



Application Report

**Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG**

Application No: 75158
Application Type: Variation of condition(s)
Application Expiry: 19 August 2022
Extension of Time Expiry: 19 August 2022
Publicity Expiry: 26 May 2022
Parish/Ward: LANDKEY/LANDKEY
Location: 1 & 2 Kings Garden
Manor Road
Landkey
Barnstaple
Devon
EX32 0JJ

Proposal: Variation of condition 1 (approved plans) and 2 (materials) attached to planning permission 74789 (Variation of condition 7 (access improvement works) attached to planning permission 73430 (Variation of conditions 2 (approved plans) 3 (access improvements) and 4 (Materials) attached to planning permission 65957 (erection of two dwellings (amended access details to those approved by planning permission 64024) to allow amended house design) to allow rewording of condition to 'prior to occupation') in respect of change to external material finish from render and stone to render with brick plinth and the addition of PV panels (amended description, plans).

Agent: Mr Daniel Jourdain
Applicant: Mr Glyn Lane
Planning Case Officer: Miss S. May
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable): Applicant is a Councillor

Site Description

The application site is an unused corner plot of approximately 0.08 hectares situated on land opposite the junction with Manor Road, lying adjacent to Vicarage Road and opposite Church Meadow. Previously the site was surrounded by a hedgerow sat upon a low level stone wall which ran along the entire perimeter, this is no longer present. The site lies within the development boundary for Landkey and within the 'Landkey Town' Conservation



area. The site has an elevated aspect facing south/south east with a gently sloping gradient from west to east. There is an existing watercourse (with side walls) which runs north to south through the eastern side of the site before continuing underneath the junction between Church Meadow Road and Vicarage Road.

Recommendation

APPROVE

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
73809	Erection of one dwelling (renewal of planning permission ref: 64254) (amended site plan) at Land to rear of Ring O'Bells Cottages, Manor Road Landkey 	Approved	11 October 2021
75390	Erection of a dwelling with associated works (replacement design to 73809) at Land adjacent to Ring O'Bells, Landkey	Pending	
74789	Variation of condition 7 (access improvement works) attached to planning permission 73430 (Variation of conditions 2 (approved plans) 3 (access improvements) and 4 (Materials) attached to planning permission 65957 (erection of two dwellings (amended access details to those approved by planning permission 64024) to allow amended house design) to allow re-wording of condition to 'prior to occupation' (amended description) at Land to the west of junction of Manor Road and Vicarage Road, Landkey	Approved	19 May 2022
75076	Side extension to form new garage at Ellandale Vicarage Road, Landkey 	Approved	23 June 2022
54820	Listed Building Application for Change of Use & division of public house to provide three dwellings - The Ring O' Bells, Manor Road, Landkey	LB (Execution Works) Approval	11 January 2013

Reference Number	Proposal	Decision	Decision Date
54819	Change of Use & division of public house to provide three dwellings - The Ring O' Bells, Manor Road, Landkey	Withdrawn	15 July 2013
55953	Change of use of public house to form 1 dwelling & alterations to existing dwelling (amended description) - The Ring O' Bells, Manor Road, Landkey	Full Planning Approval	14 August 2013
55954	Listed Building Application for change of use of public house to form 1 dwelling & alterations to existing dwelling (amended description) - The Ring O' Bells, Manor Road, Landkey	LB (Execution Works) Approval	14 August 2013
61767	Extension & alterations to dwelling including raising of roof at Ellandale, Vicarage Road, Landkey	Full Planning Approval	20 October 2016
62536	Erection of one dwelling (amended address) - land adjacent to Byways, Manor Road, Landkey	Full Planning Refusal	6 April 2017
64024	Erection of two dwellings (amended plans) - land at the junction of Manor Road & Vicarage Road, Landkey	Full Planning Approval	27 April 2018
64254	Erection of one dwelling (amended plans) - The Ring O' Bells Cottages, Manor Road, Landkey	Full Planning Approval	16 August 2018
65957	Erection of two dwellings (amended access details to those approved by planning permission 64024) (amended plans) - land at the junction of Manor Road & Vicarage Road, Landkey	Full Planning Approval	14 February 2019
73430	Variation of conditions 2 (approved plans) 3 (access improvements) and 4 (Materials) attached to planning permission 65957 (erection of two dwellings (amended access details to those approved by planning permission 64024) (amended plans)) to allow amend house design at Land to the west of the junction of Manor Road and Vicarage Road, Landkey	Approved	28 October 2021

