

PLANNING APPLICATION REPORT

Case Officer: J Houslander **Parish:** Newton and Noss **Ward:** Newton and Yealmpton

Application No: 3466/16/FUL

Agent/Applicant:

Stan Bolt
The Old Museum
Higher Street
Brixham
TQ5 8HL

Applicant:

Mr & Mrs Lowdon
32 Oakwood Road
Widlesham
GU20 6JD

Site Address: The Cottage, 97D Court Road, Newton Ferrers, PL8 1DE

Development: Demolition of existing dwelling and integral garage & erection of new dwelling and integral garage

Reason item is being put to Committee:

Councillor Baldry:

For the reasons shown in your report I feel refusal is the right answer. I would therefore ask for the application to go to committee for the following reasons:

It is over development

It is not appropriate in the AONB

It is overlooked by PROW's at Lower Court Road and from the opposite bank

It is too close to the boundary

It overlooks the garden of the next house resulting in a loss of privacy

Contrary to DP3

Conversion of non-residential to residential.

Councillor Blackler: As the property has become a contentious site I must agree with Cllr Baldry and ask it's put to the Committee of DM. Regards, Cllr Blackler.



Recommendation: Conditional Approval

Conditions:

Time limit
Accord with plans
Retention of parking for motor vehicles
Drainage prior to commencement of development
Landscape plan condition
Construction Environment Management Plan prior to commencement of development
Removal of Permitted Development Rights
Landscape scheme prior to commencement of development
Unsuspected contamination
Prior to installation slate details
Prior to installation cladding details
Boundary details to be submitted and approved prior to the commencement of development.

Key issues for consideration:

The impact of the proposal on the neighbours
The impact of the proposal on the AONB
Whether the replacement of a garage and small residential unit to a larger dwelling is appropriate.

Site Description:

The application site lies close to the end of Court Road in Newton Ferrers. The road runs parallel to the River Yealm at a higher level and has dwellings on either side of the road and on a lower road known as Lower Court Road. The dwellings are largely detached and set within large plots overlooking the river and estuary. The site is sloping in nature from the road level down to the rear of a garden of a property which is accessed off Lower Court Road. Currently on the site is a garage with accommodation above and in front. It is small scale in nature and uses the slope of the land effectively. It sits at the very rear of the site, just off the road. The plot measures 44metres in length and the current property is located in the top10 metres of the site.

The Proposal:

The proposal seeks to replace the existing property with a larger dwelling on the footprint of the existing building and extending further forwards on the plot by 8-9 metres. The new dwelling will be in line with the property to its north. The proposal seeks to take advantage of the slope on the site to create a terraced property with the garage at existing road level with a utility/ snug/ plant room wc and lift space underneath the garage. A link/bridge is proposed leading to a kitchen dining and living room, with a terrace at the front of the building. Below this area are 3 bedrooms all with en-suite facilities. The design of the proposed replacement is contemporary with flat or monopitched roofs stepping down the hillside in two blocks with the terrace in front and steps leading down into the garden.

The elevation to the creek is heavily glazed with a copper surround and rendered walls on the terrace. The garage element at the rear of the site is also proposed as render. A raised ha ha garden is proposed along the front of the terrace. The glazing system is proposed as either frameless or minimal dark grey aluminium.

Consultations:

- County Highways Authority: Refer to standing advice
- Environmental Health Section
- Newton and Noss Parish Council: Object
 - External appearance – inappropriate design which is not in keeping with the location;
 - Loss of privacy for neighbours due to overlooking from the steps that would be bordering 99 Court Road
 - Loss of light particularly for 99 Court Road
 - Overdevelopment – border to border of the plot
 - Overbearing Impact on the neighbouring properties.
- Others

Representations from Residents:

Comments have been received and cover the following points:

