

Committee Date:
09.02.2010

BUDLEIGH
(Budleigh Salterton)

09/2305/FUL

Target Date: 19.01.2010

Applicant: Mr & Mrs B & R Shorney

Location: Land adjoining Summerlands
Cricket Field Lane
Budleigh Salterton

Proposal: New Dwelling

CONSULTATIONS

County Highway Authority

This application requires standing advice.

TOWN/PARISH COUNCIL

The parish council is objecting to the application for the following reasons:

1. The design is out of keeping with the surrounding properties and the towns Conservation area and Area of Outstanding Natural Beauty.
2. Overdevelopment of the site by virtue of scale and massing – the proposed footprint is much larger than that agreed by the planning inspectorate (ref APP/U1105/A/07/2049844).
3. The conditions laid out in the appeal do not seem to have been taken into account, particularly tree planting.
4. The application fails to acknowledge the planning inspectors report and does not adhere to advice contained in the Budleigh Salterton Design Statement.

WARD MEMBER(S)

Cllr Hall: Objects. 'I feel this application show scant regard to the Inspectors report which allowed for a dwelling on this site with conditions. I believe the mass of the proposed dwelling too overbearing for the size of the plot and will result in overlooking issues with 5A Fore St Hill. For these initial reasons I cannot support the application'.

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

10 letters to date

Summary of concerns

- More visible structure – in terms of height and bulk
- Detrimental to the character of the Conservation Area and AONB

- Prominent and sensitive site
- Impact on Amenity/loss of privacy to neighbouring properties
- Poor design – resembling ‘officer block’, with unsightly appendages
- Noise (domestic and during construction)
- 3 Storey building incongruous and dominating, overbearing for the plot, overlarge footprint
- Access issues during construction, increased net vehicular traffic flow
- Impact on trees, protection during construction
- Impact on wildlife
- Potential flooding/sewage issues arising from the development
- Application ignores permitted development right condition imposed on the previously allowed appeal.

PLANNING POLICIES

Government Guidance

PPS1 – Delivering Sustainable Development
 PPS3 – Housing
 PPS9 – Biodiversity and Geological Conservation
 PPG13 - Transport
 PPG15 – Planning and the Historic Environment

Devon Structure Plan 2001 - 2016

ST1 (Sustainable Development)
 ST4 (Infrastructure Provision)
 ST16 (Local Centres and Rural Areas)
 CO1 (Landscape Character and Local Distinctiveness)
 CO3 (Areas of Outstanding Natural Beauty)
 CO6 (Quality of New Development)
 CO7 (Historic Settlements and Buildings)
 CO9 (Biodiversity and Earth Science Diversity)
 TR10 (Strategic Road Network and Roadside Service Areas)

East Devon Local Plan 1995 - 2011

S4 (Development Within Built-up Area Boundaries)
 D1 (Design and Local Distinctiveness)
 D2 (Sustainable construction)
 D4 (Landscape Requirements)
 D5 (Trees on Development Sites)
 EN1 (Development affecting AONBs)
 EN6 (Wildlife Habitats and Features)
 EN11 (Preservation and Enhancement of Conservation Areas)
 RE3 (Open space provisions in new developments)
 TA7 (Adequacy of road network and site access)

Supplementary guidance

Budleigh Salterton Design Statement

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 steeply rising land such that dwellings to the south are on lower levels and the property to the north is higher.

The surrounding area is residential in character and whilst there is a variety of design and form of dwellings the general nature is relatively low in density. Trees on the site are protected by an area Tree Preservation Order and the site lies within a designated Conservation Area, as well as with the East Devon AONB.

RELEVANT PLANNING HISTORY

App. No:	Proposal	Decision	Date
09/0852/TRE	Fell 4 sycamores, 1 birch and 2 holms Oaks	Approved	12.06.09
09/0576/FUL	Erection of single dwelling	Refused	24.07.09
07/1954/FUL	Erection of single dwelling	Application Returned	10.08.07
06/3449/FUL	Erection of dwelling	Not determined Appeal allowed	31.03.08
05/0839/FUL	Erection of single dwelling	Refused Appeal dismissed	23.08.05 10.04.06
05/0581/TRE	Remove three sycamore trees and one Holm oak	Approved	06.04.05.
05/0127/FUL	New garages and conservatory	Approved	14.03.05.
04/P1641	New dwelling	Withdrawn	12.07.04.
03/P1305	Erection of one dwelling	Withdrawn	31.01.08
03/T0006	Re-shaping, reduction & felling of various Trees	Approved	09.09.03.
02/P1280	Greenhouse – Option B (This app. Is Part of a split decision)	Approved	17.09.02.

