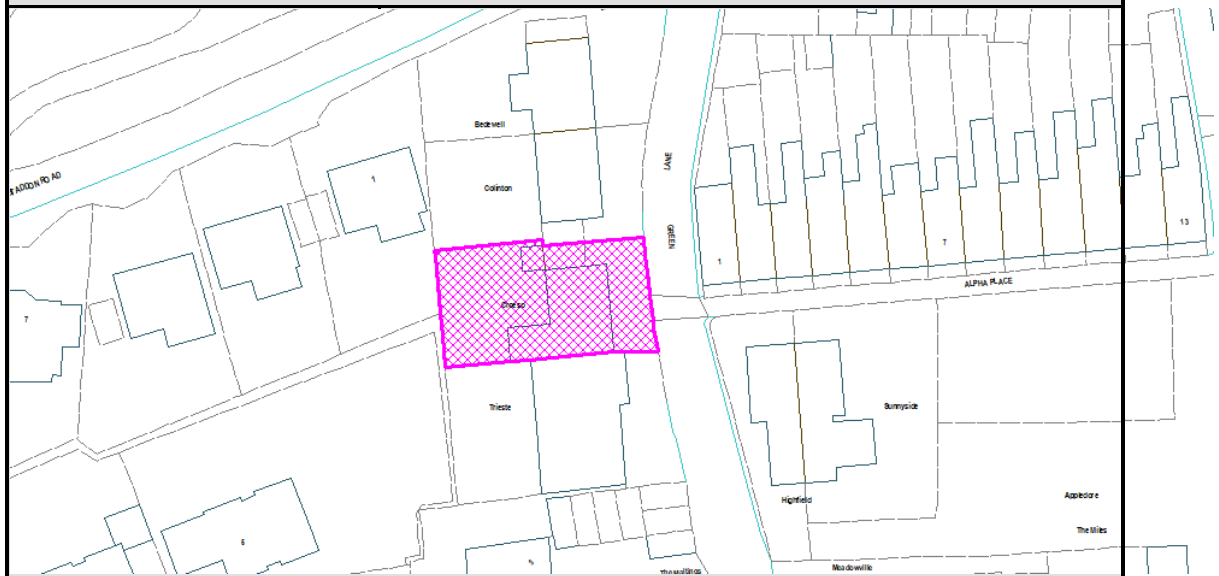


Committee Report – 5th of December 2024

Application Number:	1/0603/2024/FUL
Registration date:	30 July 2024
Expiry date:	24 September 2024
Applicant:	S Morris
Agent:	Fearnley Lott Architects
Case Officer:	Mr Peter Stapley
Site Address:	Croeso, 2 Green Lane, Appledore, Bideford, Devon, EX39 1QZ
Proposal:	Demolition of existing dwelling and erection of replacement dwelling, with associated engineering works
Recommendation:	Grant



Reason for referral:

The application has been called in to be heard at Plans Committee by Councillor Hames for the following reason:

- *For the Plans Committee to consider whether the proposed dwelling complies with design policies e.g. DMO4 (a) and (b) and NPPF 130.*

Relevant History:

Application No.	Description	Status	Closed
1/0762/1975	CONSTRUCTION OF BAY WINDOW CROESO, GREEN LANE, APPLEDORE	PER	25.07.1975
1/1901/1979	ERECTION OF KITCHEN EXTENSION CROESO, GREEN LANE, APPLEDORE	PER	17.01.1980

Site Description & Proposal

Site Description

The application site (Croeso) is located within the development boundary of Northam (including Appledore and Westward Ho!) which is designated as a 'Main Centre' in the North Devon and Torridge Local Plan (NDTLP). The application site is located adjacent to Appledore's Conservation Area and the closest protected heritage asset is located 56 metres to the south of the site, known as Bude House.

The site consists of a single-storey, attached, dwellinghouse with the principal elevation to the east. The main private amenity space is to the rear of the property and the site is accessed from the unclassified highway (Class R), known as Green Lane, with vehicular parking within the attached garage.

The site is located within the main built form of Appledore and therefore is neighboured by residential properties to the north, south and west; and the public highway to the east. The existing bungalow (including garage) has the floor area of approximately 140 square metres and is of the architectural design typical of the mid-late 20th Century.

