

Application Report

Strategic Development & Planning

Place Services

North Devon Council

Lynton House, Commercial Road,

Barnstaple, EX31 1DG



Application No:	71113	Application Expiry:	11 December 2020
Application Type:	Full application	Ext Of Time Expiry:	11 December 2020
		Publicity Expiry:	26 March 2020
Parish/Ward:	FREMINGTON/FREMINGTON		
Location:	Garage Site Adjacent 1 Higher Road Fremington Barnstaple Devon EX31 3BG		
Proposal:	Erection of a dwelling		
Agent:	Mrs Ros Raistrick		
Applicant:	Mr Nigel Gillett		
Planning Case Officer:	Mr R. Bagley		
Departure:	N		
EIA Development:	N	EIA Conclusion:	Development is outside the scope of the Regulations.
Reason for Report to Committee : At the request of Cllr Biederman			

Site Description

The site is located to the east of Higher Road and until recently, formed part of the curtilage of Number 4 Church Hill. The area of the site measures approximately 240m².

The site contains a double garage, approved in 2006 through application 41523. The garage is constructed of modern render exterior materials and pitched tiled roof with the garage accessing into the site. Condition 5 of 41523 required vegetation along the front of the site to be retained in situ to provide screening of the garage. This hedgerow is no longer in situ although a stone wall remains, it is understood that the vegetation has since been removed by a third party. The site is accessed from Higher Road through 2 stone pillars. Access visibility is restricted to the north by the existing wall and to the south by the corner of Number 1 Higher Road and on street parking. To the north parking is restricted by double yellow lines.

The area is within the residential development boundary for Fremington and is within the Fremington and Yelland Conservation Area, which ends at the west of Higher Road. There are listed buildings in the vicinity of the site (1-5 Church Hill and Number 11 Higher Road) but these are not directly affected by the development of the site.

The western side of Higher Road is outside the Conservation Area, comprising a number of less traditional dwellings and buildings. The eastern side of Higher Road is within the Conservation Area, demonstrating more traditional built forms and palette of materials, such as the group of buildings comprising numbers 1-2a Higher Road to the south and elements of stonework apparent on Number 1 Higher Road and the pillars here. There are less traditional elements in the street scene including later mono-pitched additions to Number 1 Higher Road.

The site access is on to Higher Road which is an unclassified residential road, and subject to a 20mph speed restriction.

The recent history of this site is relevant. Application 66565 - Demolition of existing garage and erection of one dwelling on land adj 1 Higher Road, was refused by the Planning Committee in 2019. In summary the Committee felt the scheme did not provide safe or adequate visibility into Higher Road, that parking would be lost for Number 4 Higher Road, that the scheme proposed development of a section of land to the west of the site, that at the time was not demonstrated to be owned or controlled by the applicants and was claimed to be in ownership of Devon County Council Highways Authority. DCC Highways would object onto any stopping up order relating to development of land in DCC ownership and the layout of the development provides inadequate amenity space for occupiers of the proposed dwelling to enjoy the premises as a family resulting in significant adverse harm to the amenities of occupiers of the dwelling.

The application seeks to address the above matters.

Recommendation:

Approved

Legal Agreement Required:-S111 payment

Planning History

Planning	Decision	Decision Date
65270	Withdrawn	11 January 2019
Address: Land Adjacent To Higher Road, Fremington, Barnstaple, Devon, EX31 3BH		
Proposal: Demolition of existing garage & erection of new dwelling (amended plans, shadow assessment & certificate b)		
66565	Refused	3 September 2019
Address: Land adjacent to 1 Higher Road Fremington Barnstaple Devon EX31 3BG		
Proposal: Demolition of existing garage & erection of one new dwelling		

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area	Within constraint
Chivenor Safeguard Zone	Within constraint
Conservation Area: 14 Fremington ;	Within constraint
Critical Drainage Area	Within constraint
Landscape Character is: 3A Upper Farmed & Wooded Valley Slopes	Within constraint
Unclassified Road	
Within: Fremington Development Boundary ST07	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within Listed Building Curtilage	Within constraint
Within Surface Water 1 in 1000	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
DM01 - Amenity Considerations	
DM03 - Construction and Environmental Management	
DM04 - Design Principles	
DM05 - Highways	
DM06 - Parking Provision	
DM07 - Historic Environment	
DM08 - Biodiversity and Geodiversity	
ST01 - Principles of Sustainable Development	
ST03 - Adapting to Climate Change and Strengthening Resilience	
ST04 - Improving the Quality of Development	
ST14 - Enhancing Environmental Assets	

