

Committee Report – 14th April 2022

Application Number: 1/1340/2021/FUL

Registration date: 25 November 2021

Expiry date: 20 January 2022

Applicant: Mr T Denby

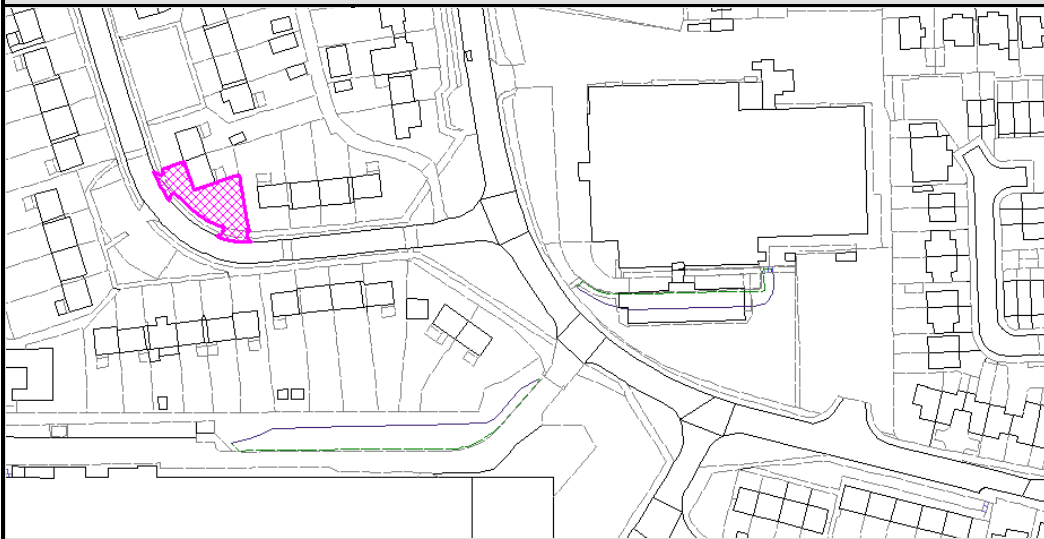
Agent: RGP Architects Ltd

Case Officer: Ryan Steppel

Site Address: 17 Barton Tors,
East The Water,
Devon,
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Proposal: Erection of 2 flats (Amended Plans)

Recommendation: Grant



Reason for referral:

Cllr Gubb and Cllr McKenzie has called the application to Plans Committee. The reasons for the call in are:

- The development has not been planned well/Overdevelopment
- making house 18 (a semi) into a terraced house
- loss of light
- The flats are far too big and are not in keeping with the rest of the surrounding area
- overbearing and negative impact on the character and appearance of the area
- Drainage
- Vehicle egress, highway safety and traffic

Relevant History:

Application No.	Description	Status	Closed
1/0544/2007/FUL	Conversion of existing dwelling into two units of accommodation	PER	24.08.2007
1/0113/2008/FUL	Conversion of existing dwelling into two units of accommodation	REF	19.03.2008
1/0053/2010/FUL	Erection of a 2 bed dwelling	REF	11.03.2010
1/0240/2013/FUL	Erection of a dwelling	REF	10.06.2013

Site Description & Proposal

Site Description:

The application site is located towards the southern part of East-The-Water. Barton Tors is a through road serving residential dwellings between Gammaton Road (to the west) and Sentry Corner (to the north). Barton Tors comprises of terraced dwellings and semi-detached dwellings. The dwellings within Barton Tors are generally rendered and are of traditional design.

Proposal:

This application seeks planning permission for the erection two flats. The proposed footprint is 8m x 10.5m with a height of approximately 8m.

Consultee representations:

Bideford Parish/Town Council:

RESOLVED: That the application is refused and that the resolution from the last time this application came before this Council for consultation, is reiterated. Members could not see that the amendments had mitigated their concerns.

