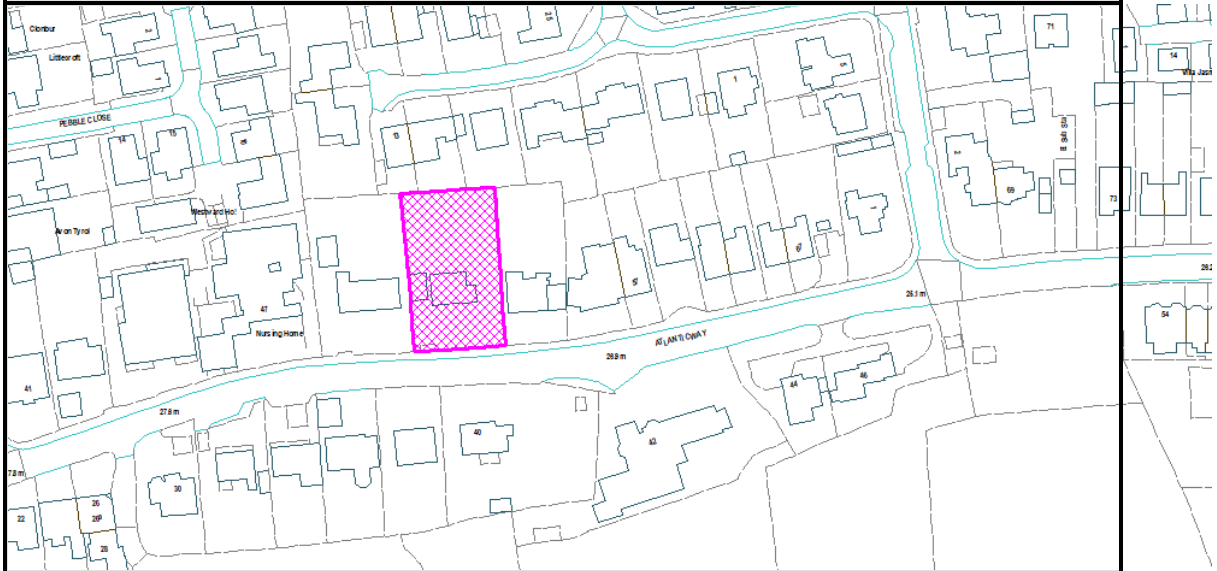


## Committee Report – 11th July 2024

### (Addendum to Committee Report – 6<sup>th</sup> June 2024)

<b>Application Number:</b>	1/0254/2024/FUL
<b>Registration date:</b>	19 March 2024
<b>Expiry date:</b>	14 May 2024
<b>Applicant:</b>	Majic Property (Two) Limited
<b>Agent:</b>	Woodward Smith Chartered Architects
<b>Case Officer:</b>	James Clements
<b>Site Address:</b>	Site Of 51 Atlantic Way Westward Ho! Devon
<b>Proposal:</b>	Part retrospective demolition of 1no. dwelling and erection of 3no. dwellings in relation to 1/0172/2022/FUL (Amended Plans)
<b>Recommendation:</b>	Grant



### Reason for referral:

The application has been called to committee by Councillor Claire Hodgson and countersigned by Councillor Ken James, for the following reason:

*'Given the extreme concern expressed in a high level of objection, this contentious and controversial application needs to be determined by the Planning Committee to demonstrate a clear and transparent decision-making process.'*

### Reason for Addendum:

This Addendum is intended to be read in conjunction with the original Committee Report presented to Plans Committee on 6<sup>th</sup> June 2024.

The Committee resolutions for refusal and approval were not determinative which left the application undetermined. As such the only option for the applicant was to appeal the application for non-determination or to amend the scheme in such a way that it was materially different from the application previously in front of members.

In this case the applicant has submitted amended plans in an attempt to address the perceived concerns of the committee. The proposed development has now been reduced by a storey to a 2-storey development with the character and appearance reverting more closely to the approved scheme. During the consultation process, and as part of their design review, the case officer requested changes to the design to remove the proposed Atlantic Way external staircases. Amended plans were subsequently received removing this element and altering the frontage ground levels to those previously proposed. The lower and upper ground floor levels would remain as they have been constructed.

A 21-day consultation process has taken place with neighbours and the Town Council being consulted. At the time of writing one additional representation has been received from a local resident supporting the amended 2-storey scheme. Furthermore, the Northam Town Council comments have not, as yet, been received; Members will be verbally updated at Planning Committee. Officers considered that a further consultation period for the removal of the external staircase and revised levels was not required as these changes do not materially affect the scheme.