Consultees

Name	Comment
<p>Councillor F Biederman</p> <p>Reply Received 26 February 2020</p>	<p>If you are minded to approve this site, I would wish it to be considered by the planning committee. I, residents and the parish council have had many concerns about this site, through several different schemes that have been applied for.</p> <p>They include over intensification of the site. Loss of amenity value to the neighbouring properties. Safety of highway users. It's location adjacent to an already busy junction. Whether the gain of one dwelling, outweighs the harm caused, particularly given that it is in the conservation area of Fremington.</p> <p>It would not let me fill the form in, so hope you can accept this as my notification of a call in, should you be minded to approve.</p>
<p>Councillor F Biederman</p> <p>Reply received 25th November 2020.</p>	<p>Yes I would like it to be heard by the planning committee please.</p> <p>This is because I don't accept the access be adequate or safe, given the extra traffic movements this will create, currently there are virtually none, as you have identified the owners of 1-5 have parking on Church Hill. The access is too close to a very busy blind junction in my opinion.</p> <p>The other factor is the negative impact on the amenity of the neighbouring properties.</p> <p>I believe the harm caused by this will not outweigh the gain of one property in the conservation area</p>
<p>Councillor J Mackie</p> <p>Reply Received 26 February 2020</p>	<p>I can't see how they can bring back this one after their original 66565 was refused at Committee as the same considerations still apply. If it should be considered for approval then please take into account the reasons for its previous refusal and if that doesn't work then I ask you look again at the very strong arguments for this over-development in a Conservation Area. The later was not actually needed in the debate last time as there were overwhelming reasons on the traffic congestion front. There is just no need for any more houses in Fremington.</p> <p>Declare interest in this one as the applicant is known to me</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 4 June 2020</p>	<p>4/06/2020 12:07 - The proposed development encloses lands considered to form part of the Highway Maintainable at the Public Expense. No official notice has been served upon Devon County Council, in its capacity as Local Highway Authority, nor indications provided by the applicant of the willingness to enter into a Section 278 Agreement to agree works to the public highway or, alternatively, the securing of a Stopping-Up Order. Consequently, any planning permission is unlikely to be implementable and</p>

	<p>visibility provision not achievable. The following objections are identified:</p> <p>1) The proposed development is likely to result in an increase in the volume of traffic entering and leaving the County Road through an access that does not provide adequate visibility from and of emerging vehicles, with consequent risk of additional danger to all users of that road and interference with the free flow of traffic.</p> <p>2) The proposal will result in the loss of vehicle parking facilities originally secured for a dwelling fronting 'Church Hill' and will, therefore, encourage additional parking on the public highways, with consequent risk of additional danger to all users of the road and interference with the free flow of traffic.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 24 November 2020</p>	<p>Insofar as visibility is concerned the proposed arrangements are acceptable.</p> <p>However, the following original objection is still maintained:</p> <p>1) The proposal will result in the loss of vehicle parking facilities originally secured for a dwelling fronting "Church Hill" and will, therefore, encourage additional parking on the public highways, with consequent risk of additional danger to all users of the road and interference with the free flow of traffic.</p>
<p>Fremington Parish Council</p> <p>Reply Received 18 March 2020</p>	<p>RESOLVED: that the application is recommended for refusal due to access on the site and the original concerns still stand. It will be over intensive and has no public benefit.</p>
<p>Heritage & Conservation Officer</p> <p>Reply Received 18 March 2020</p>	<p>This application appears to be the same proposal as that contained in application 66565, therefore please see the comments made in relation to that application, including those in relation to the hedge and stone wall.</p>
<p>Sustainability Officer</p> <p>Reply Received 27 February 2020</p>	<p>The garage to be demolished is unlikely to be suitable for protected species and the general context of the site indicates that a detailed ecological assessment would be unnecessary.</p> <p>In terms of the location of the site, it is within the Zone of Influence (ZOI) identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the ZOI is considered to have recreational impacts on the SAC and is therefore required to pay a contribution of 100 per unit in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972.</p>

	<p>Based on the information provided, the application will increase residential capacity and is therefore likely to have an indirect impact on the Braunton Burrows SAC due to its proximity and the likelihood of recreational impacts associated with visitor impacts. North Devon Council must have regard for any potential impacts that a plan or project may have and are required to conduct a Habitat Regulations Assessment to determine the significance of these impacts on the SAC and the scope for mitigation.</p> <p>North Devon Council's Habitat Regulations Assessment (HRA) at the Joint Plan level (JLP) identified the main recreational pressure as coming from the Braunton, Wrafton, Chivenor area and concluded that there is unlikely to be an adverse effect on the integrity of the interest features of the SAC. However, since adoption of the JLP, new evidence has concluded that recreational impacts are evident and contributions towards strategic mitigation will be required from all development within an identified Zone of Influence.</p>
--	---

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
<u>0.00</u>	<u>0.00</u>	<u>3</u>	<u>0.00</u>	<u>0.00</u>

Objections raised in respect of:

- Impact on amenity from loss of daylight and privacy from the position and mass of the building and its proximity to the boundary with Number 3 Church Hill.
- impact on the highway network. Insufficient visibility into the highway next to Number 1 Higher Road. Adverse increase in traffic movements. Insufficient parking for the occupiers of Number 4 Church Hill.
- impact on a right of access across the site
- impact on the street scene of the Fremington Conservation Area

Considerations

Proposal Description

This application seeks detailed full planning permission for the erection of a single, 2-storey dwelling on land adjacent to Number 1 Higher Road.