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Adjacent to Conservation Area: 35 Landkey Town Adopted 01/09/2012;	Within constraint
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint

Constraint / Local Plan Policy	Distance (Metres)
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
Conservation Area: 35 Landkey Town Adopted 01/09/2012;	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
Listed Building Adjacent: 2446 EH Ref 1164986 Nos 1-3 The Causeway and Ring O' Bells Inn (Ring O' Bells Inn), Landkey Town	16.57
Listed Building Curtilage (Adjacent to)	17.57
USRN: 27501030 Road Class:C Ownership: Highway Authority/Private	5.19
USRN: 27501160 Road Class:R Ownership: Highway Authority	7.28
USRN: 27504082 Road Class:Q Ownership: Private	7.28
Within adopted Development Boundary: Landkey Development Boundary ST07	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
Conservation Area: LANDKEY TOWN	
DM01 - Amenity Considerations DM02 - Environmental Protection DM03 - Construction and Environmental Management DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM07 - Historic Environment DM08 - Biodiversity and Geodiversity LAN - Landkey Spatial Strategy ST01 - Principles of Sustainable Development ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST10 - Transport Strategy ST14 - Enhancing Environmental Assets ST15 - Conserving Heritage Assets	

Consultees

Name	Comment
Councillor D Luggar	No response received.
Heritage & Conservation Officer	18/05/2022 14:56 - This application proposes amendments to the elevations of the two new houses on the corner of Vicarage Road. The site is within the Conservation Area and close to various listed buildings. When the designs for the new houses were developed,

Name	Comment
Reply Received 18 May 2022	care was taken to give the eastern elevation details and characteristics which reflected the local context, as these elevations are particularly prominent. This included stone faced gabled projections and veranda details. The application was approved on the basis that the designs for the new houses were of a sufficient quality and interest to enhance the Conservation Area. Since then, the design has been watered down, with the removal of the verandas, and now it is proposed to replace the stone facing with render, making these east elevations even plainer, and less reflective of the context. There is no justification given, that I can see, for the removal of the stonework, presumably this will be because it is less expensive to build. The removal of the stonework, in itself, is a detrimental step, and unless this can be mitigated by the addition of some other feature which gives these east elevations some more visual interest and connection to their context, my view is that it would cause less than substantial harm to the significance of the heritage asset.
Landkey Parish Council Reply Received 5 May 2022	5/05/2022 07:54 - No comment

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0	0	0	0	0

Considerations

Proposal Description

This application seeks full planning permission for the variation of condition 1 (approved plans) and 2 (materials) attached to planning permission 74789 (Variation of condition 7 (access improvement works) attached to planning permission 73430 (Variation of conditions 2 (approved plans) 3 (access improvements) and 4 (Materials) attached to planning permission 65957 (erection of two dwellings (amended access details to those approved by planning permission 64024) to allow amended house design) to allow rewording of condition to 'prior to occupation') in respect of change to external material finish from render and stone to render with brick plinth and the addition of PV panels (amended description, plans).

The conditions on approval 74789 read as follows:

Condition 1

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

L321 22 00 01 Location Plan received on the 07/02/22

2110 P 06 A Section Proposed received on the 10/05/21

2110 P 07 A Boundary Section Proposed received on the 10/05/21

2110 P 08 B Visibility Splay received on the 10/05/21

2110_P_03 A Floor and Roof Proposed received on the 23/09/21

2110_P_05B Proposed Elevations received on the 23/09/21
2110_P_02 C Site Plan Proposed received on the 23/09/21
2110_P_04 A - Proposed Elevations received on the 23/09/21
(‘The approved plans’).

