

Applicant: Mr Bowen
Location: Summerlands, Cricket Field Lane, Budleigh Salterton
Proposal: Erection of dwelling

CONSULTATIONS

County Highway Authority

No objection

TOWN/PARISH COUNCIL

Refuse:

1. There are concerns regarding the effect of the loss of trees (whether individual specimens or in a group) caused by this development will have on the area. Budleigh Salterton Design Statement states "Developments that involve the loss of trees that are important to the landscape and character of the town should not be supported. This is of particular importance along the northern ridge and skyline of the town, stretching from the new development of Elvestone in the east along to Westfield Road in the west, which is the backdrop of the conservation area, where further loss of mature trees should be permitted".
2. There are concerns over the outcome of the proposed excavation work and the effect this will have on the water table and retaining walls of neighbouring properties.
3. There are concerns of the impact of the proposed works on the cob wall.
4. The design is not in keeping with the surrounding properties.
5. It is understood that one of the conditions for the original grant for Summerlands was that only one dwelling should be built on the site.
6. There are concerns regarding access to the site - there is restricted access and already traffic problems at this location.
7. AONB and conservation area
8. Consideration should be given to the Planning Inspectorate report dated 10.4.06 para 11 and 12 which state "The proposed dwelling would have a balcony at the southern end of its first floor open plan living area.....the outlook over the town and seafront to the south from this balcony would be obstructed.....no incentive for future occupiers to properly maintain them...Indeed, in my view it is likely that their removal would be expedited if the proposed dwelling were to be permitted". "I conclude that the proposed development would harm the character and appearance of both the conservation area and the AONB within which the appeal site is located".

WARD MEMBER(S)

The initial comments of the former Ward Member(s) are -

Cllr Jed Falby:

Suggested Action: Object to the application

Reasons For Action:

This new application does not change the planning reasons for all the previous refusals of applications on this site.

The ten-page tree study re-numbers the trees from previous studies which disguises the fact that some of the trees are now 'missing'.

This tree-line ridge which is the frame to the Conservation area of this AONB town will not happily support another large and very visible building.

As the previous Inspector said "It defies logic to imagine that if we permitted a building here the trees blocking the view of Lyme Bay would not be the first casualties"

The Budleigh Salterton Design Statement (approved 2004)Chapter 5:1.3: "Developments that involve the loss of trees that are important to the landscape and character of the town should not be supported. This is of particular importance along the Northern Ridge and Skyline of the town..." This is, of course, exactly where this application is sited.

Refuse.

Additional comments:

I cannot believe this applicant on this critical site is back with yet another application that still does not respect the idea, the concept or the details of the Budleigh Salterton Design Statement. In my short time on this Council I have already been through two appeals, two site visits and numerous meetings all leading to the same conclusion here should not be a building here at all.

The various decisions of this Council refusing further development of this site, supported in detail by the Planning Inspectors decisions should be reinforced again in this round by refusing (hopefully on delegated powers) this application.

Refuse.

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

26 letters have been received raising the following points:

- Tree numbering system has changed again
- Section 106 and tree planting provide insufficient safeguards
- Development will contribute to the loss of the character within Budleigh Salterton
- All of the grounds for the earlier refusal still pertain and the tree management plan will be a long term enforcement problem for the Council
- Repositioning the scheme by 3ft is a negligible difference
- The site is prominent within the Conservation Area and Area of Outstanding Natural Beauty and the development will harm this context
- Dwelling is not in keeping with Victorian Georgian character of this part of the town
- Large trees are not suitable for (re)planting close to a house
- Likely damage to the Cob Wall
- Development will result in excessive in filling
- Loss of view from neighbouring property
- Create a precedent for neighbouring plots

RELEVANT PLANNING HISTORY

App.No:	Proposal	Decision	Date
05/0839/FUL	Erection of single dwelling	Refused dismissed at appeal	02.08.05
05/0581	Remove three sycamore trees and one holm oak	Approved	05.10.06
91/P1573	Dwelling and garage Plot 2	Non Determination Appeal – Appeal dismissed	12.03.92
90/P0446	Two Houses	Refused Appeal Withdrawn	26.06.90
90/P0445	Dwelling and garages	Approved	23.01.91
89/P1757	One House	Refused Appeal Withdrawn	08.01.90
89/P0271	Two houses	Refused	30.06.89

