

these balconies across the whole of the communal garden of Seaforth Lodge. 9 Seaforth Lodge is a maisonette which has four principle rooms and of two of them will suffer from a considerable loss of light if this approved and the only room which would not be overlooked would be the owner's bathroom. This is totally unacceptable. The proposed dwelling is very close to the eastern boundary with Seaforth Lodge and therefore would be out of context in its setting which goes against the Seaton Design Statement.

The accompanying Arboricultural Report on the trees at Ingon House states that many of the trees on the site are either category A – high quality or B – medium quality trees and it is imperative that there are kept. Do any of the trees on this site have a TPO? Is the site subject to a blanket tree preservation order? I believe that the ground works which are proposed in this application would cause immeasurable damage to the root systems of these trees. Also the recently completed Seaton Design Statement that has been adopted for Development Control purposes states that 'natural green and open spaces are a distinctive characteristic which provide softening and screening amenity value to promote quality and natural habitat for wildlife. It is a priority that these are safeguarded. This application would not be adhering to this document.

There are also concerns about any wildlife and protected species that may inhabit the site. It has been reported that adders are present in the garden of Seaforth Lodge and have been seen on the pathway to the beach. It stands to reason that they are also present in the application site. Adders are protected under the Wildlife and Countryside Act 1981 and a couple of years ago the presence of badgers was reported in the garden of Seaforth Lodge.

For the reasons above I would wish to see this application in its present form refused.”

Cllr Knight

“I wish to object most strongly to this planning application and note that at this time I would recommend it for refusal or if I differ from the officer's report then I would like it to go the development control committee.

Firstly I would like to see a stability survey of the land in question as it is part of the World Heritage Coast and visiting the beach area under this application site it is quite easy to see a small landslide has taken place recently, any disturbance on this fragile area could bring about an even larger landslide.

Secondly I would want to see a wildlife and fauna survey as I am sure there are protected species within this garden area.

The application is for a rather large building on a narrow strip of coastline garden and this I would call over development and out of keeping with the distinctive character of the building surrounding it.

The building would take away light from some of the adjoining properties and one apartment would suffer severe overlooking which includes all rooms within this apartment other than their toilet and bathroom. The balcony would take away the privacy of the residents of Seaforth Lodge when enjoying the tranquillity of their back gardens.

This application is not in accordance with the current adopted Seaton Design Statement and Seaton Local Plan.”

Cllr Rogers

“This application should be refused because of the instability of the site; concern over proposals to affect trees; neighbours worries re overlooking and close proximity to neighbouring properties. Concerns have been most eloquently made by neighbours”

Amended Plans:

Cllr Jones

“ Further to my comments made on 19th April I note the amended plans, but issues concerning the stability of the land, the overlooking into neighbouring properties and the concerns regarding the wildlife and protected species have not been addressed. The amended application still does not adhere to the adopted Seaton Design Statement which states that natural green and open spaces are a distinctive characteristic which provides softening and screening amenity value to promote quality of life and a natural habitat for wildlife.

Therefore, I still object to this application and would like to see this application refused.”

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

REPRESENTATIONS

Objections

Original Plans:

7 letters have been received raising the following points:

- Inaccuracy of location and layout plans
- Adverse levels of overlooking to inhabited rooms and communal garden
- Loss of light and overbearing impact due to proximity to boundary
- Impact on stability of cliffs
- Loss of mature tree of value and impact on retained trees
- Loss of outlook
- Light pollution
- Not traditional
- Plot size out of character with area
- Dwelling out of scale on site
- New dwelling will have limited amenity
- Impact on wind patterns with potential damage to adjacent property
- Tile roof not appropriate
- Unsuitable drainage arrangements
- Construction method unsuitable for a house of this size and ground conditions
- Noise from proposed air source heat pump and external balconies
- Inappropriate planting scheme
- Presence of protected species on the site

Amended Plans:

7 letters have been received raising the following points:

- Amendments do not address main objections which are reiterated
- Increased floor level will increase impact
- Scheme does not conform to Seaton Design Statement reference to importance of natural green and open spaces
- Design of building at odds with surrounding properties