- ' Overdevelopment of this site
- ' Overburdening already existing drainage issues
- ' Overburdening an already busy road network

RESOLVED: That the application is refused on the following grounds:

- ' Overdevelopment of this site
- ' Overburdening already existing drainage issues
- ' Overburdening an already busy road network

Devon County Council (Highways):

Observations:

Barton Tors is subject to a 20 mph speed limit and has accompanying traffic calming in the form of speed cushions and ramps. As a result, observed vehicle speeds were generally compliant with the posted limit.

I note that the intention is to create four new parking spaces as part of the proposed development, three of these are for the two proposed flats. The eastern of the parking spaces will effectively utilise the existing vehicular access at this location albeit having to widen this to create sufficient room for three vehicles. The new western parking space will be an extension of the existing two spaces. These new spaces are consistent with other private drives in the area with footway that runs adjacent to the site boundary providing reasonable visibility. I can

confirm that I have also consulted the Collision Database and there are no dwelling access related crashes recorded in the past five years in the vicinity.

As a result, I do not believe that I could demonstrate a satisfactory evidence base to raise objections against this application on safety grounds. In which case, I acknowledge that the proposed development offers 'safe and suitable' access, as is the test of the National Planning Policy Framework (NPPF).

With regards to parking and whether this is a suitable level for the two flats, I have to consider the sustainability of the site. For example, the site is within walking distance of a school, employment opportunities, a shop, public transport etc. I also acknowledge the DM06 policy in the North Devon and Torridge Local Plan and the criteria within this. As a result, I can confirm that I am satisfied that this level is acceptable.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITION SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

South West Water:

Asset Protection

Please find enclosed a plan showing the approximate location of a public sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Please click [here](#) to view the table of distances of buildings/structures from a public sewer.

Further information regarding the options to divert a public sewer can be found on our website via the link below:

www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

www.southwestwater.co.uk/developers

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Environmental Protection Officer:

In relation to the above application, the Environmental Protection Team has no objections in principle.

Due to the existence of neighbouring dwellings in close proximity, there is the potential for detriment to residential amenity from the construction works associated with the proposed development if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends a condition restricting construction works and delivery times to 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

Representations:

Number of neighbours consulted:	17	Number of letters of support:	0
Number of representations received:	5	Number of neutral representations:	0
Number of objection letters:	5		

The Council have received five objections raising the following matters:

- Overdevelopment/cramped form of development
- Out of character/design
- Impact on privacy/loss of light
- Drainage
- Parking/Highway Safety

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); BID (Bideford Spatial Vision and Development Strategy); ST04 (Improving the Quality of Development); DM04 (Design Principles); DM01 (Amenity Considerations); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); ST03 (Adapting to Climate Change and Strengthening Resilience); ST14 (Enhancing Environmental Assets); DM08 (Biodiversity and Geodiversity);

Government Guidance:

NERC (Natural Environment & Rural Communities); NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); WACA (Wildlife & Countryside Act 1981);

Planning Considerations

Main Considerations

Principle of Development

Character and Appearance

Impact on Amenity

Highways, Access and Parking

Drainage Provision

Ecology

Principle of Development

Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law (namely Section 38(6) of the Planning Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

Policies ST06 and ST07 provide a settlement hierarchy for Northern Devon's urban and rural area to direct where development should be distributed, by specifying areas falling as Strategic Centres, Main Centres, Local Centres, Villages and Rural Settlements. By virtue of the planning application being located within Bideford, consideration is to be had to Policy ST06 of the NDTLP.

Policy ST06 states that the main centres will support appropriate levels of growth that will increase the towns' capacities to increase self-containment, to meet their own needs and those of surrounding communities where such is sought through the local vision. Policy ST06 is clear that development will be supported within the development boundaries of the Main Centres.

Policy BID identifies that Bideford will continue to be a focus for growth in northern Devon and that the town will continue to provide a choice of well-designed housing.