Proposed Development

The application seeks full planning permission for the demolition of the existing, single-storey, dwelling and the erection of a detached, two-storey replacement dwelling.

The proposed four-bedroom dwelling is of a contemporary design measuring approximately 12 metres in width by 12.2 metres in depth, with an eaves height of 4.9 metres and a ridge height of 8.4 metres from ground level (9.7 metres from the known Datum). The total floor area (including garage) will measure 194 square metres.

The proposal includes the provision of three off-street vehicle parking spaces to the front of the property, stepped access from parking area to the north and a new ground floor walled patio area to the rear of the property.

Consultee representations:

Northam Parish/Town Council:

Northam Town Council recommended that this proposal be granted permission.

Devon County Council (Highways):

Standing Advice.

Conservation Officer:

Initial Representation (Received: 03rd September 2024)

The proposal seeks to redevelop the site of an existing bungalow and replace with a 2 storey dwelling. The site is outside but on the boundary of the Appledore Conservation Area and as such there are views from within the conservation area.

There is no objection in principle to the redevelopment of the site and the comments on the permitted development limits is noted; however, the scheme does need planning permission and there are aspects of the design which are not within the local vernacular and form jarring features in this area. The box bay is an overtly modern features which is at odds with the view out of the conservation area and also along Green Lane. The projection and breaking of the eaves line draws the eye and is not a comfortable feature in connection with the neighbouring properties.

The height of the main roof projects higher than the adjacent dwelling 'uphill' and so breaks the slope of the roofs along the west side of the road. While there is a modern dwelling adjoining 'downhill' the front gable feature is more traditional and so does not jar with the street scene in the way the box bay appears.

The use of natural local materials is welcome as is the use of a chimney to 'ground' the design within the street.

The overall design is not considered to preserve and enhance the views out of the conservation area and would form a visually dominating features in views west along Alpha Place, a terrace of unlisted but visually important dwellings within the conservation area.

The proposal should be resisted in its current form.

Second Representation (Received: 21st October 2024)

The revised design is a step forward although the increase in height will lead to the roof line and introduction of dormers competing with the height of the traditional Victorian terrace and dwelling at Sunnyside.

The projection from the first floor also is not ideal as it disrupts the simple frontage of this row of dwellings in views along the boundary to the conservation area. The frontages are stepped back and terrace up in height.

This design introduces a large increase in roof height visually so that the roof mass will be increased proportionally to the houses both downhill and uphill.

The dormers running through the eaves are similarly an awkward features not seen locally where the dormers within Alpha place are set entirely within the plane of the roof and away from the eaves. The main living room is dependent on the dormers for light and view. This arrangement limits the head height close to the front wall. This options for this design are challenged by the need to lower the main roof by a metre and keep the dormers within the roof rather than breaking the eaves.

The current proposal cannot be considered to preserve and enhance the views into the conservation area and as such cannot be supported.

The duty to preserve and enhance is set out in section 72 of the Act and requires the appearance of the dwelling to cause no additional harm to the views along the boundary of, and views through the conservation area. The need to fit a 4 bed dwelling to contemporary expectations on this plot does not seem to be able to be accommodated in terms of the external appearance required on the east elevation. The internal accommodation is awkward and head height limited on the ground floor.

The current bungalow is typical of its time but has a neutral impact on the views through the conservation area along Alpha Place and along the boundary of the area (Green Lane.)

The proposal should be resisted.

Third Representation (Received: 11th November 2024)

The revised plans received on the 5.11.2024 shows a shorter pair of dormers. These still break the eaves line and the chimney has not been thinned as suggested but the shorter dormers are more appropriate in this location. The overhang is not ideal but if slate clad as proposed, will appear as a recessive visual feature when viewed up Alpha Place. The main issue on this plot is that the plot is viewed as the end of Alpha Place and has more visibility than other plots along Green Lane. While the roof line is raised it remains equivalent to the bungalow uphill. (This property has just sold and it could also be subject to an upgrade to the accommodation.) The consideration should be solely about this plot and the design now appears more traditional over the initial proposal.

The compromises on the design are now at the point where the conservation considerations are less and I would not be confident to oppose this given the fall-back position available to the applicant.