The development proposes to remove the existing pitched roofed garage and replace with the dwelling. The dwelling would be constructed with render exterior materials, painted timber doors and windows, brick chimney and slate roof. At the front a low stone wall is proposed with low hedging planting behind, with a pedestrian access. The 2 stone pillars will be retained

Access to the site is to the west via a tarmac section from the road into a gravel driveway with 2 parking spaces to the east. Existing boundary walls and fences are

proposed to be retained. An existing access gate into the rear of Number 3 Church Hill will be retained.

Drainage is in the form of an Aco drain along the front access, permeable gravel surface materials and use of water butts and an existing soakaway.

Amendments:

The scheme has been amended to show revisions to the front of the site. The proposed dwelling will now be constructed within the parameters of land in the applicants control and not on land affecting the highway. A revised low wall with planting on top is shown along the frontage. The Dwelling is moved approximately 1.37 metres back from the site frontage.

Planning Considerations Summary

- Principle of development
- Design and impact on the Conservation Area
- highway Access
- Amenity
- Ecology
- Drainage

Planning Considerations

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

Section 16 of the Listed Building Act, in considering whether to grant listed building consent for any works the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In considering to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states a general duty of a Local Planning Authority as respects conservation areas in exercise of planning functions. In the exercise, with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The National Planning Policy Framework (NPPF) is a material consideration.

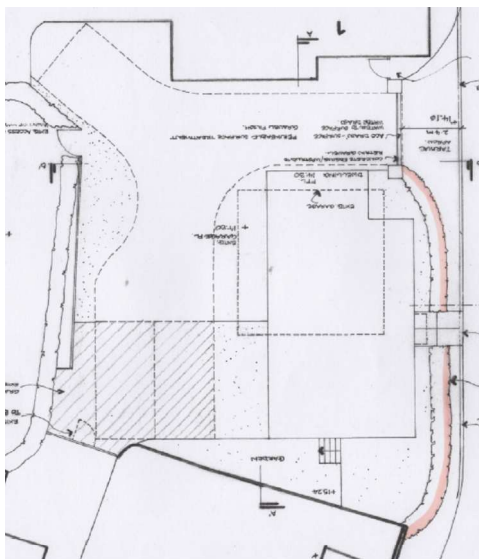
Principle of development

The site is within the development boundary for Fremington/Yelland which is a Schedule A Local Centre, where the primary focus is for development which will enhance sustainability and improve the quality of areas, compliant with policy ST07(1). The site is situated in a sustainable location with good access to services and facilities within Fremington, and good access to sustainable transport links and existing pedestrian footpaths and cycle links to the wider area. The site is within walking distance of sustainable transport in the form of bus stops. There the site is sustainable and the principle of erecting the dwelling accords with National aspirations to boost the supply of housing at paragraph 59 of the framework, and with the overarching principle to facilitate sustainable development which accords with the provisions of the development plan at policy ST01(1 and 2).

The provision of a dwelling within the development boundary will contribute to the spatial aspirations for housing provision within Fremington and Yelland as defined at FRE(a) contributing towards a minimum of 426 dwellings.

Design and impact on the Conservation Area

The scheme has been slightly revised from the previous refusal, moving the dwelling into the site behind the boundary wall and, to show the boundary of the site along the line of the existing wall within the site as follows:



Refusal 66565



RAR-04-03 C As Proposed

Although the Planning Committee did not refuse the proposal on design grounds, the impact of the design of the scheme on the Conservation Area has been raised by objectors and is discussed below.

Paragraphs 127 to 129 of the framework support the principles of good design which is visually attractive and sympathetic to local character and the built environment. This is reflected through strategic policy ST04 and Development Management Policy DM04. Paragraph 130 of the framework states that development should only be refused where it is of poor design that fails to take the opportunity to improve the character and quality

of the area. At paragraphs 195 and 196 of the framework, where development within a Conservation Area will lead to less than substantial harm to the significance of a heritage asset, the harm should be weighed against public benefits of securing the sites optimal use. This is reflected in the Conservation Officer's considerations for this scheme. The overarching emphasis is on provision of good design which conserves the historic dimensions of the area and where the harm is minimised as far as possible in accordance with part 16 of the framework and policies ST15 and DM07 of the Local Plan. The Conservation Officer has commented, reiterating her comments from application 66565.

Objections have been raised by neighbouring residents to the design form of the dwelling, with particular regard to the removal of a stone wall at the front of the site. The Fremington Conservation Area Appraisal is a useful tool in determining this application within the Conservation Area. The appraisal refers to the character of this residential area of the Conservation Area stating that: '*Fremington has a varied character and at different points within the Conservation Area*'. The development site area is defined with a residential character with various design forms and pallets of materials, from the shopping arcade and dwellings to the west, to the more traditional western side of Higher Road where properties include 2-storey terraced 'cottage' style dwellings with a varied pallet of traditional materials and design forms including a mix of stone, render, thatch and slate exterior materials with timber framed windows.