Reason:

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

Condition 2

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

Elevations - Render/forticrete random rubble stone
Roof - Redland mini stonewold grey tiles
Window cills - Slate
Rainwater goods - Grey UPVC
Soffit and Fascia - Grey UPVC
Window and doors - UPVC in anthracite grey
Balustrade - Timber and glazing

Reason:

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

The previous application under 73430 amended the design of the houses and approved two detached two storey three bedroom dwellings (previously approved as two semi-detached dwellings). The parking and turning area would be lowered and external appearance amended. The access provision off the lane was adjusted and lowered slightly. Due to an increase in costs of building materials the previously permission allowed the following changes:

- Elevations – render/forticrete (previously render/random rubble stone)
- Roof – Redland mini stonewold grey tiles (previously slate)
- Doors and windows – grey upvc (previously timber)
- Rainwater goods – grey upvc (previously galvanised metal)

As stated on the committee report for approval 74789, the plot has now been purchased by Lane Homes Limited.

Application 74789 sought to re-word the condition to say the access improvement works shall be completed prior to occupation of the dwelling and was approved at committee.

This application now seeks the following materials:

Elevations – Render on brick plinth
Roof – Natural slate
Doors and windows – grey UPVC
Rainwater goods – grey UPVC

The development would also see the provision of 4 solar panels on the western elevation of each dwelling.

It should be noted that the application as originally submitted sought to vary conditions from the incorrect application hence why there has been a second round of consultation and re-advertisement.

Planning Considerations Summary

- Principle and history relating to the site
- Character and appearance
- Highway safety
- Flood risk and drainage
- Amenity
- Ecology

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.

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 and history relating to the site

Application 74789 was approved on 19 May 2022 for the Variation of condition 7 (access improvement works) attached to planning permission 73430 to allow re-wording of condition to 'prior to occupation'.

Application 73430 was approved on 28 October 2021 for the variation of conditions 2 (approved plans), 3 (access improvements) and 4 (materials) attached to planning permission 65957 to allow an amended house design.

Application 65957 was approved on 14 February 2019 for the erection of two semi-detached dwellings (with amended access details to those approved by planning permission 64024). Approval 65957 sought to amend the highway vehicular access to the site but was submitted as a full planning application and therefore all material planning considerations were again looked at in detail.

The principle of development was originally established in planning approval 64254 then again in 65957 with the delegated report stating:

“The site is within the development boundary of Landkey within the North Devon & Torrridge Local Plan. Planning Policy ST07: (Spatial Development Strategy for Northern Devon’s Rural Area) allocated Landkey as a Schedule B: Village. This policy states that development in villages will be enabled in accordance with the local spatial strategy to meet local needs and growth aspirations.

The principle of the new residential development in this location is therefore acceptable subject to other material planning considerations”.

Character and appearance

Planning Policy DM04 (Design Principles) of the North Devon & Torrridge Local Plan (NDTLP) seeks to promote local distinctiveness and patterns of settlement. The site is within the historic core of Landkey and within the ‘Landkey Town’ Conservation area and lies in close proximity to several listed buildings.

The development as previously approved under 65957 took the form of a pair of two storey semi-detached dwellings. The original application was amended to include stone projecting gables to the east elevation and a net reduction in the size of the bi-fold door and veranda element. These design amendments were agreed by the Conservation and Heritage Officer and the use of traditional materials was considered acceptable in a scheme which would sit comfortably within the street scene.



Figure 1 - Elevations as approved under 65957

The proposal as approved under approval 73430 would see two detached dwellings which would be separated by a distance of 1.5 metres with 1.8 metre fencing running between the plots.