Support

No letters have been received

RELEVANT PLANNING HISTORY

App.No:	Proposal	Decision	Date
06/1852/OUT	Renewal of permission for the erection of one dwelling	Approved	18.12.2006
03/P2149	Erection of one dwelling	Approved	07.05.2004

PLANNING POLICIES

Government Guidance

PPS 1 Delivering Sustainable Development
PPS 3 Housing
PPS 9 Biodiversity and Geological Conservation
PPG 14 Development on Unstable Land

Devon Country Structure Plan (2001-2016)

Policy CO6 - Quality of New Development
Policy TR10 - Strategic Road Network and Roadside Service Areas

East Devon Local Plan (1995-2011)

Policy S4 - Development Within Built-up Area Boundaries
Policy D1 – Design and Local Distinctiveness
Policy D5 - Trees on Development Sites
Policy TA7 - Adequacy of Road Network and Site Access
Policy TA9 - Parking Provision in New Development

Supplementary Planning Guidance

Seaton Town Design Statement 2009

SITE LOCATION AND DESCRIPTION

This site lies within the curtilage of a large post-war detached house known as Ingon House on the south side of Old Beer Road.

The site contains a significant number of mature trees protected by a blanket tree preservation order served in January 1956.

PROPOSED DEVELOPMENT

The erection of a dwelling and garage and modification of the existing drive.

CONSIDERATIONS AND ASSESSMENT

Background

Outline planning permission for a dwelling was granted in 2004 following lengthy discussions with the Council's Arboricultural Officer to agree an acceptable siting which would not result in the

loss of important trees (some lesser trees were identified for removal). Access details were also agreed proposing the shared use of the existing access to Ingon House.

This outline permission was renewed by Committee in 2006 with siting and access being approved as before.

The current application has been submitted as a full application and proposes a dwelling with a larger footprint than previously approved. The outline permission expires on 18 December 2009 and could still be implemented if acceptable reserved matters were submitted and approved.

Design and Siting

The siting of the dwelling is severally restricted by the existing trees on the site and the new dwelling can only be located on the western side of the site towards Seaforth Lodge. This is largely in line with the previous applications which approved the dwelling in this general position and is also in keeping with the general build line created by Ingon House and Seaforth Lodge.

The scheme proposes a contemporary dwelling with overlapping mono pitch rooflines and a contemporary glazing treatment. The external materials are proposed as a standing seam zinc roof (application as amended) and white render. Generally this design approach is considered to be acceptable as the design lends itself well to the constrained siting and the area is not subject to any significant designations such as being within a Conservation Area or being adjacent to any Listed Buildings which would justify a more traditional/vernacular approach. The new dwelling will be well screened from public view by the trees retained at the front of the site such that it will not be an overly prominent development but even if it were visible its scale and massing is largely in keeping with the area. The comments of the Ward Member about the scale of the building in relation to the plot size are noted but the proposed dwelling still provides for a reasonable garden area commensurate with the size of the property and even with the larger dwelling allows for the retention of important trees. The dwelling will not appear as an overdevelopment of the site because of the large number of retained trees which will serve to soften the development and maintain the green appearance of the site. In terms of objections raised about the plot size being out of character with the area the development of this site as a separate building plot has already been accepted.

Reference is made by the Ward Members to the Seaton Design Statement and to a particular paragraph which talks in general terms about the importance and preservation of natural green open spaces (page 33). This is an important aim but it must be balanced against other aims set out in the Design Statement such as regeneration, making efficient use of land and achieving good design which complements the characteristics features of each zone. Notwithstanding this paragraph the principle of the development of this site has already been accepted through the granting of earlier permissions and therefore the Council has already accepted some reduction/lessening of the natural green space the site currently provides. As noted above the scheme does provide for the retention of a large number of trees which will serve to maintain some of the natural screening and softening of the site.

A linked garage is proposed to the side and while of a more traditional form and appearance is in keeping in terms of its size and scale.

Impact on Trees

The large number of protected trees is the biggest constraint on this site and this current application has again been subject to lengthy negotiations with the Arboricultural Officer. A full tree report was submitted with the original application and amended plans and a supplementary tree report have subsequently been submitted in an attempt to fully address the issues of the siting and construction of the house, the construction of the carpark extension and driveway, trees identified for removal and retention and additional tree planting.