02/P1280SD	Access and driveway	Refused	17.09.02.
00/T0086	Trim back line of three Oak trees	Approved	18.12.00.
99/T0114	Trim back two Oaks	Refused	18.01.00.
98/T0045	Various trees to be pruned, reduced etc. & 1 beech & holly to be felled.	Approved	06.07.98.
97/P0768	Extension to accommodate a Hydrotherapy pool.	Approved	01.10.97.
96/P1552	Hydrotherapy pool enclosure	Refused	21.03.97.
96/P1565	Remove condition on prev. planning consent removing statutory rights.	Refused	21.03.97.
96/T0011	Various trees to be felled and lopped	Approved	30.04.96.
93/P1522	New dwelling with attached double garage	Approved	07.02.94.
91/P1573	Dwelling and garage (plot 2)	Non Determination Appeal lodged	13.12.91.
90/P0445	Dwelling and garage	Approved	23.01.91.
90/P0446	2 no. houses	Refused	26.06.90.
89/P1757	1 house	Refused	08.01.90.
89/P0271	2 houses	Refused	30.06.89.
88/P2636	Erection of two dwelling houses	Withdrawn	08.03.89.

Background

The proposal site has some considerable planning history for its redevelopment dating back to 1989. A recent and perhaps most pertinent application is 06/3449/FUL which sought the redevelopment of the site for a single, contemporary style dwelling.

This application was successfully appealed against for non-determination before EDDC were able to make a decision. However, prior to the determination of the appeal the matter was considered by committee who indicated that the application would have been refused on the grounds of the loss of the mature and semi-mature trees and the resultant detrimental impact on the surrounding Conservation Area and Area of Outstanding Natural Beauty.

The Inspector considered these matters at appeal but ultimately upheld the appeal deciding that a long term tree management plan and associated unilateral undertaking (designed to protect existing trees and to provide for longer term replacement of trees) was sufficient to ensure the continued protection and enhancement of the site and maintain their important contribution to the surrounding Conservation Area. The appeal

decision was dated March 2008 and the permission therefore remains extant (see appended Inspector Decision letter).

Most recently planning application 09/0576/ful had been refused by the Local Authority in July 2009. This sought a dwelling of a larger scale, which included the breaching of the traditional cob wall. Additionally, this proposal included an inappropriately drafted Unilateral Undertaking.

PROPOSED DEVELOPMENT

The application seeks planning consent for the creation of a detached dwelling with an integral garage. The dwelling has essentially two main levels with a further basements level situated underneath the main structure, due to the gradient of the land.

CONSIDERATIONS AND ASSESSMENT

Proposed development

The current application seeks full planning permission for a revised design of dwelling on approximately the same area of the site as previously approved (06/3449/FUL); see appended plans for details. However, there is a distinctive change in shape and style of the current proposal resulting in an increase in the footprint. The proposed dwelling varies in height from 6.9m to 9.4m.

The site lies within a residential area within the built-up area boundary of the town and the principle of residential development has already been accepted on the site. The means of vehicular access to the site also remains as previously approved (Utilising the existing access) and subject to any comments from the highways authority, in addition to their standing advice, this is considered to be acceptable with adequate on site turning being proposed. It is considered therefore that the main issues in the determination of the application relate to:

- the design of the proposed dwelling and its impact on the surrounding conservation area;
- potential impact on the privacy or amenity of neighbouring occupiers and
- impact on protected trees within the site.

Design and Impact on the Conservation Area

The proposed dwelling is a large modern detached property. The proposal makes use of the slope with a split level design.

Whilst it is appreciated that the site itself is large the development potential is restricted by trees on the site. In reality it is only the north and eastern parts of the site that could be developed in any meaningful form. This is the general area of the site proposed for the current dwelling and the extant permission.