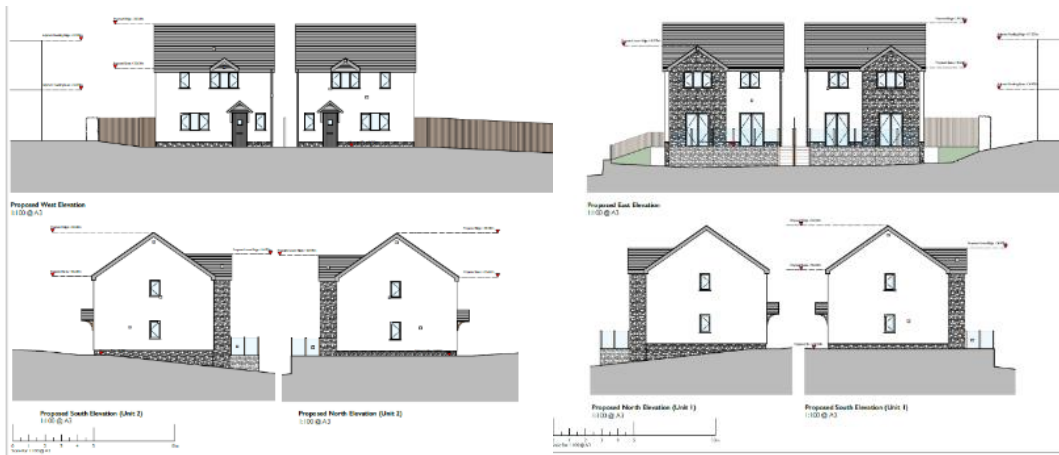


Figure 2 – Elevations as approved under 73430

As can be seen from approval 73430 visually the design of the proposed eastern and western elevations would remain the same. The development would see the insertion of an additional window opening on the ground floor on both the north and south elevations.

The amendments sought on this application would change the palette of materials.

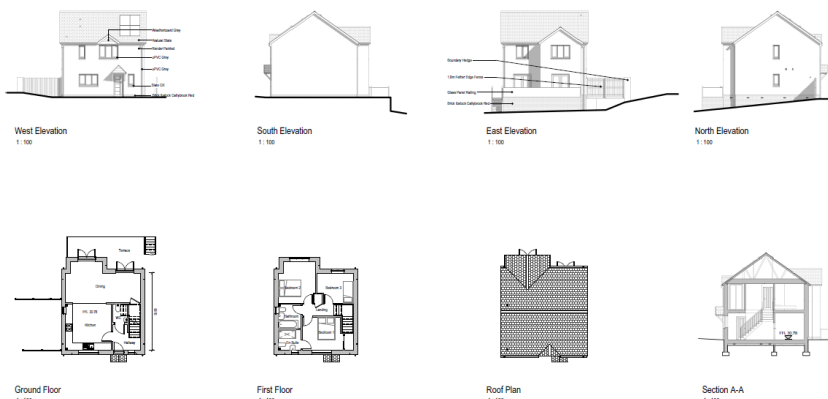


Figure 3 – Proposed elevations of Plot 1 on pending application

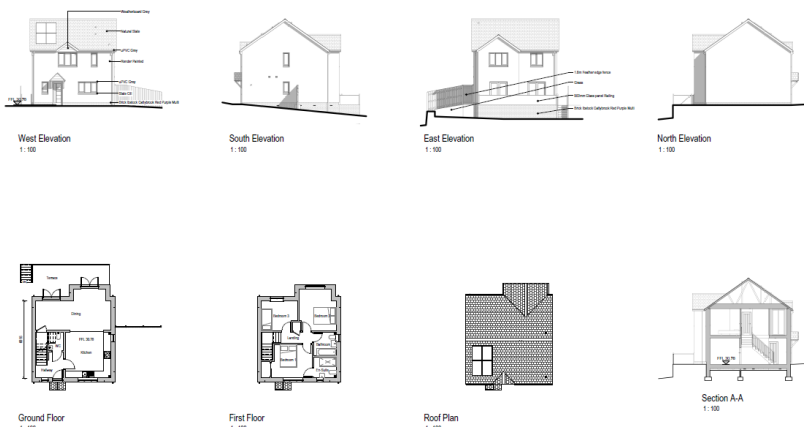


Figure 4 – Proposed elevations of Plot 2 on pending application

Effectively the development would no longer have any elevations constructed with random rubble stone. As can be seen from the drawings there would be a brick plinth and the elevations would be rendered. The development however would have natural slate roofing materials, along with solar panels.

Policy DM07: Historic Environment of the NDTLP states that proposals which conserve and enhance heritage assets and their settings will be supported. Where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible, and an acceptable balance between harm and benefit can be achieved in line with the national policy tests, giving great weight of the conservation of heritage assets.