- Gross overdevelopment of the site.
- A massive wall overshadowing no. 99.
- The proposed balcony will overlook the side window
- Loss of amenity to No.99.
- Previous application for similar development on this site withdrawn on advice of Council officers.
- Development lower down site less overbearing on neighbours approved.
- Unsustainable development of a luxury house on a garden site.
- Overshadowing of neighbouring property.
- Noise disturbance, smells, obtrusive lighting or other impacts on amenity
- This is a retrograde step on the approved application.
- The existing building is fundamentally a single narrow garage with an enclosed space beneath to bring the garage up to road level. It is inappropriate to replace this garage structure with a substantial dwelling. Given the major development on the adjacent site the effect will be to urbanise Court Road.
- This end of Court Road is defined by generally large houses with large mature gardens and has a distinctive and special character within the AONB.
- A direct challenge to well established planning policy. The LPA have rightly tried to maintain the low density to reduce the amount of traffic down a narrow road.
- A new dwelling would overlook the neighbouring property.
- If pp were granted it would provide a precedent for in-fill development.
- The LPA has previously refused development on this site and should do so again.
- See no reason to allow a change from the already agreed application.
- It appears that the revised application has joined together and moved the buildings up the hillside to a position which was in the first proposals put forward by the previous applicant. Objections were made to the original application on the grounds of loss of light and overlooking. We raise the same objections.
- The approved plans with the main house lower down the slope has much less impact on the light and privacy of the neighbours but still contributes to overdevelopment in the AONB.

River Yealm and District Association:

Object on the following grounds:

- The proposed dwelling is within 5 metres of the boundary
- The south elevation will be twice the area that currently presented by the existing garage.
- Too large for the site
- Cause significant damage to the AONB
- Contrary to Policies: NPPF Core strategy -CS7, CS9, Development Policies DPD - DPI and DP2 and South Hams Local Plan SHDC1 and MP12
- Will be overbearing and dominate the site by reason of scale, bulk massing, at odds with the surroundings and wholly inappropriate to its setting
- Poor design contrary to CS7 of the LDF and DP1 of the DPD
- The ridge line will be over 5 metres higher than the ridge line of the neighbouring house (Sunnybank) sited immediately to the North West and over 10 metres higher than the garden of that house. There will be significant loss of amenity, both privacy and light, contrary to DP3.
- The conversion of garages and other non-residential buildings into permanent dwellings in this area is contrary to SHDC planning Policy. Temporary residential use only of such buildings has been allowed, as in the case of two close neighbours (Highlands' garage and Sunrays). The design of this proposal would clearly indicate that it is intended as a residence. Yet this has never been the case in the past. The building has always been used as a garage with just occasional holiday accommodation on the floor below. There are a number of other two storey garages in the locality that could also be converted should the change of use be granted here.

Letters of support

Writing to support as the massing is much less than the approved application. Its impact on the hillside is greatly reduced when viewed from Wembury or Noss side.

Relevant Planning History

- 37/1470/84/3 Extensions Refusal: 18 Dec 84
- 37/0378/14/F Demolition of existing house with erection of replacement dwelling and garaging Withdrawn: 01 Apr 14
- 37/1157/14/PREMIN Pre Application enquiry for demolition of existing property (3 flats) and adjoining Annex (The cottage) and erection of 2 replacement Detached Dwellings Pre application - Officer support: 17 Oct 14
- 37/2600/14/F Erection of dwelling with ancillary studio and garage to replace existing garage/ancillary living accommodation Conditional approval: 23 Mar 15

ANALYSIS

Principle of Development/Sustainability:

The application is within the Development Boundary for Newton Ferrers and so is considered to be in a sustainable location and so is an acceptable site for residential development. The site also lies within the South Devon Area of Outstanding Natural Beauty and so the visual impact of the proposal needs to be given careful consideration.

Also of relevance to the consideration of this proposal is the planning history on the site. Approval was given in 2015 for a replacement for the cottage. The approved scheme was for a two storey dwelling with a separate garage and studio. The massing of the previous approval is larger than this proposal. This proposal is also more compact than the previous approval as all of the development is contained within one building.

Design/Landscape:

The design of the building is contemporary, but has also sought to reduce the scale and massing of the proposal. The use of render would reflect the character of the buildings in close proximity to the application site. The use of copper is unusual and is not commonly used in the area, however the fact that it will patinate over time will add a dynamism to the building and the green nature of patinated copper will blend with the natural landscape in the area.