Bordering the site to the north, south and west lies a traditional cob wall topped with tiles. This wall is an important (non-listed) feature within the conservation area and every effort should be made to ensure that it retains intact. It is noted that the previous appeal inspector imposed a condition requiring measures to be put in place to secure the safety and stability of this boundary wall including where necessary strengthening works to

provide protection during the course of development works. If permission were to be granted for the current proposal such a condition must be reiterated.

The tower element of the previous design which was an area of particular concern has now been reconfigured with an amended design. The elevations submitted for the north west of the building attempts to illustrate the change in direction of the building. The massing and proportions of the block nearest the north-west corner of the site is unfortunately overly bulky with a very shallow asymmetrical roof clad in slate. The slate would only be decorative and would not form a practical function at this pitch. This element is redeemed slightly by the timber cladding which, when weathered will help the elevation recede into the site. This elevation is comparable to the bulk of the previous permitted 2006 application, considered acceptable by the Inspector. Furthermore this aspect of the proposed dwelling will be partially screened by the height of the cob wall, with the protected trees 'breaking up' this façade from public vantage points.

Permitted development rights were removed by the Inspector on the previous approval due to the restricted site, the impact on the conservation area and proximity of protected trees. Due to these constraints this condition is again required.

The height of the building also compares favourably with the previously approved dwelling (measured along the east elevation the approved dwelling ranges between 7.1m and 9.1m). Although the dwelling comprises three levels – including a basement below the ground floor, from public vantage points the height of the dwelling would not be incongruous with the locality. The design continues the aesthetic of varied ages and styles of housing in the locality, with no singular vernacular dominating.

At present the trees on the site form a group similar to others along the elevated land to the north of the seafront. These provide a leafy setting for the dwellings that sit among them and contribute significantly to the conservation area.

The conservation officer considers that the proposal is acceptable in principle, subject to details. Architecturally the approach is similar to the design considered earlier last year and still, in the view of the conservation officer, does not make positive reference to the character and appearance of the conservation area. The roof verges and eaves are often prominent aspects of any building and are viewed from below, an aspect not necessarily included on elevation drawings. This aspect of the dwelling should be controlled via condition in order to maintain the character of the conservation area.

Potential impact on the privacy or amenity of neighbouring occupiers

The proposal would by virtue of its scale, orientation and positioning and number of windows share an intimate relationship with 'Summerlands' to the immediate east. However, the same would most likely be true with any dwelling proposed on this site. It is not considered that the new proposal has any significantly greater impact than the appeal approval.

The other properties that potentially could be affected are 'The Lantern House' to the south and No. 5a Fore Street Hill to the southeast. It is not considered that the properties within The Dial House to the west of the site would not be significantly affected due to the distance between the sites and the level of tree screening present. The orientation of the dwelling aims to take advantage of the sea views, and due to the ground levels involved would look down on roof slopes of the lower dwellings.

The elevated nature of the proposal site in relation to these dwellings, and the screening effect of trees on the southern boundary would mean that any overlooking would be limited and primarily over the top of these properties taking advantage of the wider views.

Access Issues

The access will share an existing drive that currently serves Summerlands. Consequently there is not a further need to partially demolish the existing cob wall, to the benefit of the conservation area. The 6-8 net increase in vehicular traffic movements is not considered detrimental to the wider highway network.

Impact on protected trees within the site

The applicants have now submitted a unilateral undertaking related to a long term tree protection and planting plan for the site. It is understood that the development as proposed would not adversely affect the welfare of trees on the site, provided adequate root protection measures are adopted. It is noted that part of the reason the previous appeal inspector gave for allowing the previous application was that a long term management plan for trees was included and secured by means of a Unilateral Undertaking.

The views of the council's arboricultural officer have been expressed informally. The submitted unilateral undertaking features an addendum including arboricultural measures in accordance with a previously approved scheme; ref; 09/0852/TRE – 'Felling of four sycamore trees, one birch tree and two holm oaks. The short, medium and long term management of six replacement trees is compliant with condition 2 of the 09/0852/TRE application. Therefore the current application would not jeopardise the requirements of this consent.