Paragraph 195 of the National Planning Policy Framework 2021 states that Local Planning Authorities should identify and assess the particular significance of any heritage assets that may be affected by a proposal. They should take this into account when considering the impact of a proposal on a heritage assets, to avoid or minimise any conflict between the heritage asset's conservation and any aspects of the proposal.

Paragraph 197 of the framework identifies the desirability of new development making a positive contribution to local character and distinctiveness.

The Heritage and Conservation Officer was previously consulted on the application and commented that the site occupies a prominent position in the Landkey Town Conservation Area, and forms part of the setting of several listed buildings. When the site was proposed for development a scheme was eventually negotiated and approved (application 64024), which conditioned the use of traditional materials, appropriate for this sensitive setting. These were natural slate for the roofs, render and random rubble stone for the walls, metal rainwater goods, and timber soffits, fascia's, cladding to gables, and windows and doors.

Planning approval 73430 saw a move away from these traditional, site specific materials towards modern generic materials - concrete roof tiles, manufactured stone facing panels, cement board cladding and PVCu windows and doors.

The current application again, changes the palette of materials.

The Heritage and Conservation Officer has commented that when the designs for the new houses were developed, care was taken to give the eastern elevation details and characteristics which reflected the local context, as these elevations are particularly prominent. This included stone faced gabled projections and verandah details. The application was approved on the basis that the designs for the new houses were of a sufficient quality and interest to enhance the Conservation Area.

Since then, the design has been watered down, with the removal of the verandas, and now it is proposed to replace the stone facing with render, making these east elevations even plainer, and less reflective of the context. There is no justification given, that I can see, for the removal of the stonework, presumably this will be because it is less expensive to build.

The removal of the stonework, in itself, is a detrimental step, and unless this can be mitigated by the addition of some other feature which gives these east elevations some more visual interest and connection to their context, my view is that it would cause less than substantial harm to the significance of the heritage asset.

The Conservation area at Landkey was formally adopted in September 1987 and has a relatively low number of listed buildings scattered along its length, with no particular clusters or concentrations. Materials occupy a typically narrow range. Local stone is used and in some cases left as an exposed building material, whilst in other cases it is rendered over. Landkey has come to serve as a commuter village for Barnstaple, with a significant

number of residents in the village being employed in Barnstaple, and as such there is demand for housing in the wider area, creating a significant level of pressure for growth

Whilst the comments of the Heritage and Conservation Officer are noted, one has to look at the existing context and streetscene. The dwellings would be seen principally against the backdrop of other residential properties. The application site neighbours more modern residential development to the north in the form of a dormer bungalow (Elandale which is on Vicarage Road), whilst to the south of the site are modern terraced properties at Church Meadow.



Figure 5 – Elandale to north of site



Figure 6 – Modern terraced properties to south at Church Meadow



Figures 7 and 8 - The Malt House, is the nearest property to the south west of the site with Foeffee Cottage immediately to the south of the Malt House. Neither of these buildings are listed

The nearest listed building known as the Ring O'Bells (approx. 36 metres to south west of application site) and the row of 3 cottages to the left of this building (1-3 The Causeway) are all Grade II listed buildings. However the application site is separated by the Malthouse and Foeffee Cottage which are not listed.

Whilst it is acknowledged that traditional materials would be preferable in this locality, the applicant is proposing rendered materials presumably due to the rise in building costs. The Local Planning Authority consider it would be difficult however to resist the application purely on the grounds of the materials alone.

In line with statute, policy and case law considerable weight and importance must be given to the presumption against granting planning permission for development that could harm the character or appearance of a conservation area or the setting of a listed building. If less than substantial harm is found of whatever magnitude, the decision maker needs to give considerable weight to the desirability of preserving the setting of the asset.

In this case, there is a lack of identifiable harm to the listed buildings and conservation area and the proposed development as a minimum would 'preserve' the setting of the listed buildings and the character and appearance of the conservation area. However, the overall impact of the proposal needs to take into account the less than substantial harm and this should be weighed against the public benefits of the proposal.