South West Water:

Initial Representation (Received: 31st July 2024)

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

Please find enclosed a plan showing the approximate location of a public 150mm 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:

<https://www.southwestwater.co.uk/building-and-development/services/sewer-services-connections/diversion-of-public-sewers>

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. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. 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 (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

For Highway run off please contact the Highway Authority to agree disposal method.

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/building-and-development/services/pre-development-services

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.

Second Representation (Received: 08th August 2024)

South West Water have no additional comments to add.

Environmental Protection Officer:

The following consultation response is provided by the Environmental Protection Team in relation to the above application.

Due to the presence and proximity of existing dwellings, there is the potential for residential amenity to be adversely affected on a temporary basis from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition:

Construction works and site deliveries shall be carried out Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays

Reason: To protect neighbouring residential amenity

Representations:

Number of neighbours consulted:	11	Number of letters of support:	0
Number of representations received:	2	Number of neutral representations:	0
Number of objection letters:	2		

The public representations received are summarised below:

Objection Comments

- Impact on Character and Appearance
- Overbearing
- Design, Scale and Massing
- Loss of Sight Lines (view)

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for

Northern Devon's Strategic and Main Centres); ST09 (Coast and Estuary Strategy); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); ST15 (Conserving Heritage Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM07 (Historic Environment); DM08 (Biodiversity and Geodiversity); NOR (Northam Spatial Vision and Development Strategy).

Government Guidance:

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

Planning Considerations

The material planning considerations in the determination of this application are:

1. Principle of Development;
2. Impact on Character and Appearance;
3. Impact on Amenity;
4. Access, Parking and Highway Safety;
5. Foul and Surface Water Drainage;
6. Impact on Wildlife and Ecology;
 - a. Ecological Impact;
 - b. Biodiversity Net Gain; and
7. Conclusion.

1. Principle of Development

Section 38 (6) of the Planning and Compulsory Act 2004 states that key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material planning considerations indicate otherwise. For the purpose of the development plan the statutory development plan is comprised of the North Devon & Torridge Local Plan 2011-2031 (NDTLP).

In planning terms, the site is located within the development boundary of Northam and therefore is guided by Policy ST06 of the NDTLP. The policy states that development will be supported within the development boundary of the 'Main Centres'. The policy supports 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.

The proposed development seeks the replacement of an existing dwelling within a predominantly residential area. On this basis, it is considered that the application would be compliant with Policy ST06 of the NDTLP and the National Planning Policy Framework (NPPF).

2. Impact on Character and Appearance

The NDTLP policies on design are relevant - Policy ST04 (Improving the Quality of Development) and Policy DM04 (Design Principles), which both aim to achieve high quality, inclusive and sustainable design.

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.

Policy DM04 supports developments with good design and the policy seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new developments. It seeks not just to manage land use but support the creation of successful places and respond to the challenges of climate change. The policy lists 13 design principles that proposals must meet in order to be supported by the policy.

Policy ST09 of the NDTLP, ensures that the sustainability of Northern Devon's coastal communities is maintained and enhanced with regard to their distinctive cultural heritage, diverse maritime economy, landscape setting and regeneration opportunities. The separate identity of these settlements will be maintained and enhanced.

Policy ST15 of the NDTLP, states that 'great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment by:

- (a) *Conserving the historic dimension of the landscape;*
- (b) *Conserving the cultural, built, historic and archaeological features of national and local importance and their setting, including those that are not formally designated;*
- (c) *Identifying and protecting locally important buildings that contribute to the area's local character and identity; and*
- (d) *Increasing opportunities for access, education and appreciation of all aspects of northern Devon's historic environment, for all sections of the community.*

Policy DM07 of the NDTLP requires that all proposals affecting heritage assets should be accompanied by sufficient information, in the form of a Heritage Statement, to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed. The policy also outlines that proposals that conserve and positively enhance the heritage asset and their setting will be supported and 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.

The NPPF also strongly emphasises the need for well-designed places, in which Part 12 of the Framework is solely dedicated to the achieving well-design places. Paragraph 131 of the NPPF notes 'the creation of high-quality buildings and places is fundamental to what the planning and development proves should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities.' Part 12 of the framework lists 6 key design principles that are required to be met in order to demonstrate the design is of high quality.