In accordance with the previously submitted application (ref; 09/0576) a previously submitted tree constraints report is still considered pertinent to the site. The 09/0576 application was not refused on the basis that the identified trees would be damaged through the construction phase; rather there was a lack in security in protecting the management measures for the tree cover. This previous lack of protection has been remedied with the latest submission. Notwithstanding this a landscaping condition shall be imposed to provide an opportunity to replace trees felled on this part of the site and reinforce the secluded character of the site. This condition refers to additional planting and is not intended to duplicate the provisions of the unilateral undertaking.

The information supplied with the application with regard to the safeguarding of tree cover on the site is now considered to be adequate, as set out in the unilateral undertaking (for long term maintenance and control) and associated documents submitted by the applicant.

Other Issues

In relation to policy RE3 of the Local Plan the applicants have submitted a unilateral undertaking to cover open space contributions.

Land stability has been raised as an issue in relation to the development of this site. The previous appeal inspector found that there was insufficient evidence relating to this matter to raise it as a determining factor. Nonetheless, any grant of permission should

contain a condition relating to the protection of the boundary cob wall. A condition would again be necessary.

CONCLUSIONS

On balance the proposal is considered to be adequately designed in relation to the developable plots size, taking into account the footprint of the dwelling previously allowed at appeal. A secure means of protection for the trees has been included within an acceptable unilateral undertaking. The most recent changes to the form, shape and scale of the dwelling are considered acceptable within this context, and being partially screened by a cob wall the proposal would not be highly visible from the public realm.

RECOMMENDATION

APPROVE in conjunction with the submitted Unilateral Undertaking (including the Addendum) signed by Brian Shorney and Christine Elizabeth Shorney, and dated 5th November 2009.

Conditions:

1. The development hereby permitted shall commence before the expiration of five years from the date of this decision.
(Reason - To comply with Section 60 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 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 development is compatible with the location and conservation area.)
3. No works or development shall take place until full details of tree planting in the vicinity of the dwelling, and the proposed times of planting, have been submitted to and approved in writing by the Local Planning Authority, and all tree planting shall be carried out in accordance with those details and at those times. If within a period of two years from the date of the planting any tree, that tree, or any tree planted in replacements for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.
(Reason – To ensure that the development is suitable assimilated within the landscape and the designated setting.)
4. Before the work hereby authorised begins steps shall be taken to secure the safety and stability of the boundary wall which is to be retained. Such steps shall, where necessary, include measures to strengthen the wall and to provide protection for it during the progress of the works. Details of such proposals shall be submitted to and agreed in writing by the Local Planning Authority. The development shall not proceed otherwise than in strict accordance with the details agreed.

(Reason – To ensure that the boundary wall, which contributes greatly to the Budleigh Conservation Area, is suitably protected and retained).

5. No development shall take place and no equipment, machinery or materials be brought onto the site until a plan showing the precise position of the Root protection Areas (RPAs) of all trees in the vicinity of the dwelling hereby approved, and the details for fencing those areas, have been submitted to and approved in writing by the local planning authority. Nothing shall be stored or placed in the fenced area and ground levels within it shall not be altered, nor shall any excavation be made without the written approval of the local planning authority. No burning/bonfires shall take place in a position where the flames could extend to within 5 M of any part of the tree.

(Reason – To ensure suitable protection of the nearby Trees, which retain intrinsic value to the Conservation Area.)

6. No development shall take place until full details of the foundation design for any part of the approved building, or for any other above or below ground work, within the RPAs have been submitted to and approved in writing by the local planning authority. All work shall be carried out in accordance with the approved details.

(Reason – To ensure suitable protection of the nearby Trees, which retain intrinsic value to the Budleigh Salterton 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 – F inclusive shall be carried out.

(Reason – The layout of the dwelling, private amenity space available and proximity of protected trees would not permit such additions or alterations without detriment to the character and appearance of the property or grain of the conservation area.)

8. No development shall take place until details of surface water drainage for the site have been submitted to and approved in writing by the local planning authority. All work shall be carried out in accordance with the approved details.

(Reason – To ensure that adequate surface water drainage is provided without detriment to the wider area.)

9. No development shall commence until details and specification of the roof eaves and verge, including construction and finishes, have been submitted to and approved in writing by the Local Planning Authority. The works as agreed shall be carried out in accordance with the approved details.

(Reason - In the interests of maintaining the historic character of the conservation area.)

Approved plans

DWG No;

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List of Background Papers

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