The public benefits of the proposal would comprise:

- The delivery of two new dwellings
- An increase in choice of homes
- Employment opportunities during the construction phase
- Residents would be likely to use the village shop and services making a positive contribution to their vitality and viability

In accordance with the test set out in paragraph 202 of the framework 2021 the clear public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset.

Highway safety

On approval 74789 the delegated report commented that Policy DM05 of the North Devon & Torridge Local Plan only allows development where there is safe access and egress and there is no harm to the functioning of the highway network or character of the locality.

The existing access on to Manor Road is substandard in terms of visibility.

Application 64024 sought to improve visibility by chamfering the corner of the stone wall to the west to allow for improved visibility, with the stone wall being rebuilt so as to protect the appearance of the conservation area. This solution was the subject of pre-application discussions between the applicant and Highway Authority(HA) and the HA had no objection subject to a condition being imposed on both that the visibility splay work is carried out prior to any further development taking place on the site.

Following the initial approval application 65957 sought to relocate the point of vehicular access to the site slightly south so that the access point is within the application owners. (The previous access point was in third party land ownership). This allowed this site and

the adjacent site which had planning permission at that time for one dwelling (REF 64254) to have vehicular access independent of each other.



Figure 9 - Approval 65957



Figure 10 - Approval under 73430

On approval 73430 the access off the lane was adjusted and lowered slightly. The plans indicate that the stone wall would be rebuilt. Whilst approval 73430 imposed a condition to ensure that the access improvements were completed prior to any other part of the development commencing this application seeks to vary this condition to prior to occupation.

The Highway Authority has considered this application and has no objection. Accordingly on the grant of permission the condition will be re-worded to say that the access improvements works shall be completed prior to occupation of the dwellings.

Sufficient off-road parking and turning provisions is provided for both dwelling. The proposal is considered to accord with the requirements of Policy DM05 (Highways) and DM06 (Parking Provision) of the NDTLP.

Flood risk and drainage

On approval 65957 the delegated report commented that foul drainage would be via the nearby mains foul water drainage, with surface water via on site soakaways. Given the location and site area, this was considered an acceptable drainage strategy in accordance with Policies ST03 and ST14 of the North Devon & Torridge Local Plan.

Whilst this was the case it is noted that the delegated report on 65957 inadvertently referred to the site being within Flood Zone 1, whereas the constraint indicated it was within Flood Zones 2/3.

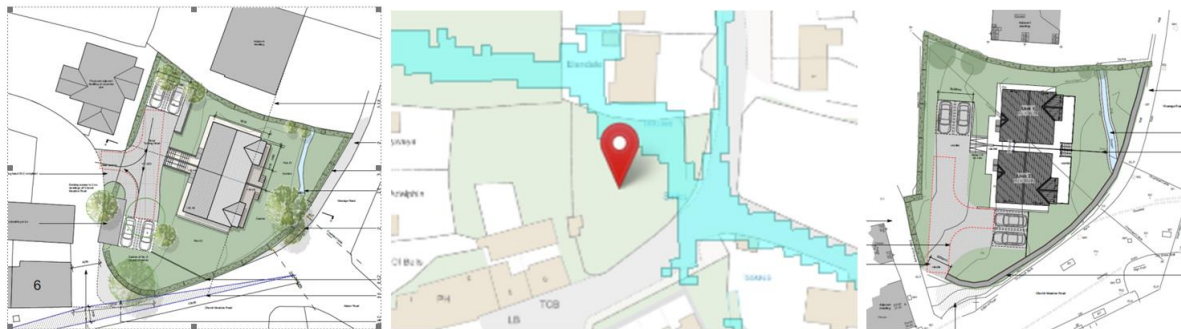


Figure 11 - Watercourse

The approved plan (left) under 65957 shows the water course on what was the extant permission at the time of the submission of application 73430. The middle view shows that a small section of the northern corner of the site has a constraint identified as being flood zones 2/3, albeit the relationship of the new development to the watercourse is the same (plan on right).