- i. Siting and construction of house
The house is sited in a similar area to the previous outline approvals and as referred to above this is really the only siting possible taking into account the position of trees on the application site and adjoining garden. The height of the house and garage has been raised up 150 mm at the request of the Arboricultural Officer and the rather than conventional foundations the house will be built using a method of piles and ground beams fixed to the existing ground level with the position of the piles being established through further exploratory work using an airspade which exposes the tree roots without causing damage so that the piles can be positioned in between the roots. Therefore there will be no excavation involved in the construction of the house and this will minimise the damage to the tree roots within the construction area.
- ii. Construction of the carpark extension and driveway
This has been clarified further by the agent who confirms that for both elements a no dig form of construction will be used. The car park extension will be constructed using stone filled gabions supporting a pre cast beam and block floor slab above the existing ground level as recommended by the Arboricultural Officer and the driveway will be constructed using a system called Terram Cellular Confinement System.
- iii. Trees identified for removal and retention
Amended plans have been submitted showing the retention of two more trees than originally identified as requested by the Arboricultural Officer. The amended plans therefore show the removal of 8 trees and the submitted Tree Reports identify remedial works to a number of the trees on the site.
- iv. Additional tree planting
At the request of the Arboricultural Officer the amended plan shows the planting of two additional trees (a Sorbus aria and Sorbus aucuparia) towards the western boundary of the site.

The Arboricultural Officer has been fully consulted on this application and has confirmed that the revised details are acceptable, and subject to the imposition of conditions, there are no objections.

The consultee and third party objections on the ground of tree impact are noted but as the Arboricultural Officer is satisfied with the proposals a refusal on the grounds of tree impact would not be reasonable or supportable.

Objections have also been raised over the feasibility of the proposed construction method but it is an acceptable solution in terms of tree impact and any technical issues of using this method on the site will be controlled through Building Regulations. There is no evidence that this form of construction is not technically feasible and the use of this method will be controlled through conditions in the interests of trees on the site.

Impact on Residential Amenity

The letters of objection are from the adjoining site to the west which consists of a large flat development with two smaller properties at the front of the site abutting the road. The objections primarily relate to overlooking from the side windows and balcony, loss of light and overbearing impact due to the size of the dwelling and proximity to the boundary and noise and disturbance from construction and future use.

- i. Overlooking
Overlooking from ground floor windows is not normally considered harmful and in this case the proposed ground floor windows in the side (south west) elevation facing towards Seaforth Lodge will not result in harmful levels of overlooking because views from these windows will be screened by the proposed new 1.8 m fence and proposed planting. The first floor window serves a bathroom and this will be conditioned to be obscured glazed

(as will the first floor windows on the other side elevation). The other glazing on the south west elevation is high level glazing and there will not be any views from these openings. The sides of the balcony area will be screened by a 2.5 metre high obscured glazed privacy screen (which will be conditioned) and this will effectively prevent any harmful overlooking towards Seaforth Lodge. Concerns have been raised about overlooking of the communal garden of Seaforth Lodge from the balcony but it is not considered that overlooking from the rear (south east) elevation of the dwelling from either first floor windows or the balcony will be at an unacceptably adverse level. The main view will be out into the rear garden of the property and any oblique overlooking from the balcony and windows towards the neighbouring property will be no different than the normal levels of mutual overlooking between two storey properties. Therefore while the concerns of the neighbours have been noted it is not considered that the development will result in harmful levels of overlooking or loss of privacy.

ii. Loss of light and overbearing impact

At its closest point the new dwelling will be approximately 7.2 metres from Seaforth Lodge and 7 metres from Seaforth Cottage but given the orientation of the properties, the existing boundary treatments and layout of the new property it is not considered that it will result in adverse loss of light or have an unduly overbearing impact. The contemporary form of the dwelling means that its highest point (the overlap of the two mono pitch roof forms) is a further 3.5 metres from the adjacent properties and at its closest point the new dwelling will be 7 metres in height which is not considered to be so high as to be excessively out of character with the form of development in the area or be overbearing. The new house will be visible from the adjacent properties but it is not considered that this in itself is harmful.