The proposal reflects the existing traditional design form and pallet of materials within Higher Road. The Appraisal acknowledges that residential areas such as Higher Road and Old School Lane are defined by buildings built right up to the edge of the road as can be seen on numbers 1-2a Higher Road. The contextual drawings and elevation drawings show that the proposed dwelling will reflect the position and plot pattern of dwellings along Higher Road and will be designed with a traditional 'cottage' appearance to reflect the residential context of the traditional side of Higher Road.

Design form, materials and fenestration are all traditional, and will result in a good quality development which enhances the aesthetic appearance of the current site, and which will not adversely harm the setting of the Conservation Area. Scale and massing is appropriate with the pitched roof being lower than that of Number 1 and dimensions and design form reflecting that of Numbers 1 and 2a. Window design is side hung timber casements, similar to Number 1 Higher Road and the single storey hipped section is also reflective of the design form of Number 1. When viewed within Higher Road the dwelling will appear as a logical part of the residential street scene, as a traditional cottage reflecting the appearance of other dwellings along Higher Road. When viewed from the north the position of the dwelling appears in context with Number 1, which significantly improves the visual appearance compared to the offset position and awkward roof shape of the garage.



As shown on the amended contextual plan above, the inclusion of the low wall along the frontage will improve the appearance of the site, matching the retained stone pillars and reflecting the original wall fronting the site. This will help to assimilate the dwelling into the residential context of the street scene.

As the Conservation Officer has previously stated, whilst it would be nice to retain the wall, its removal and replacement with a lower stone wall has less than significant harm to the character of the Conservation Area. In line with DM07 (1) this must be considered in the balance of the provision of a new dwelling and the resulting economic (jobs) benefits as well as contributing to the housing needs of the District.

Although the stone wall is attractive, it is not listed, nor does it form part of the curtilage or setting of a listed building. The wall is not noted as a feature worthy of retention within the Conservation Area Appraisal. In the first instance, the wall is not of such historic merit to the wider historic asset, to warrant its retention. Secondly, given that the Conservation Officer has stated that the removal of the wall has less than significant harm to the Conservation Area, on balance, the LPA considers that the benefits to the setting of the Conservation Area derived from removal of the modern garage, and provision of a more attractive, traditionally constructed dwelling, enclosed by the lower stone wall with planting on top and the associated economic and social benefits derived from the construction of the dwelling will, on balance outweigh this impact of altering the wall. The introduction of the low stone wall and vegetation along the frontage, defines the boundary of the new property, and reflecting the stone work of the original wall. A condition is included that the wall be constructed of natural stonework.

Concern has been raised from residents that the proposal will adversely affect the setting of listed buildings in the street scene. The Conservation Officer has raised no specific objection to the siting in relation to the listed buildings. The site is not within the curtilage of a listed building, nor will it adversely impact on the setting of any listed building.

The Conservation Officer has raised no objection to the scheme in terms of its position, materials, scale and massing considering that the development does not cause significant impact to the Conservation Area or to any listed buildings. Given this, on balance, the scheme presents an opportunity to replace an unsightly modern garage with a building which proposes attractive, traditional design form and materials and which proposes scale, massing and plot layout which is appropriate within this residential area, and sympathetic to the character of the Conservation Area. The proposal has been addressed in the context of the traditional elements identified in the appraisal, and the requirements of the framework and local plan. The scheme takes the opportunity to introduce positive design which will enhance the appearance of this residential area of the Conservation Area. The development will minimise the impact on the Conservation Area and accords with Section 66 and 72 of The Act and with parts 12 and 16 of the framework and with design policies ST04 and DM04 and Heritage Asset policies ST15 and DM07. A condition is included to ensure that the traditional materials listed are used in the construction of the scheme.

Amenity

In refusal 4 of 66565 the Committee considered that the layout of the development provides inadequate amenity space for occupiers of the proposed dwelling to enjoy the premises as a family home resulting in significant adverse harm to the amenities contrary to policy DM01 and DM04.

The owners of Number 3 have raised concern that a right of way will be removed. Firstly this is a civil matter which does not form part of the planning determination of this scheme. In any event, the applicants show a gated access, to the south east which provides access to a retained gate at the front of the site. The right of access remains available.

Policy DM01 and DM04 (i) seek to protect the amenities of occupiers of any neighbouring property or of the occupiers of the proposal. The key consideration of both policies is if the development will result in significant loss of amenity (daylight, privacy overbearing) to warrant the refusal of a scheme, or if, as a result of the development, the future occupiers amenity will be significantly compromised.