On application 73430 the applicant was asked to show that the site would not flood via the submission of a Flood Risk Assessment (FRA) as the Environment Agency plan is so schematic that it was hard to work out the west to east drainage route.

The FRA comments that the site has a gently sloping gradient from west to east with the existing watercourse, little more than a running ditch, running north to south through the eastern side of the site, before continuing underneath the junction between Church Meadow Road and Vicarage Road. The ditch has been repaired by the new owner with the construction of the side walls improved, meaning that debris is less likely to be retained and any possible blockages are avoided.

The FRA demonstrates that Flood prevention measures would be in place in a worst case scenario as follows:

Floor levels

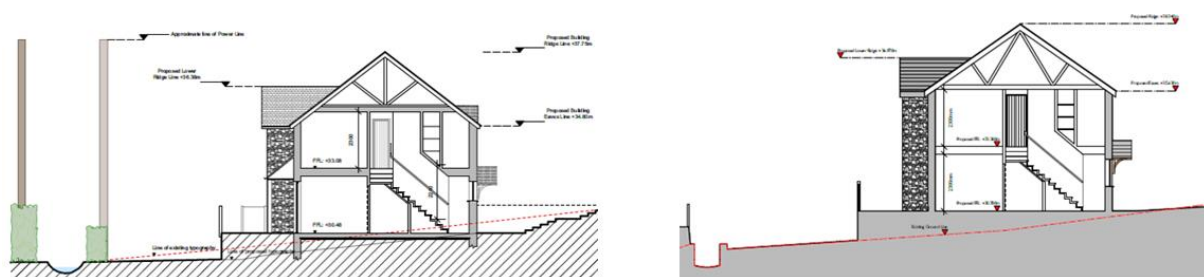


Figure 12 - Floor Levels Approval 65957 (left) and 73430 (right)

The finished ground floor level (FFL) under the approved 65957 was 30.48 which is well below the FFL. The proposed FFL under approval 73430 would be 30.78 so between 2.6 metres and 1.7 metres that the invert level of the ditch, so above the potential design flood level. The proposed changes forming part of this application would reduce any potential

flood risk by virtue of the finished floor levels being 300mm higher than previously approved.

Access and Evacuation

Access to and from the site is situated to the west side of the site meaning if evacuation due to flooding was required, the evacuation would take place in a manner that draws people away from the sites source of flooding (the watercourse). The escape route is above the predicted design flood level so residents would not be at risk should evacuation be required.

Surface water management

The proposals seek to use a permeable finish where hard surfacing is required to allow for surface water to infiltrate and percolate on site. Rainwater falling onto the dwellings roofs will be collected by rainwater goods and discharges into the site via soakaway.

In light of the above the development is considered acceptable in respect of Policy ST02 (Mitigating the impact on Climate Change) and ST03 (Adapting to Climate Change and Strengthening Resilience) of the NDTLP.

Amenity

In terms of amenity considerations, first floor windows to the north of unit 1 and south of unit 2 serve bathrooms, and whilst there is some potential for the northern window to overlook the neighbouring property (Ellandale, Vicarage Road), given this serves a bathroom a condition requiring obscure glazing is considered appropriate.

First floor windows to the west elevation of the proposed development would face obliquely onto the property known as The Malthouse (separation distance of approximately 18 Metres).

It is noted that application 73809 was approved on 11 October 2021 for the erection of one dwelling (renewal of planning permission 64254) for a chalet bungalow (Land to rear of Ring O'Bells). The approved site plan indicates that at its closest point plot 1 would have a separation distance of 12.7 metres from the blank gable end of the proposed chalet bungalow under consideration with the area fronting the dwelling being used for parking and turning of vehicles. The LPA also acknowledge there is a further application currently under consideration reference 75390 (Erection of a dwelling with associated works (replacement design to 73809). Whilst the eastern gable indicates a window opening, this is at ground floor level and would serve the proposed garage. In addition a garage has been approved under reference 75076 to Ellandale to the north of the site on 23 June 2022. This is a single storey structure and there would be no impact upon neighbouring amenity.

Given the separation distance, and spatial relationship between dwellings and blank gable end of the proposed chalet bungalow to the west of the site, the impact on amenity due to overlooking is not considered so significant as to warrant a robust reason for refusal.