Given the above, it is clear that the principle of development is acceptable in this location given the sites' positions within the development boundary of Bideford. Notwithstanding the above acceptance of the principle of development, it should be noted that a recent appeal decision for a residential development in Torrington concluded that the Council cannot demonstrate a five-year supply of deliverable housing sites and that paragraph 11 (d) of the NPPF is engaged.

Paragraph 11(d) of the NPPF indicates that the presumption in favour of sustainable development should apply and that permission should generally be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. In this instance, there is no clear reason to refuse based on a protected area or asset and therefore an assessment of the NPPF's requirement to approve unless the adverse impacts of doing so would significantly or demonstrably outweigh the benefits, through the application of a 'tilted balance' would need to be undertaken. This would include an assessment of the policies within both the NPPF and the NDTLP.

Paragraph 103 of the NPPF makes clear that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It further notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that this should be taken into account in decision taking. This is further reinforced through Policy DM05 of the NDTLP. The site would have access to public transport services and local services and is considered to be a sustainable location as recognised by Bideford's status as a Main Centre.

Against this background, and notwithstanding the support for the principle of residential in this location within the development boundary of Bideford, due to the lack of a 5YHLS, the planning considerations

will need to be weighed up within the planning balance with the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits as a material consideration.

The material planning considerations are set out below.

Character and Appearance

Policy ST04 supports development proposal that achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in Policy DM04.

Particular attention should be given to Policy DM04 of the NDTLP which states that development proposals should adhere to the standards of good design. The policy states that good design seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of any new developments. The policy provides fourteen design principles that developments should have regard to.

In terms of national planning policy, paragraph 134 of the NPPF makes it clear that development that is not well designed should be refused.

The Council have received objection comments noting an adverse character impact and the cramped nature of the plot. The application site comprises of a corner plot adjacent to 17 Barton Tors. 17 Barton Tors is a semi-detached dwelling which is currently used as two flats. The existing condition of the application site is noted.

Barton Tors is generally host to larger dwellings, both semi-detached or terraced properties. There is however little consistency in terms of form, massing, eaves heights and appearance of dwellings. The overall design quality is relatively low with no uniformed approach that might require protection against incongruously designed schemes. The Council must however accept that design can often be subjective to the beholder.

In reference to policies ST04 and DM04, the Council must therefore determine whether the proposed design is incongruous, poorly designed and/or has a justifiable adverse impact when compared with the site's surroundings. During the application the Council sought amended drawings which improved the form and configuration of the roof, and the Council considers the changes to have improved the appearance of the proposal. Whilst the comments provided by the objection comments are noted, the Council considers the proposal to comply with Policies ST04, DM04 and Chapter 12 of the NPPF.

Impact on Amenity

NDTLP Policy DM01 states that development will be supported where it would not significantly harm the amenities of any neighbouring occupiers or uses, and the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

The Council have received objections in relation to the proposal having an adverse impact on residential amenity. The objections note that the proposal would be overbearing, overlook private gardens and would impact access to sunlight, primarily with reference to the amenity of 18 Barton Tors. The Council therefore must consider whether such impact amounts to adverse harm.

The proposal would be located on land immediately adjacent to 17 Barton Tors. Therefore, in the opinion of the local authority, much of the impact would be directed towards the privacy of the rear garden of 17 Barton Tors. It is however note that 17 Barton Tors was permitted as two flats as a result of Planning Permission 1/0544/2007/FUL. Given that 17 Barton Tors is used as flats, any garden/amenity is likely to be shared, and therefore any privacy requirements are somewhat lessened.