Proposed plan: RAR-04-03C

The scheme shows an area of curtilage, which comprises the gravel driveway and parking area and green areas to the east and west with a further front garden area of approximately to the west. It is acknowledged that this is not a large area of amenity space, but, in this case, given the constraints of the site, the benefits of developing the site to the Conservation Area, and the need to provide adequate parking and turning for the development, the amenity space is usable and will provide for the occupants of the dwelling. Future occupiers of the dwelling will be fully aware of the amount of space available, when purchasing the site. How they use the rear area will be a matter of personal choice. The layout shows that the site can accommodate tow car parking spaces and turning. If the occupier has only one car and greater amount of the rear area would become amenity space. The site is also within walking distance of public amenity areas to the south along Higher Road which can be utilised by the occupiers of the dwelling.

Objections have been received from the occupiers of Number 3 Church Road raising concern that first floor windows on the east elevation will look into amenity space.

Two bedroom windows and one window serving a staircase are proposed in the east elevation, at a distance of 6.7m from the eastern boundary. There are no impacts at ground floor level as there is significant boundary screening to the east in the form of a high close board fence and vegetative screening. The case officer has considered the impact on amenity from the 2 bedroom windows in light that these windows will be elevated.

There are no significant impacts on the rear of Number 3 Church Hill in terms of loss of daylight and privacy. The case officer has carried out the British Standard 25 degree light impact rule to assess this. The position of the bedroom windows on the east will offer no direct views to the main dwelling of Number 3 or to any other dwelling along Church Hill which are located obtusely to the north east. The garden area of number 3 Church Hill bounds the site. Block plan RAR-04-03C and contextual drawing 19-01-03C shows that the windows will be positioned approx. 6.7m from the boundary. Within the curtilage of Number 3 the land slopes to the east (drop from 15.00 to 14.30 as per plans). Given the height of the boundary treatment at approx. 2.6 m and given the fall of the land to the east, whilst the bedroom window will be apparent, views towards and from these windows will be oblique, and will be restricted by the boundary treatment. It is also of note that the bedroom windows are not 'principle' living spaces such as kitchen and living room where persons may spend more time. Views from the bedrooms will be fleeting and oblique such that Impacts on amenity to the rear of Number 3 Church Hill will not be direct or significant. Whilst the rear of the new dwelling will be apparent, the impact on amenity will not be significant to warrant refusal of the scheme in accordance with DM01/DM04 (i).

Similarly views from the rear of Number 5 Church Hill are restricted by boundary treatments and the oblique position of the dwelling. No windows are proposed on the first floor north elevating and there is no loss of privacy to Number 5. Again when the 25 degree light impact rule is undertaken, whilst the north elevation of the dwelling will be apparent, its position will not reduce daylight to the dwelling or garden of Number 5. The southern elevation proposes 2 ground floor windows into a boot room. These windows face towards the wall of Number 1 Higher Road and do not impact on privacy. There are no windows at first floor level and the dwelling is positioned sufficient distance such that it will not impact on daylight to number 1.

Amenity impacts during the construction phase will be managed by way of a Construction Management Condition limiting times of development.

In accordance with DM01 and DM04 (i), to be of significant concern there must be demonstrable impact on amenity, and in this case on balance, given this is a residential area, the submission adequately demonstrates that the position of the dwelling will not result in significant amenity impacts to either the occupiers of the proposed dwelling or of neighbouring property to warrant refusal of this scheme. The height, bulk and mass of the dwelling will be accommodated within the site with no significant impact to daylight nor to privacy. The dwelling will be visible from neighbouring properties. However, given the spacing between the properties and that the design and layout is similar to other residential property in the street scene, the position of the dwelling and windows therein

is not unreasonable within a residential area and does not result in such significant harm to neighbours or future occupiers of the dwelling, to warrant refusal in accordance with DM01 and DM04.

Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

The proposal involves the removal of the existing garage which triggers the need for a Wildlife report. The applicants have submitted a written statement and photographic evidence which shows that the building is of modern age and construction with close fitting roof tiles and fascia boards, which would offer limited access or habitat for protected species. The Sustainability Officer has considered the report submitted and concludes:

'The garage to be demolished is unlikely to be suitable for protected species and the general context of the site indicates that a detailed ecological assessment would be unnecessary'.

In light of this, in this instance further ecological survey work is not requested. The site currently comprises the garage and gravelled access which offers very limited opportunity to house protected species or habitat. In light of the proposed provision of grassed areas and ornamental planting will provide a net biodiversity gain over the existing situation. There is however, opportunity to improve habitat provision and net biodiversity gain with the inclusion of new bat and bird boxes which are duly conditioned in accordance with policies ST14 and DM08.

In terms of the location of the site, the Sustainability Officer identifies that it is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can make a direct payment to the LPA under Section 111 of the Local Government Act 1972. The applicant has submitted a payment via Section 111 which has been received by the Council on 7th April 2020.

Flood Risk and Drainage

The site is located within Flood Zone 1 where either principle of residential development is acceptable without the requirement for addition flood mitigation measures.