The impact of the proposal on the AONB is clearly relevant to the consideration of this proposal. Views of the AONB from Court Road will be affected by the proposed dwelling, however the massing of this proposal is less than the dwelling previously approved on the site, which is still an extant permission. When that proposal was approved, it was not considered to have a detrimental impact on the AONB. In this case the applicant has made great play of trying to reduce the impact of the proposal on the landscape as well as on the residential amenities of the adjoining properties. There is a public right of way which runs along Lower Court Road, however because of the steepness of the land and the dwelling off Lower Court road which is currently under construction will prevent views other than possibly glimpse views of this proposed dwelling.

There is a public right of Way on the other side of the creek, which is set back from the headland quite some way and because of the treed nature of the land, it is not likely that the proposal site will be visible from that footpath.

As the area within which the proposal is located is residential and relatively built up it is not considered that the addition of this more modest (vis a vis the previous approval) proposal will have a negative impact on the AONB.

Neighbour Amenity:

A number of residents have raised objection to the proposal on the grounds of loss of light to neighbouring properties, loss of privacy and overbearing. Concerns have also been raised about the impact of the proposal on the AONB and the proposal being over development of the site.

Impact on No 99:

A terrace is proposed on the new dwelling at the front, however the building is sited such that there will be no overlooking of the adjacent house (99). There may be some potential for overlooking of the front garden area of the adjacent properties, however two walls are provided along the sides of the terrace, which will prevent some of that overlooking to a height of approximately a metre. A new boundary with number 99 is proposed, which can be the subject of a planning condition to ensure it is constructed of appropriate materials and of an appropriate height.

No.99 has a conservatory to the rear elevation which will prevent overlooking from the proposed dwelling towards the private terrace area immediately adjacent to its rear elevation. With regard to general overlooking, the respective heights of the two buildings, the sharp fall of the land and existing boundary treatments will prevent materially harmful, direct overlooking into the rear garden.

It is also important to acknowledge that policy DP3 states that '*Unacceptable impacts will be judged against the level of amenity generally accepted within the locality*'. Mutual overlooking is a long established characteristic of the village. No.99 is already comprehensively overlooked by the rear balcony and rear windows of the neighbour to the west, no.101. The proposal is considered policy compliant within this context.

There is an existing hedgerow between the proposed dwelling and No 99, which will already cause some loss of light to No 99. The fact that the proposal is set back in the site further than the previously approved proposal and that was considered to not cause a problem in terms of loss of light means that this proposal will result in a betterment. Overall, the loss of direct sunlight arising from the dwelling is not considered to be materially greater than the current arrangement, where the steep fall of the land and existing boundary treatments already restrict sunlight at this point.

Impact on new dwelling to the east:

The new dwelling adjacent to the east is set back into the site further than the previous dwelling on the site (The Sheilings). However having reviewed the approved plans for the dwelling on the adjacent site, it would appear that it and the proposal are located at the same point on each site, therefore in the same way as with No 99, there would be no direct overlooking of the house, but there may be some overlooking of the front garden. The new dwelling is set further away from the side boundary approximately 10 – 15 metres away. And the adjacent dwelling also has a terrace on its side elevation which would in fact be more likely to overlook the proposed dwelling rather than the other way around.

Highways/Access:

The Highway Authority have recommended standing advice for this proposal. The access position remains unchanged as a result of the application and the existing building on the site is a garage, which has had appropriate access to it in the past. The proposal retains that same approach.

Planning Balance

The NPPF encourages sustainable development in accordance with the Local Plan unless material considerations indicate otherwise. The proposal complies with the local development plan, by being located within the development boundary for Newton Ferrers and so in principle terms a dwelling on this site is acceptable. The proposal has been reduced in scale from the previous approval (which remains extant and so could still be implemented) and that proposal did not cause harm to the AONB. This proposal is of a reduced scale and is set within an area where residential development is commonplace. The plots are generally of a reasonable size to allow for the dwellings to be set in a landscaped setting and this proposal follows that approach. The impact on the AONB is therefore negligible because of the existing setting.

In relation to other material considerations, there have been a number of objections to the proposal, from local residents, the Parish Council and the River Yealm and District Association. It is clear that new development in this area is highly sensitive and it appears that there have been a number of redevelopment proposals in the recent past, the dwelling in front of 97 and the replacement dwelling on the site immediately adjacent.