The residential curtilage of 18 Barton Tors is located approximately 8.2m from the proposal. The proposal would have a height of 5.5m to the eaves and 8m ridge height. The Council notes that there would be a first-floor window located on the North-West elevation, however it is opaque and serves a bathroom. It is also considered that the first-floor window located on the rear elevation of 17 Barton Tors is likely to have a comparable impact when compared against the proposal. It is therefore considered unlikely to have an overlooking impact, which could be justified against Policy DM01. The Council would not consider there to be an overbearing/loss of light impact because of the distance between the proposed development and the objector's private amenity. The Council has also had regard to surrounding properties which are all two-storey in height, and therefore such impacts as described may already occur.

The Council's Environmental Protection Officer has responded to the consultation which seeks a condition to be applied limiting construction and deliveries to 0700 to 1900 hrs Monday-Friday, 0800 to 1300 hrs Saturdays and with no works permitted on Sundays (and Bank Holidays).

Highways, Access and Parking

Policy ST10 of the NDTLP seeks to ensure that development proposals would not adversely impact local or strategic transport networks. Policies DM05 and DM06 of the NDTLP expect that all development must ensure safe and well-designed vehicular access, the protection and enhancement of existing pedestrian routes, and an acceptable range of parking provision.

Paragraph 109 of the National Planning Policy Framework states that permission should only be refused on highway grounds, if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The Council have received several objections which note concerns regarding highway safety and, in particular, the extent of parking provided for the proposed (and existing) flats. However, the DCC Highways Authority have concluded that traffic speeds are low, and the parking spaces provided are acceptable based on the existing evidence base, complying with the NPPF.

The Council consider the application to comply with Policy DM05 and DM06 of the NDTLP.

Drainage Provision:

Policy ST03 of the NDTLP notes that development should 'adopt effective water management including Sustainable Drainages Systems, water quality improvements, water efficiency measures and the use of rainwater'. This is reflected in Policy DM04.

The NPPF and Planning Practice Guidance provide further advice on foul drainage, with a hierarchal approach being used. The PPG notes new development should aim to discharge foul water into the public sewer.

The application form identifies that foul drainage will be disposed via mains sewer and surface water will be disposed by soakaway. South West Water have confirmed that the proposed approach is considered acceptable.

Ecology and Landscaping:

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 2010 (Habitats Regulations 2010). This is further reinforced by Policies ST14 and DM08 of the NDTLP which require that development ensures the protection and enhancement of biodiversity.

The application has been supported by a wildlife trigger list and report. The report concludes that there would not be an adverse impact upon protected species.

NDTLP Policy ST14 requires the council to promote examples of net gain in biodiversity. The Council have sought enhancements in the form of bird box located on the south-east elevation and the planting of an indigenous hedge.

Human rights

Consideration has been given to the Human Rights Act 1998.

Conclusion

It is therefore considered that subject to the compliance with the attached conditions and taking into account all other material planning considerations, including the development plan the proposal would be acceptable.

Recommendation

GRANT subject to the following conditions

- 1 The development to which this permission relates must be begun no 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 time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.
- 3 Construction works shall not take place other than between 0700hrs and 1900hrs on Mondays to Fridays, Saturdays between 0800hrs and 1300hrs and at no time on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties.
- 4 The recommendations within the Ecological Impact Assessment produced by GE Consulting and received 25th November shall be adhered to.

Reason: In the interests of protected species and biodiversity net gain.
- 5 Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

Reason: In the interest of public safety and to prevent damage to the highway.
- 6 The landscaping hereby approved shall be implemented in accordance with the agreed details. The time of planting shall be submitted to and agreed in writing by the Local Planning Authority before the proposed development is brought into use and the scheme shall be implemented at those times specified. If within a period of five years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure that the development is carried out in accordance with the agreed details.

Plans Schedule

Reference	Received
21056_L1	25.11.2021
21056_L2e	09.02.2022
21056_P2d	09.02.2022
21056_P1B	09.02.2022
21056/V1d	09.02.2022

Statement of Engagement

In accordance with paragraphs 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and proactive manner. In this instance there was no need for further engagement as the development as submitted is considered to accord with the development plan. In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.