### Relevant History:

Application No.	Description	Status	Closed
1/0172/2022/FUL	Demolition of existing dwelling and erection of 3 dwellings	PER	10.08.2022
1/1252/2023/FUL	Demolition of existing dwelling and erection of 3 dwellings (Variation of condition 2 of planning approval 1/0172/2022/FUL)	REF	26.02.2024
DEM/0002/2023	One and a half storey bungalow	REC	

## Site Description & Proposal

### Site Description:

The application site is located at no.51 Atlantic Way, in Westward Ho! within the development boundary, which is designated as a Main Centre in the North Devon and Torridge Local Plan (NDTLP). The site is also located within the Coast and Estuarine Zone.

The site measures 1.11ha and previously consisted of one detached dwelling (now demolished). The site is accessed via an existing access onto the classified highway, Atlantic Way, to the south. The site is within a built-up part of the settlement, surrounded by residential properties. The surrounding area is characterised by a range of dwellings of differing ages and styles, including detached dwellings, chalet bungalows and semi-detached dwellings. The northern side of Atlantic Road in the vicinity of the site is characterised primarily by relatively modest 2-storey dwellings, set back from the highway, many of which have hipped roofs. The exception being the chalet bungalow to the east of the site.

The site is subject to planning permission 1/0172/2022/FUL for the demolition of the existing dwelling and erection of a terrace of three 4-bed dwellings over three storeys. The design concept of the scheme was to provide a modestly scaled 2-storey frontage facing Atlantic Way with front doors at pavement level. The approved development was to utilise the slope of the land to provide 3 storeys at the rear with a lower groundfloor level accessible from the rear parking area and garden spaces.

Construction works started on the site in the second half of 2023. However, the works were not undertaken in accordance with the approved plans: the lower groundfloor finished floor levels (FFLs) are approximately 2.1m higher with a knock-on effect to the upper floors with an eaves height 2m higher than approved; the groundfloor facing Atlantic Way is 0.7m higher than as approved. Subsequently, a planning enforcement investigation took place and works ceased on the site in December 2023. The building has been constructed to eaves height.

A S73 application recently sought to resolve this matter by altering the design to accommodate the onsite changes which would have seen a building with higher eaves and ridge height. The applications was refused for the following reason:

*'By reason of inappropriate design, scale and massing, which will result in harm to the street scene and character of the area, as well as resulting in overbearing impacts on the neighbouring dwellinghouse, the proposed development constitutes poor quality design that diminishes the original approval contrary to Policies ST04 and DM04, of the North Devon and Torridge Local Plan and Part 12 of the National Planning Policy Framework.'*

### Proposed Development

Planning permission is now sought to provide a terrace of three 2-storey 3-bed dwellings. As a consequence, the ridge height would be 0.8m lower than the approved scheme, with the eaves height remaining as approved. The existing block work on site would be brought down at eaves level to achieve this. The slab, lower ground floor level and upper ground floor level would be retained as currently built (circa 2.1m higher than as approved) with the upper ground floor addressing Atlantic Way being 0.7m higher than that approved.

The design and appearance of the scheme is more closely aligned with the 1/0172/2022/FUL approved scheme with the provision of a hipped slate roof, cladding and windows with a horizontal emphasis. As per the approved scheme, the dwellings would be finished in white render, Cedral boarding and stone cladding for the elevations and natural slate for the roof. The windows and doors would be anthracite grey uPVC.

The Atlantic Way frontage levels are now shown level with the public highway. The planters will screen the drop in levels to the lower ground floor and provide the steps up to the upper ground floor (first floor) front doors. The lower ground floor contains the bedrooms, utility room, shower room and bathroom. The first floor would be an open plan kitchen-dining-living room.

**Consultee representations:**

**Northam Parish/Town Council:**

13<sup>th</sup> April

Northam Town Council recommend that the proposal be noted to the alterations that has been made.

1<sup>st</sup> July

Northam Town Council recommended that the proposal be granted permission.

**Devon County Council (Highways):**

Standing advice issued.

**Environmental Protection Officer:**

20<sup>th</sup> March

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

Due to the presence and proximity of existing dwellings, there is the potential for residential amenity to be adversely affected from the construction works on a temporary basis if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

12<sup>th</sup> June

The Environmental Protection Team refers to its previous consultation response dated 20 March.

**South West Water:**

20<sup>th</sup> March

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.

13<sup>th</sup> June

South West Water has no additional comments to add.