The site is within the Critical drainage Area (CDA) where in accordance with ST03(b) development must not adversely impact on the ability of the CDA to accommodate rates of surface water runoff from the proposal.

The applicants have submitted a surface water statement in which they comment that the proposed dwelling is similar in roof area to that of the existing garage. There will be no significant additional water runoff into the site from the dwelling. Currently surface water is collected in water butts and flows to an existing soakaway which is proposed to be used in this scheme as well as introducing permeable surface gravel materials throughout the site which will dissipate surface water. An eco-drain is proposed along the frontage of the access channelling water into the existing drainage system.

Foul drainage will connect to the public sewer system.

There are no objections to the inclusion of the above measures and the scheme is conditioned appropriately.

Highways

In determining application 66565 the Planning Committee upheld 3 highways refusals relating to the impact of the development on the local highway.

Objections have also been received from the occupiers of Number 3 Church Hill, Number 1 Higher Road and 5 Church Hill, all which raise objections on highways grounds as summarised above.

The LPA consulted DCC Highways through the course of the current application. DCC highways recommended refusal of the scheme on the following grounds:

'The proposed development encloses lands considered to form part of the Highway Maintainable at the Public Expense. No official notice has been served upon Devon County Council, in its capacity as Local Highway Authority, nor indications provided by the applicant of the willingness to enter into a Section 278 Agreement to agree works to the public highway or, alternatively, the securing of a Stopping-Up Order. Consequently, any planning permission is unlikely to be implementable and visibility provision not achievable. The following objections are identified:

1) The proposed development is likely to result in an increase in the volume of traffic entering and leaving the County Road through an access that does not provide adequate visibility from and of emerging vehicles, with consequent risk of additional danger to all users of that road and interference with the free flow of traffic.

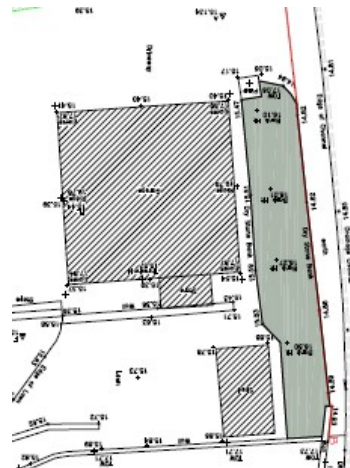
2) The proposal will result in the loss of vehicle parking facilities originally secured for a dwelling fronting 'Church Hill' and will, therefore, encourage additional parking on the public highways, with consequent risk of additional danger to all users of the road and interference with the free flow of traffic'.

Following the Highway comments, the applicants have served notice on DCC Highways on 1st July 2020 and have carried out further survey work including provision of land charges documents and further site survey documents showing the applicants ownership of the site.

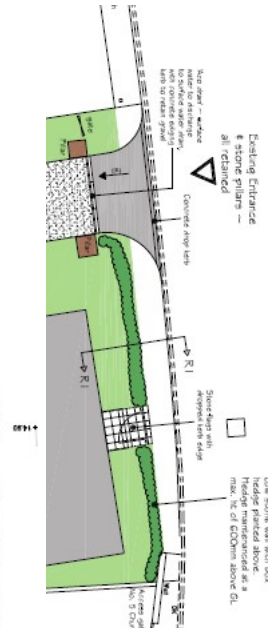
The applicants have provided evidence of their ownership of the frontage of the site in the form of a Land Charges plan and Electronic Survey document RAR-04-02 and have amended their site layout plan accordingly on RAR-04-03 as shown below:



Land charges plan



RAR-04-02



RAR-04-03C

In an email of 4th November 2020 attached to the report, Devon County Highways Authority confirmed that these plans represent the accurate land ownership of the frontage.

The applicant's layout plan number RAR-04-03C shows that the stone wall is set back behind the line of the applicant's ownership whereby a stopping up order of the highway is **not** required. Devon County Highway Authority have confirmed that works to the front of the red line would require appropriate highway licensing or agreement and to show appropriate materials, and that gates would need to be hung inwards. This is included as an informative. They confirm that the low stone wall as shown on RAR-04-03C will need to be set back behind the red line on RAR-04-02B which it is.

In light of the new evidence, it is clear that the development can be carried out within land in the applicant's ownership, without the need for a Stopping up Order of land at the front, and that the existing access into the site will be utilised to gain access, addressing DCC Highways concerns.

Consequently on 24th November 2020 DCC Highways provide a revised response confirming that 'insofar as visibility is concerned the proposed arrangements are acceptable'. Highways have reiterated refusal 2 as follows:

'1) The proposal will result in the loss of vehicle parking facilities originally secured for a dwelling fronting "Church Hill" and will, therefore, encourage additional parking on the public highways, with consequent risk of additional danger to all users of the road and interference with the free flow of traffic.'

