

BUDLEIGH  
(Budleigh Salterton)

08/2519/OUT

Target Date:10.11.08

Applicant:

Mr Gosling

Location:

Clyst Hayes House, 4 Exmouth road, Budleigh Salterton

Proposal:

Demolition of existing house and erection of 5 detached dwellings with garages and ancillary works

## **CONSULTATIONS**

### County Highway Authority

The site is located on the B3178 Exmouth Road which is subject to a 30 mph speed limit in the vicinity of the site. The access proposed to serve the development complies with all current criteria for geometry and sight lines and the northernmost existing vehicular access to the site is proposed to be closed following the construction of the new access. The highway authority therefore has no objections to the proposed development.

### South West Water

No comments received

### Environment Agency

No comments received

## **TOWN COUNCIL**

There is very little difference between this application and the previous (08/0498/OUT) and therefore this Council would recommend refusal.

1. Over-development of the site.
2. The proposed loss of trees would have a detrimental affect on the surrounding area.
3. Dangerous exit onto a busy road.
4. This council has concerns that the development will have a serious impact on the adjoining County Wildlife Site.
5. There are also concerns that the additional sewerage and surface water will cause problems to the existing drainage system.

It is felt that the location is not suitable for an Outline Application and a full application should be requested. This application is therefore contrary to Policies S4, D1, D5, EN1 and EN5 of the East Devon local Plan, Policies ST1, CO3, CO1 and TR10 of the Devon Structure Plan and guidance laid out in the Budleigh Salterton Design Statement.

## **WARD MEMBER(S)**

No comments received.

## **REPRESENTATIONS**

### Objections

11 Letters of objection have been received raising the following points:

- Overdevelopment
- Loss of trees and impact on wildlife
- Demolition of existing property
- Road safety for pedestrians
- Development out of character with the surrounding area
- Additional strain on existing sewage network
- Visibility from access further obscured by vehicles parked in layby
- Lack of footpath provision
- Impact on AONB
- Bus stop provision not addressed
- Unimaginative layout
- Flooding

### **RELEVANT PLANNING HISTORY**

| <b>App.No:</b> | <b>Proposal</b>   | <b>Decision</b> | <b>Date</b> |
|----------------|---|-----------------|-------------|
| 08/0498/OUT    | Demolition of existing house and erection of five detached dwellings and ancillary works      | Withdrawn       | 28.04.08    |
| 07/3055/FUL    | Demolition of existing house and erection of five detached dwellings and ancillary works      | Withdrawn       | 12.12.07    |
| 07/1888/FUL    | Demolition of existing house and erection of 6 no. dwellings with garages and ancillary works | Withdrawn       | 24.08.07    |

### **PLANNING POLICIES**

#### Government Guidance

PPS 1 – Planning Policy Statement 1: Delivering Sustainable Development  
PPS3 – Housing

#### Devon Country Structure Plan (2001-2016)

Policy CO6 – Quality of New Development  
Policy TR10 – Strategic Road Network

#### East Devon Local Plan (1995-2011)

Policy D1 – Design and Local Distinctiveness  
Policy D5 – Trees and Development on Site  
Policy EN6 – Wildlife Habitats and Features  
Policy H4 – Affordable Housing  
Policy RE3 – Open Space Provisions in New Housing Developments  
Policy S2 – Built-up Area Boundaries for Area Centres and Local Centres  
Policy S4 – Development within Built-up Area Boundaries  
Policy TA7 – Adequacy of Road Network and Site Access

## **SITE LOCATION AND DESCRIPTION**

This application is brought before Committee at the request of the Chairman so that the Policy issues regarding affordable housing can be highlighted.

The application site relates to the property known as Clyst Hayes. The existing property is a large slate and render, Edwardian house of attractive proportions and is set toward the south eastern side of an extensive plot. The plot itself slopes generally down from the roadside to the north and is linear in nature, extending to approximately 127 metres by 45.50 metres with a wide road frontage and narrow depth.

The levels are such that the existing property is set below the road level to the south. The gardens are largely laid to lawn with areas of mature planting. In particular there are numerous mature and imposing trees to the southwest, northwest and part of the northeast boundaries a mature conifer hedge/tree screen marks the south west boundary. The southwest boundary is defined by a mature hedgebank which has a number of mature and protected trees within it. This is set for some of its length to the rear of an existing vehicle lay-by area on to which is the existing main vehicular access. There is an additional vehicle access directly on to the main road further to the west (this appears not to be utilised at present).

The site lies within the built-up area boundary of the town, a designated area of outstanding natural beauty and borders a country wildlife site to the rear. There are a number of mature trees the subject of TPOs on the site.