Paragraph 139 of the NPPF states that permission should be refused for the development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The application site currently consists of an attached, two bed, bungalow with an attached garage. The architectural style is typical of a mid-late 20th Century bungalow. The design is relatively simple and cannot be said to have any special architectural interest or heritage merit.

The proposal is for the demolition of the existing, single-storey, dwelling and the erection of a detached, two-storey replacement dwelling.

The proposed four-bedroom dwelling is of a contemporary design measuring approximately 12 metres in width by 12.2 metres in depth, with an eaves height of 4.9 metres and a ridge height of 8.4 metres from ground level (9.7 metres from the known Datum). The total floor area (including garage) will measure 194 square metres.

The proposal includes the provision of three off-street vehicle parking spaces to the front of the property, stepped access from parking area to the north and a new ground floor walled patio area to the rear of the property.

A number of representations were received during the course of the public consultation, which raised concerns with regards to the design and scale of the proposed replacement dwelling. Namely, concerns were in relation to the ridge height and the subsequent breaking of the roofline and its overbearing nature.

It is noted, the public representations relate to the original scheme, which had a ridge height of 8.9 metres. The design and scale have been amended in light of the consultations received and after discussions with the LPA, with the ridge height matching that of the adjacent property at a height of

8.4 metres from FFL (9.7 metres from the known Datum). This is shown on the street elevation on drawing 21-210-02 E.

The application site is located outside, but immediately adjacent to, Appledore's Conservation Area. The Council's Conservation Officer was consulted on the proposed scheme and commented "*The revised plans received on the 5.11.2024 shows a shorter pair of dormers. These still break the eaves line and the chimney has not been thinned as suggested but the shorter dormers are more appropriate in this location. The overhang is not ideal but if slate clad as proposed, will appear as a recessive visual feature when viewed up Alpha Place. The main issue on this plot is that the plot is viewed as the end of Alpha Place and has more visibility than other plots along Green Lane. While the roof line is raised it remains equivalent to the bungalow uphill. (This property has just sold and it could also be subject to an upgrade to the accommodation.) The consideration should be solely about this plot and the design now appears more traditional over the initial proposal.*

The compromises on the design are now at the point where the conservation considerations are less and I would not be confident to oppose this given the fall back position available to the applicant."

It is noted that the LPA had significant concerns with regards to the original scheme, which included unsympathetic modern features and was of an inappropriate scale and massing in relation to its context. Nonetheless, the applicant has worked extensively with the LPA in coming to an acceptable solution.

The design is considered to be of a relatively high quality and would significantly improve the overall quality when compared to the existing poor-quality bungalow. The choice of materials are sympathetic and appropriate for their setting and place.

It is acknowledged that, the applicant contests that the site would benefit from a fall-back position of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in which they could increase the ridge height beyond that proposed. The LPA are of the opinion that the fallback argument cannot truly be considered given there is no extant prior approval permission and without such assessment there is no realistic prospect of the fall-back position coming forward. On this basis, the purported fall-back position is given very limited weight in the determination of this application.

Notwithstanding the above, the proposed design in its amended form is considered to be acceptable and would not harm the character and appearance of its setting or place, including the adjacent Conservation Area. The proposed development is considered to be compliant with Policies ST04, ST09, ST15, and DM04 of the NDTLP and the NPPF.

3. 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 the existing or allocated uses.*

Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded.

Policy DM02 of the NDTLP, states that development will only be supported where it does not result in unacceptable impacts to:

- (a) Atmospheric pollution by gas or particulates, including smell, fumes, dust, grit, smoke and soot;
- (b) Pollution of surface or ground water including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea;
- (c) Noise or vibration; and
- (d) Light pollution where light overspills on to areas not intended to be lit.

In addition to this, 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.

Part H1 of the National Design Guide states that *'good design promotes quality of life for the occupant and users of buildings. This includes function [...] comfort, safety, security, amenity, privacy, accessibility and adaptability.'*

The application site is located within the main built form of Appledore and is neighboured by properties immediately to the north, south and west of the site. The Environmental Protection Officer was consulted on the proposed development and commented *"Due to the presence and proximity of existing dwellings, there is the potential for residential amenity to be adversely affected on a temporary basis from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition:*

Construction works and site deliveries shall be carried out Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays

Reason: To protect neighbouring residential amenity."