In response to the remaining highways objection, the existing garage was approved in connection with the use of Number 4 Church Hill, for use in connection with a residential dwelling (application 41523), and has been used as such until the site was sold off separate from Number 4. The application site no longer serves to provide parking for the occupiers of Number 4 Church Hill. This situation will not change, the garage and access is no longer available to serve number 4. It is understood that the occupiers of Church Hill use the lay-by to the north of the properties for parking. This situation will not change, irrespective of the approval of this scheme.

Traffic movements from the proposed dwelling are commensurate with those currently generated by the residential use of the site. The proposed use will not generate a significant increase in traffic movements over the existing situation. There will be no impact on the parking facilities for Number 4 Church Hill as a result of the approval of this application.

The proposal will provide improved visibility to the north by providing a lower boundary treatment, improving visibility over the existing situation and resulting in a safer access than existing. The visibility to the south will remain as existing and will no worse than the approved use. There is no material increase in traffic movements, and visibility improvements will mean that users of the road from the B3233 to the north will have clear visibility of persons entering or egress from the site.

Whilst the Junction into the B3233 is well used, this is subject to a 20mph speed restricting, and is managed by a traffic light system, restricting traffic flow and ensuring that vehicle speeds are low. Given the low vehicle speeds within Higher Road there will be no severe impact on traffic movement or on pedestrian/cycle users. Given the low vehicle speeds, and the improvements to the current access there are no highway objections to this scheme (other than the sole reason based on car parking).

This scheme offers a clear improvement on the existing situation, with no notable additional pressure on the local highway network. The site provides adequate parking and turning for two vehicles to the rear of the site, such that access can be achieved into Higher Road in a forward gear. This is the same as the current situation for the garage. The development of this site for one dwelling will not exacerbate on-street parking, which is restricted by double yellow lines where, it is not possible to park for any length of time. Pickup/drop off can take place within the site without the need to interfere with the free flow of traffic.

The proposal will not generate such severe amounts of traffic from the continued residential use of the site to warrant refusal in terms of policy DM05 or paragraph 109 of the NPPF. The site provides 2 parking spaces of appropriate dimensions, and delivers a clearly usable turning area within the site, to enable safe access in a forward gear, into Higher Road.

In light of the new evidence, it is clear that the development can be carried out within land in the applicant's ownership and the existing access into the site will be utilised to gain access. Taking this into consideration, the movements associated with the proposed parking for the dwelling will not result in a 'severe or cumulative' adverse impact into Higher Road and the scheme accords with DM05, DM06 and paragraph 109 of the framework.

Conclusion

This is a site which has been used for residential purposes, within the development boundary for Fremington. The principle of residential development is acceptable.

There is an opportunity to improve and enhance the appearance of the Fremington Conservation Area by removing a modern garage and replacing with the dwelling which proposes attractive and traditional design form and materials, and scale and massing which respects the context of the residential street scene of the Conservation Area. The scheme proposes adequate amenity space and matters of amenity have been discussed and addressed through this report. The impact on the neighbours is not so severe to warrant refusal of the proposal with regards privacy, daylight or overbearing impacts.

The applicants have provided additional supporting information in respect of land ownership which has addressed refusal 1, and subsequently in the highway response of 24th November 2020, it is clear that only refusal 2 is now maintained. This reason alone does not comprise such severe highway impact to warrant refusal of the scheme. Taking account of the current use of the site, the low vehicle road speeds, restrictions to on-street parking and that the site delivers adequate parking and turning and improvements to the current access, there are no severe impacts on the local road network resulting from the ongoing residential use of this access. The applicants have provided evidence that they are in ownership of land contained within their red outline and can achieve the development without encroaching on to highway land.

The reasons for refusal in the Committee decision of application 66565 have been addressed, and the one remaining highways objection is not of such severity to outweigh the grant of permission for this scheme. The Local Planning Authority cannot require this site to be used for parking by others and hence the sole highway reason for refusal is not an overriding concern. There are no overriding reasons why this scheme should not now be approved in accordance with the aforementioned Sections of The Act, the National Planning Policy Framework and the North Devon and Torridge Local Plan

The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions and the s111 agreement

HUMAN RIGHTS ACT 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life
THE FIRST PROTOCOL – Article 1: Protection of Property

Recommendation

Approved

Legal Agreement Required:- s111 Agreement

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason :

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

Nr.S18/16/01 AB site location plan received 4th February 2020

Nr. 18/01/01 D Elevations drawing received 24th November 2020

Nr.19-01-03C Street Scene Elevation received 24th November 2020

Nr. RAR-04-03C Proposed Site Layout received 24th November 2020

('the approved plans').

Reason:

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

3. The proposed development shall be constructed in accordance with the following schedule of materials:

- Natural slate roof
- Timber framed windows and doors
- Natural stone walls
- Stone flag stones

Reason:

In the interests of the appearance of the development and locality in accordance with Policy ST04 and ST15 and DM04 and DM07 of the North Devon and Torridge Local Plan.

4. All parking, turning and access arrangements shall be provided in accordance with the approved plans prior to the first occupation of the dwelling hereby approved and shall thereafter be retained for their intended purpose of safe access and parking of vehicles within the site.