## **PROPOSED DEVELOPMENT**

The proposal seeks outline planning permission for the erection of 5 detached properties on the site (and includes the demolition of the existing property). All matters including the means of access are reserved.

## **CONSIDERATIONS AND ASSESSMENT**

### **Background**

This current application follows the withdrawal of applications 08/0498/OUT, 07/3055/FUL and 07/1888/FUL. The most recent of these applications was also for 5 detached dwellings in outline form where concerns were expressed with regard to the potential impact on trees and the character of the area, lack of information relating to protected species, lack of affordable housing provision and highway issues. Prior to that application 07/3055/FUL was for the development of the site for five detached dwellings and followed two previous applications. Application no. 07/1889/FUL was for 6 detached dwellings and was withdrawn following similar concerns to those expressed on 07/3055/FUL. Application 04/2092 was refused on the basis of the inadequate access arrangements and the impact on mature trees on the site. It is considered that the main issues in the determination of the current application relate to: the principle of development; the appropriateness of the suggested layout and the impact of this on the character and appearance of the area; highway safety resulting from the proposed access arrangements and the impact of the proposal on trees of amenity value and protected species.

### **Affordable Housing Provision**

Following the withdrawal of the previous applications the applicant has undertaken pre-application advice regarding the proposed layout and impact on trees, the affordable housing requirement and the impact on protected species. The site now brought forward has been reduced in area to take it under the threshold where there would be a requirement for affordable housing. The applicant's claim that this area of the site has been sold and as such the site area falls below the threshold where affordable housing is required, whilst the applicants have offered

to make a commuted sum payment of £100,000 there is no policy requirement for this. Whilst it is extremely disappointing that it appears that the site area has been reduced in area in order to avoid the requirements of policy H4 (Affordable Housing) as it stands there is now no requirement to adhere to this policy and legal advice which has been sought suggests that there are no grounds for the refusal of planning permission on this basis.

#### Principle of development

The site lies within the built-up area boundary of the town and the existing property is not listed and does not lie within a designated conservation area. Therefore subject to the usual planning constraints there is no in principle objection to the development of the site. However, the site is subject to a number of particular constraints that will effect the ability to and way in which it might be developed, these are discussed in further detail below.

In terms of density the five units proposed are considered in principle to be acceptable and strike a balance between the low density nature of development in the area and the requirement to make the best use of previously developed land. However, it remains for the applicant to demonstrate that this number of dwellings can be accommodated on the site without detriment to protected trees or the character of the area.

#### Layout and impact on character of the area

The siting of units is reserved but the application site plan indicates 5 no. dwellings arranged in a staggered line across the northwest – southeast axis of the site. These would be served by the existing access in the southeast corner of the site which would be widened and a new private drive formed running through the centre of the site. This cul-de-sac arrangement whilst being somewhat out of keeping with the surrounding pattern of development would allow for the retention of the existing tree/hedge bank screening along the site frontage which would help to screen the development.

Concerns have been raised with regard to the potential future development of the land at the northwestern end of (and now outside of) the site. It has previously been suggested that this area of land would be left as open space for the enjoyment of future occupiers as development of this area would not be possible due to impact on protected trees and proximity to a public sewer. It remains the case that any future proposals for the development of this part of the land are unlikely to be acceptable due to the constraints imposed by protected trees, the layout of the site and the additional traffic this is likely to generate.

In terms of the form of dwelling indicated i.e. relatively large, detached, two storey properties this would subject to layout be in keeping with the surrounding pattern of development.

#### Highway Safety

The proposal would be to widen the existing access in the southeast corner of the site and to run a new private drive and adopted highway off this. Concerns have been expressed previously with regard to visibility from the access to the site and the need for footpath provision. The highways authority appears to accept the visibility splays that would be provided across the site and have recommended that a number of additional conditions be applied. These conditions recognize the outline nature of the application and although they appear to tie the development to the access proposed they do not similarly attempt to tie the access roads to those indicated and therefore the slight amendment required in the access road to account for the RPAs of protected trees would not be contrary to any condition.

### Impact on trees of amenity importance

The application is accompanied by a tree survey which correctly identifies the trees on the site. The arboricultural officer has considered the amended tree information and indicative cross-section profiles through the site and has commented as follows:

*The outline proposal has moved things forward but there remains an inconsistency with the proposed new access in the vicinity of plot 4 and the existing alignment of the driveway. The raised ground to the south of the existing driveway is all part of the RPA of the retained trees and should not be encroached upon or the ground reprofiled as is indicated by the cross sections on the accompanying plans.*

*There would seem to be ample scope to amend the alignment of the driveway, so I do not consider this should be considered as a reason for refusal but instead something that will need to be addressed within the reserved matters.*

*Other than the above I can find no problems with the proposal which by and large has addressed my previous concerns.*

Accordingly, it is considered that given that all matters are reserved on the application that the proposal is acceptable in relation to its potential impact on trees and that any slight adjustment to driveway alignment can be adequately addressed in any reserved matters application.