Sufficient private outdoor amenity area is proposed for both dwellings and the proposal is considered to accord with Policy DM01 (Amenity Considerations) of the NDTLP.

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).

An updated Ecological Report was requested during the course of extant planning application 65957 due to the Preliminary Ecological Assessment report being dated the 22nd June 2016. A site visit was undertaken by Brookside Ecology on the 30th January 2019 to revisit the site and to assess the small stone outbuilding to be demolished. The external and internal inspection of the building revealed no evidence of protected species thus concurring with the 2016 assessment of the building and site. This building has since been demolished. This application does not require the submission of any further ecological information but on the grant of approval a condition will be imposed securing net gains in respect of a bat and bird box of each dwelling. The development is therefore considered in accordance with Policies ST14 and DM08 of the NDTLP

Conclusion

In this instance the application is considered on balance to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

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

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

APPROVE

Legal Agreement Required: No

Conditions

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

L321 22 302B Plans and Elevations Plot 2 and received 14 July 2022
L321 22 301B Plans and Elevations Plot 1 and received 14 July 2022
L321 22 00-06 Site Elevations and received 12 July 2022
L321 22 00 01 Location Plan received on the 07/02/22
2110 P 06 A Section Proposed received on the 10/05/21
2110 P 07 A Boundary Section Proposed received on the 10/05/21
2110 P 08 B Visibility Splay received on the 10/05/21
2110_P_02 C Site Plan Proposed received on the 23/09/21
The recommendations of Brookside Ecology letter dated the 6th February 2019 ('The approved plans').

Reason:

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

2. In the event that the solar panels and associated equipment are no longer producing electricity they shall be removed within 3 months of the cessation of electricity generation and the land affected by the panels, shall be restored to its former condition.

Reason:

The development is justified for the environmental benefits that are considered to result from renewable energy. In the event that these benefits cease then the balance reverts to the original design and character of the countryside in accord with Policies ST14 and DM08A of the North Devon and Torridge Local Plan.

3. The development hereby approved shall be constructed in accordance with the following schedule of materials

Elevations – Render on brick plinth and grey weatherboard above window opening on west elevations of Plots 1 & 2

Roof – Natural slate

Doors and windows – grey upvc

Rainwater goods – grey upvc

For avoidance of doubt the solar panels shall be flush fitting with the outside face of the roof.

Reason:

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

4. The first floor window to the north of unit 1 and south of unit 2 hereby approved shall be obscure glazed prior to its first occupation, and maintained and retained in perpetuity.

Reason:

To safeguard the privacy of the adjoining properties in accordance with Policy DM01 of the adopted North Devon & Torridge Local Plan.

5. The boundary treatments as shown on drawing no. 2110_P_02 C and received on 23 September 2021 shall be constructed prior to occupation of each of the units and maintained and retained in perpetuity.

Reason:

To safeguard the privacy of the adjoining properties in accordance with Policies DM01 and DM04 of the adopted North Devon & Torrington Local Plan.

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

Reason:

To achieve net gains in biodiversity in compliance with Policies DM08 and ST14 of the North Devon and Torrington Local Plan and paragraph 174 of the National Planning Policy Framework.

7. The access improvement works shall have been completed in accordance with drawing no. 2110 P08 Rev B prior to occupation of the dwellings and maintained as such thereafter.

Reason:

To ensure that a suitable access is available for all traffic attracted to the site during the construction period and thereafter, in the interest of the safety of users of the adjoining public highway in accordance with Policy DM05 of the North Devon and Torrington Local Plan.

Informatives

1. 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.
2. It is an offence under section 1 of the Wildlife and Countryside Act 1981 (as amended) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. It is strongly recommended that any buildings or land where consent for work has been granted are checked for nesting birds prior to any work being undertaken. Where inspection is obscured i.e. Hedgerows, Ivy and in trees of dense foliage it is advised that work is scheduled for outside the nesting season i.e. not undertaken between March and August (inclusive). For further advice please contact the RSPB Southwest Regional Office 01392 432691.