospective planning application, and that this should not be permitted. Planning legislation permits the submission of retrospective applications and they must be assessed against the same policies and guidance as any other application. Officers therefore cannot refuse permission, or disregard planning considerations because the application is retrospective.
- 6.2. Similarly, concerns that the proposal would set a precedent are not a valid reason to refuse permission, as each application is determined on its own merits.
- 6.3. Many of the objections, including from the Parish Council, claim that a two-storey dwelling is being constructed. Officers have visited the site and confirm that only a single-storey dwelling is being constructed- although there is a loft space in the roof, this is accessed via a loft hatch, there are no stairs. The floor plans also show a ground floor only, and as such, the proposal, should planning permission be granted, would remain for a single-storey dwelling. A condition is recommended to restrict the use of the loft space to storage only, so that the building could not be used as a two-storey dwelling, as this would require additional considerations in terms of neighbour amenity and intensity of use. It is not appropriate to withhold planning permission due to concerns about future potential use, the application must be assessed as submitted, which is a single-storey dwelling.

7.0. Conclusion:

- 7.1. The previous scheme has not been constructed in accordance with the approved plans, however this application now seeks to regularise that. Only the proposed amendments detailed earlier in the report can be considered. Mindful of the minor nature of these changes, Officers do not consider that these amendments now have a harmful impact on the development or surrounding landscape in terms of design, landscape impact, neighbour amenity, or highways matters, when compared to the previously approved proposal, subject to the recommended conditions. The application is therefore recommended for conditional approval.

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

Planning Policy

Relevant policy framework

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. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV20 Place shaping and the quality of the built environment
DEV23 Landscape character
DEV24 Undeveloped coast and Heritage Coast
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts

Stoke Fleming Neighbourhood Plan

Policy H2
Policy H3

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

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.

Recommended conditions:

1. The development hereby approved shall in all respects accord strictly with drawing number Parklands Dims 06, received by the Local Planning Authority on 22nd December 2022.

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.

2. The proposed floor levels and ridges of the roofs of the development hereby permitted shall accord strictly with the details indicated on the approved plans.

Reason: In the interests of the appearance of the dwelling and residential amenity.

3. The parking facilities for motor vehicles shall be provided for each dwelling and site in accordance with the details shown on the approved drawings, and no dwelling shall be occupied until such provision and vehicular access thereto have been provided. These facilities shall be kept permanently available for the parking of motor vehicle.

Reason: To ensure that adequate off-street car parking facilities are provided.

4. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) Order, 2015 (and any Order revoking and re-enacting this 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, Class AA (enlargement of a dwellinghouse by construction of additional storeys)

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

(d) Part 1, Class D (porch)

(e) 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)

(f) Part 1, Class F (hardsurfaces)

(g) Part 2, Class A (means of enclosure)

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality.

5. The loft area shall be used only for the purposes of storage, and shall not be used as habitable accommodation or living space.

Reason: In the interests of neighbour amenity.

6. Prior to the occupation of any of the residential units hereby approved, all hardsurfacing and means of enclosure shall have been provided in accordance with the approved plans and thereafter so retained and maintained.

Reason: In the interests of visual and residential amenity.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting this Order) the windows hereby approved on the north of the building 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.

8. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.