### Protected Species

The existing property is of a style and age and in a location where there is the possibility that it could be used by protected species.

A bat emergence survey has been submitted with the application which revealed some bat activity around the building but none emerging from the building itself. Natural England having read the report have raised no objections.

### Other issues

The size of the site (just under 0.5 ha) is such that there is no longer a requirement to provide affordable housing at a level of 40% of the development total. This has been discussed above.

Flooding has been raised as an issue by one objector who considers that the site lies within a designated high/medium flood risk zone. Having viewed the indicative flood zone map it is apparent that this is not the case and that the site lies within an area of low probability of flooding where there is no requirement to provide a Flood Risk Assessment that specifically considers this issue.

### **CONCLUSION**

This application is the latest in a number of applications submitted to secure development on this site. It is now considered that the applicant has been able to demonstrate that the site is capable of accommodating the proposed 5 no. dwellings. Whilst the road layout indicated would need to be amended slightly in any reserved matters submission to fully take into account the RPA of two of the trees to the east of the access, it is not however considered that this would affect the principle of development. This being the case and as all matters are reserved it is considered that the proposal is acceptable and is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

APPROVE subject to the applicant entering into an agreement under Section 106 of the Town and Country Planning Act 1990 to secure:

- public open space contribution

and the following planning conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
2. Approval of the details of the layout, scale, appearance, access and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.  
(Reason - The application is in outline with one or more matters reserved.)
3. The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the application drawings where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.05 metres above the adjacent carriageway and the adjacent drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.5 metres and the visibility distances along the nearer edge of the carriageway of the public highway ( identified as Y ) shall be 70 metres in both directions.  
(Reason - To provide a satisfactory access to the site with adequate facilities for short term parking and to provide adequate visibility from and of emerging vehicles.)
4. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 20 metres back from its junction with the public highway  
(Reason - To prevent mud and other debris being carried onto the public highway.)
5. The existing northernmost access shall be effectively and permanently closed in accordance with details shown on the application drawings as soon as the new access is capable of use.  
(Reason - To prevent the use of a substandard access and to minimise the number of accesses on to the public highway.)
6. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area, parking space and garage/hardstanding, access drive and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times  
(Reason - To ensure that adequate facilities are available for the traffic attracted to the site.)
7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development

within Classes A, B, C, D, E and F of part 1, and Class A of Part 2, of Schedule Two of the Order.

(Reason – To protect the appearance and character of the development in the area.)

8. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

In any event, the following restrictions shall be strictly observed:

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in National Joint Utilities Group (NJUG) Publication Number 10 1995.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - To ensure retention and protection of trees on the site in the interests of amenity and to preserve and enhance the character and appearance of the area.)

#### Reasons for Approval

The proposal complies with the Devon Structure Plan 2001-2016 Policies CO6 (Quality of New Development) and TR10 (Strategic Road Network).

The proposal complies with the adopted East Devon Local Plan 1995-2011 Policies, S4 (Development Within Built-up Area Boundaries), D1 (Design and Local Distinctiveness), D5 (Trees on Development Sites), EN1 (Developments Affecting Areas of Outstanding Natural Beauty) and TA7 (Adequacy of Road Network and Site Access).

The proposal does not adversely affect the privacy and/or amenity of neighbouring properties.

The design and external appearance of the proposal does not harm the visual amenity of the site and surrounding area.

The proposal does not harm the natural beauty of the landscape designated as an Area of Outstanding Natural Beauty.

The proposal does no harm to wildlife interest.

The proposal does not harm or give rise to a perceived threat from important trees on or adjacent to the site.

The proposal is contained within the defined built-up area boundary of the settlement.

The access to serve the proposal does not prejudice highway safety.

## **Note to Applicant**

Location plan, 3592.11, 3592.16.1, 3592.16, 3592.17,

The applicant is advised that all details submitted have been considered as indicative and that approval of the outline permission does not necessarily convey approval of the proposed layout arrangements. Furthermore, the site access road as indicated on the submitted plan no. 3592.16 would need to be amended in any Reserved Matters application to take into account the RPA of trees within group G1 to the northwest of the access

The applicant is advised that the road will partly be eligible for adoption as a publicly maintained highway under the provisions of Section 38 of the Highways Act 1980, subject to its compliance with the County Highway Authority's publication 'Highways in Residential and Commercial Estates'

The applicants are reminded of the need to comply with the relevant legislation with regard to protected species that may be present or encountered during development.

## **List of Background Papers**

Application file, consultations and policy documents referred to in the report.