PLANNING POLICIES

Government Guidance

PPS1 – Delivering Sustainable development
PPS 3 – Housing

Devon Country Structure Plan (2001-2016)

Policy ST5 (Development Strategy)
Policy CO3 – Areas of Outstanding Natural Beauty
Policy CO6 (Quality of New Development)
Policy C07 – Historic Settlements and Buildings

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 EN1 (Development in Areas of Outstanding Natural Beauty)
Policy EN11 (Preservation and Enhancement of Conservation Areas)

Supplementary Planning Guidance

Budleigh Salterton Design Guide

SITE LOCATION AND DESCRIPTION

Summerlands is a detached dwelling set within a spacious and elevated plot in Budleigh. The property takes access from Cricket Field Lane which passes through a high brick built walled garden. The plot is effectively split into two areas, one with the main property and a formalised garden area, the second which is located closer to the road is less formal with significant trees lining the southern boundary. The level of the garden is below that of the adjoining road and enjoys screening from the wall to the north. The entire garden is effectively cut into the bank with steeply rising land, such that dwellings to the south are on lower levels and the property to the north is higher.

PROPOSED DEVELOPMENT

The application proposes the erection of a single dwelling within the currently less formal side of the existing garden. This would be constructed on the existing level and take the form of a modern and clearly articulated dwelling.

The architecture would be contemporary with nearly flat parapet walls, a large amount of glazing, external balconies and clean sharp lines defining the various sections of the building. It would share its access with the existing dwelling such that there would not be a loss of boundary wall.

The application has been submitted with a landscaping and tree management plan and the applicants are offering that this is secured through a S106 agreement. This is an attempt to provide the Council with long term management controls over the trees well being, protection and maintenance.

CONSIDERATIONS AND ASSESSMENT

This application represents a resubmission of an earlier scheme which was refused by members and dismissed on appeal. The reasons for refusal stated:

1. The proposed development will result in the loss of mature and semi mature trees from the site which will have a detrimental effect on the Conservation Area, the character of the town and the Area of Outstanding Natural Beauty. The proposal is contrary therefore to government guidance, Policies C03 (Areas of Outstanding Natural Beauty), C06 (Quality of New Development) and CO7 (Historic Settlements and Buildings) of the Devon Structure Plan 2001-2016, Policies S3 (Development Within Built-up Area Boundaries), D1 (Design and Local Distinctiveness), EN1 (Development in Areas of Outstanding Natural Beauty), EN16 (Preservation & Enhancement of Conservation Areas) and D5 (Trees on Development Sites) of the emerging East Devon Local Plan (Revised Deposit) September 2003 and the Budleigh Salterton Town Design Statement.
2. The applicant has not demonstrated that the proposed development can be undertaken without a detrimental effect on the stability of adjoining properties or the cob perimeter wall on site, which is an important feature within the Conservation Area. The proposal is contrary therefore to government guidance contained within PPG 14 (Development on Unstable Land), and Policies S3 (Development Within Built-up Area Boundaries), D1 (Design and Local Distinctiveness) and EN16 (Preservation & Enhancement of Conservation Areas) of the emerging East Devon Local Plan (Revised Deposit) September 2003 and the Budleigh Salterton Town Design Statement.

The current scheme is being presented to committee on the basis that a resolution is required before the 27 August 2007 as the applicants have appealed against non determination and the Planning Inspectorate have set this date for the exchange of evidence. Therefore, while the

application can not be formally determined, it will give the Council an opportunity to demonstrate the decision that would have been taken if it had come to committee in the normal manner.

In this instance, significant regard has to be given to the previous Inspectors decision where the original scheme was dismissed. Although 12 months have elapsed since the appeal was dismissed the key issues remain the same and therefore the Inspectors findings will be summarised before an update is provided.

Inspector's findings on previous scheme 05/0839/FUL

While the Inspector raised no concerns on design or ground stability, the scheme was dismissed solely on the basis that the proposed development would harm the character and appearance of both the Conservation Area and the Area of Outstanding Natural Beauty. As noted above the appeal site lies within both these designations and the Inspector made particular reference to the trees and the contributions that these make to the setting of the town.