**Representations:**

Number of neighbours consulted:	14	Number of letters of support:	0
Number of representations received:	46	Number of neutral representations:	0
Number of objection letters:	45		

Original consultation process:

46 representations have been received raising the following material planning concerns:

- Loss of residential amenity: overlooking, overbearing impact and loss of light;
- Noise;
- East and west windows cause adverse level of overlooking;
- Unsympathetic design which is out of character with other properties the area;
- Excessive height uncharacteristic of nearby properties;
- Harm to the character of the area;
- Increase in vehicular use.

June re-consultation:

1 representation has been received in support of the revised scheme. 1 representation has been received with a neutral view supporting the proposed changes to the dwellings but raising some concern regarding the drainage and boundary treatments.

## Policy Context:

### North Devon and Torridge Local Plan 2011-2031:

ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); NOR (Northam Spatial Vision and Development Strategy); ST09 (Coast and Estuary Strategy); ST14 (Enhancing Environmental Assets); ST17 (A Balanced Local Housing Market); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); ST03 (Adapting to Climate Change and Strengthening Resilience);

### Government Guidance:

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

## Planning Considerations

The main planning considerations with this application are:

1. Principle of Development
2. Impact on Character and Appearance
3. Impact on Amenity
4. Highway Safety
5. Drainage
6. Ecology
7. Conclusion

The majority of the above considerations were comprehensively addressed within the Officer's Committee Report dated 6th June 2024 and will not be repeated within this Addendum. The changes relate to the design and scale of the dwellings therefore only considerations related to design (character and appearance) and residential amenity will be discussed.

### Impact on Character and Appearance

The NDTLP encourages good design, which is reflected within national policy. Policy ST04 notes: *"Development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Designs 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."*

Policy DM04 then proceeds to detail 14 design principles which should be taken into consideration within any new development. The crux of DM04 requires new developments to be of high-quality design, including being well related to their surroundings, be of an appropriate scale, include quality materials, and to be sympathetic to the character and appearance of the local area.

Policy DM08A of the NDTLP relates to landscape character and notes that developments should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes.

The NPPF also supports the creation of well-designed places through Part 12 (Achieving well designed places), which lists 6 design principles to ensure that developments achieve well designed places. Additionally, Paragraph 126 and 132 of the NPPF states that development should respect local character, history and reflect the identity of local surroundings.

In addition to this, the National Design Guide is the most up to date national guidance in relation to design. The design guide addresses the question of how we recognise well-designed places and outline and illustrate the priorities for well-designed places and provides ten characteristics that should be considered in any forthcoming design and decision making.

The reason this application has been submitted is because the existing partly constructed site has not been built in accordance with planning permission 1/0172/2022/FUL approved in August 2022. The application as submitted has been designed in effect to retrospectively agree the slab level and most of the structure present onsite, which is currently constructed in block to eaves levels.

The proposed changes are outlined above. The revised scheme seeks the reduction from a 3 to 2-storey development with a design more closely related to the 1/0172/2022/FUL approval with the use of a hipped natural slate roof, white render, Cedral boarding and stone cladding.

It was mentioned at the June committee that because the original permission cannot be implemented (due to drainage) that the approved scheme does not constitute a 'fall-back'. Strictly speaking, while this may be the case, the approval is a strong material consideration given that a building of a certain design and scale has already been approved by the Council.

As regards design and appearance, given that the revised scheme is closely related to the approved scheme but now has a ridge height 0.8m lower (now lower than the residential property to the west), the development now proposed is considered to be acceptable. The lowering of the ridgeline reduces impact on the streetscene. The proposed low level screen wall and Atlantic Way front door accesses have been appropriately re-designed to overcome the concerns raised regarding the difference in levels between the lower and upper ground floors and the previous design iteration, which included incongruous external staircases.

In conclusion, it is considered that the proposed design, including scale and proportions, is appropriate in this context having regard to the surrounding character and the approved scheme. There would be no harm to the streetscene. Indeed, the reduction in the overall ridge height can be seen as an enhancement on that previously approved.

For the above reasons, this proposal is considered to accord with local and national policies relating to design together with Policies DM04, ST04, DM08A, and ST09 of the NDTLP.

#### Impact on Amenity

Policy DM01 of the NDTLP relates to amenity considerations and notes, development will be supported where:

- a) It would not significantly harm the amenities of any neighbouring occupiers or uses; and
- b) The intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. One of the core principles of the NPPF is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The site shares a boundary to the east and west with no's 49 & 53 respectively. To the north of the site are properties on Swanswood Gardens. To the south of the site, on the opposite side of Atlantic Way, are no's 38 & 40.