A number of representations were received during public consultation. More specifically concerns were raised in regards to the overbearing nature of the development and the loss of a view. It is noted that 'loss of a view' (sight line) is not a material consideration and cannot be given any weight in the determination of the application.

The application site is located within the main built form of Appledore and is immediately neighboured by other properties. The proposed development includes the provision of an additional storey; however, the glazing at first-floor is kept to an acceptable level. The rear amenity spaces already have some level of overlooking for the adjacent properties (including the existing dwelling); the main outlook from the property is considered to be west into the rear garden of the application site.

Given the scale, design and location of the development it is considered that there would be no significant impact to the residential amenities in relation to overlooking, overbearing impact, overshadowing or loss of light.

Taking account of the above, the proposed development (subject to the recommended conditions) is considered to be in accordance with policies DM01, DM02, and DM04 of the NDTLP and the NPPF.

4. Access, Parking and Highways

Paragraph 115 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 116 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

Policy ST10 of the NDTLP, sets out the transport strategy for Northern Devon. It aims to reduce the environmental and social impact of transport by ensuring that access to new developments is safe and appropriate.

Policy DM05 of the NDTLP relates to highways and states:

- (1) All development must ensure the safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.*
- (2) All development shall protect and enhance public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.*

In addition to this, Policy DM06 of the NDTLP relates to parking provision and states:

- (1) *Development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to:*
 - (a) *Accessibility and sustainability of the site;*
 - (b) *Availability of public transport;*
 - (c) *Provisions of safe walking and cycle routes; and*
 - (d) *Specific sale, type and mix of development.*
- (2) *Proposals must encourage the use of sustainable modes of transport through careful design, layout and integration of the existing built form.*

Devon County Council Highways were consulted on the proposed development and had no objections, subject to the Council's Standing Advice being met.

The proposed development includes the provision of three vehicle parking spaces. The proposed parking will provide sufficient visibility splays in both directions, when compared to the nature of the public highway.

The application site is located within the development boundary of Appledore and therefore is considered to be a sustainable location with day-to-day facilities and sustainable transport hubs within walkable distances as defined by the National Design Guide. Furthermore, there would be no net increase in dwellings given the proposal seeks to Both reducing the need and requirement of a car and therefore the proposed development is considered to be in accordance with the above relevant policies.

Taking account the above, the proposed development would not result in an unacceptable impact on highways safety or severe residual impact. The proposed development is considered to be in accordance with Policies ST10, DM05 and DM06 of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

5. Foul and Surface Water Drainage

Policy ST03(f) (Adapting to Climate Change and Strengthening Resilience) states that future development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land and property by adopting effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and use of rainwater.

The supporting text of Policy ST03 states that 'all developments will seek to minimise flood risk through the use of Sustainable Drainage Systems and appropriate integration with green infrastructure. Controls to manage surface water runoff should be located as close as possible to where the rainwater drains, providing varying degrees of treatment for surface water through natural processes of sedimentation, filtration and biological degradation.

Policy DM02 of the NDTLP, supports development where it does not result in an unacceptable impact to:

- (a) *Atmospheric pollution by gas or particulars, including smell, fumes, dust, grit, smoke and soot;*
- (b) *Pollution of surface or ground water including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea;*
- (c) *Noise or vibration; and*
- (d) *Light pollution, where light overspills on to areas not intended to be lit.*

Policy DM04 establishes that water management must be addressed by development.

The proposed development does not seek to amend the proposed drainage strategy, insofar as the intention is to the discharge both surface water and foul drainage into the existing public sewer. The proposed development would result in a slight decrease in run-off from the slight reduction

(approximately -7m²) in roof area and includes the provision of an Aco drain to prevent runoff onto the highway.

Notwithstanding the consultation received from South West Water, it is recognised the constraints of the site, would largely restrict the ability to accommodate a soakaway. The proposed development would not significantly increase the run-off of from the site and would prevent run-off onto the highway.

The LPA are satisfied the proposed drainage discharge as high up the hierarchy as reasonably possible. The proposed development is considered to be in accordance with Policies ST03, DM)2, and DM04 of the NDTLP.