On this basis, it is considered that the main point of concern and consideration for the current application, is whether the applicants have sufficiently demonstrated that harm will not arise to the belt of trees to the south of the development site. All other matters were thoroughly dealt with in the earlier application reported to members in 2005. The committee report for that application is attached.

Tree Protection

The applicants have submitted a detailed Tree Management proposal together with notes for construction methodology. These have been carefully reviewed and are considered to provide significant benefit for the retention of the tree screen and its long term maintenance. The option for the Local Planning Authority to have stronger controls over the tree belt through a proposed section 106 is also considered of benefit. This is because all trees have a limited life expectancy and the ability to get new planting into this group would prolong the life and character of the area which is already recognised as fundamental to the setting of the town and the character of the Conservation Area and Area of Outstanding Natural Beauty.

During the processing of the application, there has been an attempt to get a draft version of the S106 submitted in order that the level of control and safeguarding and the precise wording of the agreement can be agreed. This has resulted in significant delays and the current position from the applicant of an appeal for non determination.

Although the draft S106 agreement has not been forth-coming at this stage, the detail included within the management proposal for the trees is substantial and provides significant reassurance as to the methods, tree planting and maintenance that would be employed. It is noted that significant local concern has resulted from the re-numbering of the trees on the site. It is considered that this is simply a result of the new management proposal for ease of reference and is not an attempt to overcome or confuse the situation.

CONCLUSIONS

As noted in the earlier report, the scheme represents a well designed and well articulated dwelling of contemporary architecture that makes significant reference to the key aspects of the Budleigh Salterton Conservation Area. While concern over the long term tree management resulted in the last scheme (for an identical dwelling albeit on a slightly different position being dismissed at appeal) the additional information, tree management plan, and offer of a S106 agreement is considered sufficient safeguards to overcome the previous concerns.

RECOMMENDATION

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

- regular and long term (5 yearly) tree management programme for the trees found of the application site
- offsite open space contribution

and the following planning 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. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme 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.)
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been 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.)
4. Prior to the commencement of development hereby approved, details including construction, sections and finishes of the fenestration, balconies, terraces and canopies, rainwater goods, eaves and fascias shall be submitted to and approved in writing by the Local Planning Authority. Development shall be undertaken in accordance with the agreed details.
(Reason – In the interests of preserving the character and appearance of the Conservation Area.)
5. The timber cladding shall be left to weather naturally and shall not be stained at any time unless otherwise agreed in writing by the Local Planning Authority.
(Reason – In the interests of preserving the character and appearance of the Conservation Area.)
6. Prior to the commencement of the development hereby approved a method statement showing how the development will be constructed without affecting the stability of the cob wall shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details

(Reason – In the interests of preserving the character and appearance of the Conservation Area.)

7. 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 within Schedule 2 Part 1 Classes A, B, C or D for the enlargement, improvement or other alterations to the dwellings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.

(Reason - The space available would not permit such additions with detriment to the character and appearance of the area or to the amenities of adjoining occupiers.)

8. Prior to the commencement of development hereby approved, a lighting strategy including details of light spill, light trespass, light pollution, energy usage and incorporating a lighting layout showing the position and mounting heights/orientation of the luminaries and a full luminaire schedule with lamp types, wattages and all accessories shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason – To ensure that the amenity of residents and wildlife habitats are protected and that energy use/pollution is minimised through good design.)

9. Prior to the commencement of development hereby approved, an environmental sustainability strategy shall be submitted in consultation with the Council's Urban Designer and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

(Reason – To ensure that the development is in accordance with Local Plan Policy D1(B) and to minimise the impact on the environment.)

10. 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 (2005) 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.)

11. Prior to the commencement of development hereby approved, soil percolation tests shall be undertaken and details of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
(Reason – In order that surface water drainage is dealt with in an appropriate manner and in the interests of protecting the environment.)

12. Prior to commencement of works details of the foundations of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority.
(Reason – To ensure the development is undertaken in a manner that does not have any additional impact upon the land stability of the site.)

List of Background Papers

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