Reason:

To ensure adequate off-site parking facilities remain available to serve the future occupants of the dwelling hereby approved and to ensure safe access and egress into Higher Road in accordance with policies DM05 and DM06.

5. All planting, seeding or turfing comprised in the approved details of landscaping on plan numbers Nr. RAR-04-03C, and 18/01/01D shall be carried out in the first planting and seeding seasons following the occupation or the substantial completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variations.

Reason :

To assimilate the development into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

6. Prior to the first occupation of the dwelling hereby approved the boot room window on the south elevation of the dwelling shall be obscure glazed and top-opening and shall be retained as such thereafter.

Reason:

To safeguard the privacy of neighbouring occupiers in accordance with Policy DM01 and DM04 (i) of the North Devon and Torridge Local Plan.

7. During demolition and construction phase of the development, no machinery shall be operated and no noisy processes' shall be undertaken outside the following times:

a) Monday to Friday 08.00-18.00

b) Saturday 09.00-13.00

c) nor at any time on Sunday, Bank or public holidays

Reason:

To protect the amenities of neighbouring residents in accordance with policies DM01 and DM04.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development within class(es) A, B and C of Part 1 and/or class(es) A and B of Part 2 of Schedule Two of the Order.

Reason :

To allow the Local Planning Authority to consider the impact of future development on the appearance and character of the development in the area/neighbouring amenity/highway safety in accordance with the requirements of Policies DM04/DM01/DM05 of the North Devon and Torridge Local Plan.

9. No additional openings shall be included in any elevation without the written

approval of the Local Planning Authority

Reason:

In the interests of the appearance of the development and to protect the amenities of neighbouring properties in compliance with policies ST15, ST04, DM01, DM04 and DM07.

10. Prior to the building being brought into use, a bat and bird box shall be sited on either the south or west elevation of the building and shall be retained thereafter.

Reason:

To achieve net gains in biodiversity in compliance with Policy ST14 of the North Devon and Torridge Local Plan and paragraph 170 of the National Planning Policy Framework.

Informatives

1. This application was granted subject to the receipt of a payment under Section 111 of the Local Government Act 1972 towards mitigation of recreational impacts on the Braunton Burrows Special Area of Conservation.
2. For the purpose of interpreting the restrictions expressed in condition 8 of this consent, permitted development rights have been removed in respect of the following classes:

Part I: CLASS A The enlargement, improvement or other alteration of a dwelling-house

Part I: CLASS B The enlargement of a dwelling-house consisting of an addition or alteration to its roof

Part I: CLASS C Any other alteration to the roof of a dwelling-house

Part I: CLASS E The provision within the curtilage of a dwelling-house of -

a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

Part I: CLASS F Development consisting of –

a) the provision within the curtilage of a dwelling-house of a hard surface for any purpose incidental to the enjoyment of the dwelling-house as such; or

b) the replacement in whole or in part of such a surface

Part I: CLASS G The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse

Part I: CLASS H The installation, alteration or replacement of a satellite antenna on a dwelling-house or within the curtilage of a dwelling-house

Part II: CLASS A The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure

Part II: CLASS B The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road,

Further detailed information can be obtained from the Local Planning Authority, including a guide to householder development, and the Planning Portal at www.planningportal.gov.uk

3. Bats and bat roosts are protected by law under Schedule 5 of the Wildlife & Countryside Act 1981 [as amended], Schedule 2 of the Conservation [Natural Habitats, &c] Regulations 1994, the Countryside Rights Of Way Act 2000, and the Conservation of Species and Habitats Regulations 2017. It is an offence to recklessly or deliberately kill, injure or capture [take] bats, recklessly or deliberately disturb bats, damage, destroy or obstruct access to bat roosts. For further advice contact the Bat Helpline 0345 1300 228.
4. The building is of an age where materials containing asbestos may have been used in its construction or subsequent modification. The building should be surveyed for such materials prior to conversion by a suitably qualified person. Where found, materials containing asbestos should be removed and disposed of in accordance with current legislation and guidance.
5. From the Flood Defence aspect the Environment Agency advise that surface water run-off from the proposal should be managed by the use of Sustainable Urban Drainage Systems [SUDS]. These systems mitigate the potential effects of urban development including increased quantity of run off, increased rate of run off and deterioration of water quality through pollution. Such systems would include infiltration trenches, swales, infiltration basins and porous paving. Ground conditions will need to be investigated to determine the most efficient methods or if alternative solutions will need to be investigated. In the first instance it is advised that the design of such a system is investigated in accordance with CIRIA C522 - Sustainable Urban Drainage Systems - design manual for England and Wales. An outline or preliminary design should then be submitted to the Environment Agency for comment.
6. **Statement of Engagement**
In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission. This has included conditions to remove permitted development rights and to secure amenity for the neighbours and to secure ecological mitigation measures.

Appendices

- A. Location Plan
- B. Plan RAR-04-02