There has also been a concern raised about loss of light and overshadowing caused by the proposal. The applicant has provided a sun path analysis, showing the shadows at the winter solstice, which will be when any over shadowing will be at its worst. The analysis shows that

the extant consent creates a worse overshadowing scenario than this application, both because the proposed dwelling is further south on the site and because it is higher. There will be some overshadowing of 99 at 10 am in the morning in winter, with this proposal. The overshadowing will be limited to the side of the house and rear. The previous scheme overshadowed part of the front garden area in addition. The overshadowing is not considered to be unreasonable, particularly when the scenario shown is the worst case and in other months of the year when the sun is higher that over shadowing will be much less.

Whilst there may be a degree of overlooking caused by a new development on this site, it was accepted with the previous approval and in this case, it will be limited to garden areas only and even in those cases privacy will be protected through appropriate boundary treatments, screening walls on the terrace. In a situation where properties are located along a road such as is the case in Court Road, there will inevitably be a degree of inter relationship and overlooking between all of the properties. In this case a condition will be attached to the consent to enable a thorough examination of the boundary treatments so as to respect both privacy and any potential overshadowing.

Having taken all of the above into consideration, it is considered that the proposal meets the policy considerations of the adopted development plan and that in light of the previous approval which is a material consideration, the objections raised do not outweigh the balance and so planning consent is recommended.

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

Planning Policy

NPPF

*All standard policies listed **South Hams LDF Core Strategy***

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character

DP3 Residential Amenity

DP7 Transport, Access & Parking

South Hams Local Plan

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 Sustainable Development
 DEV10 Delivering high quality housing
 DEV24 Landscape character

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.

Proposed planning 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 this permission is 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.

2. The development hereby approved shall in all respects accord strictly with drawing number(s) LNF01 Location Plan; LNF02 Block Plans; LNF 03 Site plan/Roof Plan; LNF 04 Access Floor Plan; LNF 05 First Floor Plan; LNF 06 Ground Floor Plan; LNF 07 Elevations; LNF 07 Sections; LNF11 Foul and Storm water management Plan; 1406 REV1 Tree Location Plan; Ecological Appraisal dated June 2014 produced by Devon Wildlife Consultants and updater letter dated 2/11/2016;; Design and Access Statement by Stan Bolt dated October 2016, received by the Local Planning Authority on 8th November 2016 and LNF 12 sun path analysis, received by the Local Planning Authority on: 7th April 2017.

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 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes A-H of the Order, including the erection of extensions, porches, garages or car ports, the stationing of huts, fences or other structures shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area to ensure adequate space about the buildings hereby approved and in the interests of amenity.

4. 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.

5. The building works/change of use shall not be implemented until a landscaping scheme has been submitted to and approved by the Local Planning Authority, indicating the boundary treatment of the proposed plots/development. The scheme submitted shall be fully implemented in the planting season following the completion of the development and the plants shall be protected, maintained and replaced as necessary for a minimum period of five years following the date of the completion of the planting.

Reason: In the interest of visual amenity in order to protect and enhance the amenities of the site and locality.

6. Details of the proposed boundary treatment shall be submitted to and agreed in writing by the Local Planning Authority prior to their installation and shall be implemented prior to first occupation/use.

Reason: In the interest of visual amenity in order to protect and enhance the amenities of the site and locality.

7. Prior to their installation details / samples of facing materials, and of roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those samples as approved.

Reason: In the interests of visual amenity.

8. No development whatsoever shall be commenced unless a traffic management plan has been submitted to and approved in writing by the Local Planning Authority. This plan should include details of the timetable of the works, daily hours of construction, road closure, number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits, hours during which no construction traffic will be present at the site and the means of enclosure of the site during construction works. This plan shall be strictly adhered to during the construction of the development hereby permitted unless variation is agreed in writing by the Local Planning Authority.

Reason: In the interests of public and highway safety.

9. The garage and/or hardstanding hereby permitted shall remain available in perpetuity for the parking of motor vehicles in association with the use of the dwelling.

Reason: To ensure that the off-street parking facilities remain available in the interests of highway safety

PRE-COMMENCEMENT CONDITION

10. No development shall be commenced until details of the works for the disposal of sewage and surface water have been submitted to and approved in writing by the Local Planning Authority, and the dwelling shall not be occupied until the approved works have been completed to the satisfaction of the Local Planning Authority.

Reason: In the interests of the prevention of pollution and to ensure adequate surface water drainage of the site.