6. Impact on Wildlife and Ecology

a. Ecological Impact

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 within NDTLP through Policies DM08 and ST14 which state that all developments must ensure that the importance of habitats and designated sites are taken into account.

The local planning authority also has a duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 to have regard to biodiversity in exercising its functions. This duty includes the requirement to have regard to protected species.

Development proposals should avoid adverse impacts on existing features as a first principle and enable net gains by designing biodiversity features and enhancements and opportunities for geological conservation alongside new developments, however where adverse impacts are unavoidable they must be adequately and proportionately mitigated.

A Bat and Bird Assessment (reference: ORB_3791_AM) was carried out by Orbis Ecology and submitted for consideration, received 01st July 2024. The report concluded that *“The site was surveyed for evidence of bat use and nesting birds. No bats or evidence of bats was found. The building does not contain any features suitable for roosting bats. The site was assessed as having no suitability to support roosting bats. It is therefore considered the proposals will have no impact on bats and/or bat roosts due to the lack of features suitable for roosting bats and the lack of evidence of their presence. [...]*

No further survey work is required. The works are not expected to impact bat roosts. However, due to the small size of bats and their ability to roost in very small crevices, a precautionary approach to the work is advised. If a bat (or signs of bats, such as droppings) is found then works should stop and a licenced bat ecologist should be consulted. Bats should not be handled unless they are injured, in which case using gloves, the bat should be placed in a small breathable container and advice sought from [the ecologist]”

Taking account the above, it is considered that the proposed development would result in no significant adverse effect towards any protected habitats or species present. Consequently, the proposed development is considered to be in accordance with Policies ST14 and DM08 of the NDTLP and the statutory duties resulting from the above acts.

Biodiversity Net Gain

As of the 2nd of April 2024, it is mandatory under the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) that small-sites developments (unless exempt) must deliver a Biodiversity Net Gain of 10%.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The Planning Authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Torridge District Council.

A DEFRA Biodiversity Small Sites Metric was carried out and submitted for consideration, received 17th September 2024. The Case Officer would concur with the finding of the baseline assessment, insofar as the existing site consists of vegetated garden and developed land. The ecological value of the site is relatively low; however, not inconsequential. There are no watercourses or hedgerows impacted by the proposed development.

The Trading Summaries of the proposed development demonstrates that the total net (%) change is as follows:

- Habitat Units: -26.21%
- Hedgerow Units: 0.00%
- Watercourse Units: 0.00%

It is acknowledged that the proposed development would result in an overall net loss of habitats. However, this is largely due to the fact that garden areas are included within the baseline calculations but not in the Net Gain calculations, due to the LPA having no control over domestic curtilage.

The applicant is aware of the requirements of the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and has agreed that off-site credits will be purchased to meet the 10% Net Gain.

This would accord with the hierarchy, given the onsite enhancement and provision cannot be considered. The proposed development is considered to be acceptable, subject to the BNG condition being discharged, prior to the commencement of any development.

7. Conclusion

The proposed development is considered to result in an acceptable impact on the character and appearance of the surrounding area, and would not result in a harmful impact on the amenities of neighbouring occupiers. In addition, suitable access, parking and drainage can be provided and the development would not result in a harmful impact on protected species.

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 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, AA, B, C, D and E of Schedule 2, other than that hereby permitted shall be carried out without the further grant of planning permission.

Reason: To avoid the dwelling exceeding a size that could be justified by the functional requirement; to prevent an overdevelopment of the site; and to protect the character and appearance of the area in accordance with Policies ST04, DM01, DM04 and DM15 of the NDTLP.

- 5 The materials indicated on the plans hereby permitted shall be used in the construction of the development unless otherwise agreed in writing by the Local Planning Authority. The materials shall be installed before the development hereby permitted is brought into use and shall thereafter be retained as such.

Reason: To ensure that the materials, hereby considered to be acceptable, are used for the development.

Plans Schedule

<u>Reference</u>	<u>Received</u>
21 210 - SITE 01 D	19.11.2024
21 210-02 E	05.11.2024

Informatives

01. Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk)

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

- (a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- (b) the conditions subject to which the planning permission is granted:
 - (i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and
 - (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

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.