The revised 'amenity' drawings identify that the loss of a storey, the gabled roof and dormers, combined with the reduction in ridge by 0.8m will ensure that the impacts on adjoining neighbours with regards to overlooking, overshadowing and overbearing impacts have been reduced from the previous iteration and the approved scheme.

As regards overlooking, as previously noted, the balconies would be fitted with 1500mm obscure screens to the front and up to 1.8m on the flanks; these screen heights were considered appropriate

as part of the approved scheme. A condition is proposed to ensure that the screening is obscure glazed. Furthermore, the cross sections provided in the revised amenity drawings indicate that the distance from the balconies to the northern boundary fence is approximately 20m and 28m from the rear habitable rooms. These distances are significant which combined with an appropriate boundary treatment would ensure that amenity is not adversely harmed with regard to overlooking. The reduction from 3 to 2 storeys will allow the shared boundary fencing with properties on Swanswood Gardens to be decreased to 1.8m, whilst still preventing overlooking.

Given the urban character of the site and surroundings, with the site surrounded by existing dwellings, it is accepted that there already is a level of overlooking to some degree. The proposed dwellings would not increase this overlooking to an unacceptable degree.

As regards loss of light and overbearing impact, the building would be lower than that consented. Three revised approved/proposed sun analysis site plans have been submitted covering winter, spring and summer. The plans demonstrate that when compared to the approved scheme there would be no change in overshadowing.

In terms of noise, whilst the additional balconies on the first floor would create additional outdoor space, their use by future residents would not adversely harm the amenity of existing or future residents. Noise from construction works can be appropriately controlled by condition.

The Council's Environmental Protection Team has no objections to the proposed development subject to a construction hours condition.

The proposed development is considered to be in accordance with NDTLP Policy DM01.

### Conclusion

The impacts of the scheme with regard to design/character & appearance and residential amenity are considered to be acceptable in accordance with local plan policy.

In terms of access/parking, landscaping, ecology and drainage, there are no changes proposed therefore the conclusions of the committee report are considered to still be relevant.

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.

## **Human rights**

Consideration has been given to the Human Rights Act 1998.

## **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 The operating hours of construction works, including deliveries, shall be restricted to Monday to Friday 0700 to 1900 hours and Saturday 0800 to 1300 hours with no works permitted on Sunday or Bank Holidays.

Reason: To protect the amenities of neighbouring properties.

- 4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development of the types described in Part 1, Class A, B, C and D; of Schedule 2, other than that hereby permitted shall be carried out without the further grant of planning permission.

Reason: In the interest of residential amenity.

- 5 The development hereby approved shall be carried out in accordance with the recommendations contained in the Ecological impact Assessment prepared by GE Consulting received 16th February 2022. The enhancement measures set out at Section 6 shall be implemented prior to occupation and retained thereafter.

Reason: In the interests of enhancing the habitats of protected species in accordance with the duties outlined in the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006 and The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010) and requirements of the NPPF.

- 6 Notwithstanding the details shown on approved plan M339 21 204 K details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment details shall be implemented as approved prior to occupation and retained as such thereafter.

Reason: In the interests of visual and residential amenity, and biodiversity interests at the site.

- 7 Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram M339 21 204 C where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.05 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.

Reason: To provide adequate visibility from and of emerging vehicles.

- 8 Prior to their use in the development hereby approved samples or details of the materials to be used on the external surfaces, to include walls, roofs, windows, doors and rainwater goods, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the approved materials. The use of cladding for the garage will not be supported.

Reason: In the interest of visual amenity and to ensure the development will harmonise visually with the character and appearance of the site and its surroundings.

- 9 The development shall be carried out in accordance with the hard and soft landscaping scheme identified on drawing no.M339 21 204 K - 'Proposed Site Plan and Landscaping' prior to the occupation of any dwellings hereby approved and thereafter shall be retained and maintained. The northern boundary hedgerow shall be maintained at a minimum height of 2m.

Reason: In the interests of good design.



- 10 The balcony screens, as identified on the approved drawings, shall be obscure glazed to a minimum of Pilkington Glass obscurity level 3 equivalence and retained and maintained as such thereafter.

Reason: In the interests of residential amenity.

### Plans Schedule

Reference	Received
M339 21 204 K	01.07.2024
M339 21 205 O	28.06.2024
M339 21 801 B	28.06.2024
M339 21 201 B	14.03.2024
DR01 A	14.03.2024

### 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.