Linked to this are concerns over the proposed planting of evergreen shrubs to the boundary. The Design and Access statement and amended plans identifies new indigenous evergreen shrub planting to both side boundaries including the erection of a new timber fence to the Seaforth Lodge boundary. Concerns have been expressed about the proposed new evergreen planting due to previous problems caused by the existing evergreen hedge (subject to a high hedge complaint). Indigenous evergreen shrub planting is not an unreasonable planting treatment in a domestic garden in a town location and the landscaping of rear garden areas is not normally an issue the Local Planning Authority would seek to control. Additional planting could be undertaken by future occupiers above and beyond any detailed landscaping and there would be no way to control this and so notwithstanding the details on the submitted plans additional evergreen planting could be undertaken on the site. This piece of land was previously a large extended garden and not unsurprisingly it was not properly maintained thereby causing the high hedge issue. With a new dwelling on the site in closer proximity to the boundary planting it is much more likely that planting within the site will be properly maintained and at an acceptable height and so it is considered unlikely that the previous problems experienced on the site will occur in the future but if a high hedge problem was to arise action could be taken under the relevant legislation.

iii. Noise and disturbance

The impact of construction work is not a planning issue as invariably there will be some extra disturbance or noise during construction works and it is not considered that the normal occupation and use of a residential property and the noise that results will be harmful. Many properties have balconies or raised terraces and the use of these areas is no more likely to result in disturbance than the use of a domestic garden. With reference to the likely noise output of the air source heat pump further information on this has not been provided but the use of normal domestic heating systems is unlikely to result in adverse noise levels. The Local Planning Authority does not have the policy backing to insist on this method of heating (and therefore a more conventional heating system could be used without further recourse to planning) but any noise and disturbance which arises from any installed systems would be subject to normal Environmental Health controls.

Therefore it is not considered that the use of the proposed dwelling will have an adverse impact in terms of noise and disturbance.

Another issue raised is the effect of the development on wind patterns whereby it has been claimed that the new dwelling will affect wind patterns on this exposed site thereby increasing the potential of damage to Seaforth Lodge. There is no evidence that this would result and this is not a recognised problem with development in this type of exposed location.

Highway Issues

There are no new highway issues arising since the last application and the scheme proposes the continued shared use of the existing access to Ingon House and there is ample space within the site to provide parking and turning for both properties.

Impact on Protected Species

A number of objectors have raised the issue of protected species (badgers, slow worms and/or adders) on the site although there is no evidence that any such species are present and this was not raised as an issue in 2006 when the previous application was considered. A protected species survey has not therefore been requested as there is no firm evidence that protected species are likely to be present on the site and therefore to require such a survey would not be reasonable.

However if any protected species were found on the site during construction works the developers would be liable for any harm caused and the normal legal protection would not be overridden by the grant of planning permission. An informative will be added drawing the developer's attention to their separate legal obligations.

Site Stability

During consideration of the 2006 application the Town Council raised the issue of site stability and cliff erosion (which was attributed to surface water discharge from high level pipes in the cliff face and leakages from a water main in Beer Road) but the Committee report concluded that there was no evidence of significant coastal erosion in the area and any local site problems would be addressed through Building Regulations.

This has again been raised as an issue and Planning Policy Guidance 14 Development on Unstable Land provides advice to Local Planning Authorities regarding development on unstable land.

It is not the responsibility of the Local Authority to investigate the ground conditions on any particular development site although it is responsible under the Building Regulations and the Housing Act for controlling particular aspects of the development if planning consent is issued.

The planning authority does not owe a duty of care to individual landowners when granting applications for planning permission and accordingly is not liable for loss caused to an adjoining landowner by permitting development. However where development is proposed on land which the planning authority knows is unstable or potentially unstable it should ensure the physical capability of the land to be developed and the potential adverse effects of instability on the development and adjoining land are properly assessed.

In light of the previous planning history where this issue has been thoroughly considered and in the absence of any conclusive evidence of significant/increased erosion since the last application it is not considered that the development site is unstable or potentially unstable. On this basis a land stability survey has not been requested at this time as to request one where there is no evidence of any significant change in the condition of the site would not be reasonable.

Drainage provision

Concerns have been raised over the proposed use of soakaways/SUDS drainage system for surface water disposal due to the existing ground conditions. No comments have been received from the Environment Agency or South West Water concerning proposed drainage but on the previous 2006 application only general guidance on the use of a SUDs approach was referred to by the Environment Agency. Surface water drainage must be adequately dealt with through Building Regulations and the feasibility of any proposed system will be assessed as part of that process. If a soakaway is not feasible because of the ground conditions an alternative method will need to be agreed under Building Regulations. It is not therefore considered that further control through planning conditions is required.

CONCLUSIONS

The objections to this application have been considered but given the planning history for the site, the lack of firm evidence for any significant change in the circumstances and conditions of the site and the acceptable scale, form and construction method for the propose dwelling and access road the application is considered to be acceptable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(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. Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area.)
3. (a) Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837 (Trees in Relation to Construction 2005: Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.
(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
(Reason – To ensure the continued wellbeing of the trees in the interests of the amenity of the locality.)
4. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning,

demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Construction Specification/Method Statement for the construction of the house, garage and parking area shall be submitted to and approved in writing by the Local Planning Authority. This shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved Construction Specification/Method Statement.

(Reason – To ensure the continued wellbeing of the trees in the interests of the amenity of the area.)

5. Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed tree felling/pruning specification shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (1989) Recommendations for Tree Works.

(Reason - To ensure the continued wellbeing of the trees in the interests of the amenity of the area.)

6. Prior to commencement of development or other operations being undertaken on site in conjunction with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such Method Statement shall include full details of the following:

a) Implementation, supervision and monitoring of the approved Tree Protection Scheme.

b) Implementation, supervision and monitoring of the approved Tree Work Specification.

c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.

d) Timing and phasing of Arboricultural works in relation to the approved development.

(Reason – To ensure the continued wellbeing of the trees in the amenity of the amenity of the locality.)

7. The new tree planting identified on the approved plan shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area.)

8. The dwelling hereby permitted shall not be occupied until the access, turning space, garaging and parking shown on the approved plan have been provided in accordance with the approved details. These shall thereafter be retained and kept available for those purposes at all times.

(Reason - To ensure that adequate and safe provision is made for the occupiers and in the interests of highway safety.)

9. The foul drainage shall be connected to the public sewer and shall be kept separate from clean surface and roof water.

(Reason - To avoid pollution of the environment.)

10. Before the dwelling hereby permitted is occupied the first floor window and the privacy screen to the balcony on the south west elevation shall have been glazed with obscure glass. The privacy screen and the obscure glazing required by this condition shall thereafter be retained at all times.

- (Reason - To protect the privacy of adjoining occupiers.)
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no works shall be undertaken within Schedule 2 Part 1 Classes A, B, D or E for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool, [other than any enclosure approved as part of the landscape management scheme] (Reason - The space available would not permit such additions with detriment to the amenities of adjoining occupiers or the wellbeing of protected trees.)

Reasons for approval

1. The proposal complies with the Devon Structure Plan 2001 – 2016 Policies CO6 (Quality of New Development) and TR10 (Strategic Road Network and Roadside Service Areas)
2. The proposal complies with the East Devon Local Plan (1995-2011) Policies S4 (Development Within Built-up Area Boundaries), D1 (Design and Local Distinctiveness), D5 (Trees on Development Sites), TA7 (Adequacy of Road Network and Site Access) and TA9 (Parking Provision in New Development)
3. The proposal does not affect the privacy or amenity of neighbouring properties
4. The design and external appearance of the proposal does not harm the visual amenity of the site and surrounding area.
5. The proposal does not harm or give rise to a perceived threat from important trees on or adjacent to the site.
6. The access to serve the proposal does not prejudice highway safety.

Approved plans

H7557/10 Survey
H7557/05/A Amended Plan
H 7557/10B Amended Plan

Informatives

1. This grant of planning permission does not override any legal protection afforded to certain species. If any protected species are found on site during any of the construction works you are advised to stop work immediately and contact the local office of Natural England for further advice.

List of Background Papers

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