

42/09/0034

MR & MRS TEAGLE

ERECTION OF NEW DWELLING WITHIN THE CURTILAGE OF 2 CHURCH ROAD, TRULL (RESUBMISSION OF 42/08/0033) AS AMENDED BY PLAN BHT09086/SK01 REVISION C RECEIVED 19TH OCTOBER 2009

321467.122225

Full Planning Permission

PROPOSAL

The site currently forms the garden area to 2 Church Road, which lies within the Trull Conservation Area. The site slopes from west to east and is bounded on the front by a bank with a high yew hedgerow above, with close boarded timber fence (approximately 2 metres in height) to the side and rear. The existing property is a white render and tile detached dormer property directly fronting Church Road, it is surrounded on the south and east by large two storey properties, whilst to the north are bungalows of varying designs. The surrounding area sees a mix of materials including bricks, render, slate and tiles.

An application for a dwelling and garage was refused and dismissed at appeal in 1991 as it was considered to detract from the setting of Vine Cottage and the amenity of the locality.

Last year an application for a three bedroom dormer property on the site was refused due to the substandard access and poor visibility splays and the adverse impact the removal of the front hedge would have on the Conservation Area.

This application is now a revised scheme following lengthy discussions with the County Highways Authority regarding the access. The application seeks permission for a three bedroom brick and clay tile dwelling, although the design has been revised. Two car parking spaces will be provided to the rear of both the existing and proposed property and there will also be a small area of amenity space to the rear. The front boundary hedge is proposed to be retained, although the access will be widened from 3 metres to 5 metres involving the removal of only a small element of the hedge.

The applicant considers that sufficient visibility splays to the east can be provided by means of a covenant on land owned by the adjacent property, no.4 Church Road. This covenant does not permit the adjacent landowner "to do or permit to be done on the Property anything which may grow to cause a nuisance or annoyance to the Vendors or otherwise interfere with their free use and enjoyment of the retained land".

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP -

As the Planning Officer is aware, this is a resubmission of a previous proposal,

42/08/0033, following post-application correspondence that took place to address the highway issues previously raised.

For the purpose of this latest submission, I will reiterate the applicable points.

The proposal is located within the development limit of Trull and will utilise an existing access from/onto, Church Road, which is a well-utilised local route and a classified unnumbered highway that is subject to a 30mph speed restriction. The Agent previously stated that there were movements afoot to reduce the speed limit through the village to 20mph, in line with other villages in the vicinity. However, the Traffic Team Manager, confirmed that there were currently no plans to reduce the speed limit in this location.

Since the last application a speed survey has been carried out by the Applicant and the Highway Authority, to ascertain actual speeds of traffic for the purpose of agreeing visibility splays.

Speed Survey

I confirm that I am satisfied with the conclusion of Applicant's speed survey, and would accept that the 85th percentile, in the west bound direction of 25mph.

X-Distance/Visibility

Church Road, from my personal observations appears to be a well utilised local route through the village, and is in what I consider to be a built up situation in line with point 7.7.6 of Manual for Streets.

I consider that a 2.0m 'x' distance in this particular instance is acceptable, given that the road is not heavily trafficked and that traffic speeds are in the region of 25mph. It was noted during a site meeting (6 July 2009) with Mike Bellamy from Byways and Highways that westbound cars tend to position themselves away from the access, in terms of their driving line, as they pass by the entrance to the site due to the on-street parking that occurs on the southern side of Church Road just to the west of the site entrance.

I would be willing to accept measuring the sight-line to a point 1.0m away from the nearside carriageway edge, but not to the centreline of the road as suggested by Mr Bellamy.

To reiterate the findings:

From 2.0m back the measurements are as follows (these are measurements that do **not** cross the small section of land which is the subject of the restricted covenant:

- 22m to the nearside carriageway edge
- 28m to a point 1.0m off the nearside carriageway edge

The equivalent distances from 2.4m back, they are:

- 21m to the nearside carriageway edge
- 27m to a point 1.0m off the nearside carriageway edge

Covenant

The details of this covenant are duly noted and I have liaised with the Planning Officer, Karen Purchase who has discussed this issue with Judith Jackson, Manager of Legal Services. She is of the opinion that as they have control of the land through a legally enforceable covenant, a visibility condition could be imposed across that land. Therefore a condition could be attached and if the Applicant or future owner did not comply, a breach of condition notice could be served and they would then have to take action against their neighbours in order to meet this condition.

A condition cannot be attached on land, which is not outlined in red or blue. As the covenant forms a crucial part of the application site in terms of providing visibility, this piece of land has now been included within the red line of the application site and I assume that notice has been duly served on the landowner.

Judith Jackson also confirmed during post-application discussions, that it is possible to re-word a covenant if both parties agreed to this, and this would be the most satisfactory way of dealing with the matter as it would not rely on further action having to be taken by the Applicant or any future occupier of the dwelling as obviously legal disputes can be lengthy and potentially visibility could be obstructed until the issue has been resolved, thus resulting in highway safety issues for users of that highway.

This was not an option that the Applicant chose to pursue and it would appear that as this latest application has progressed that the adjoining land owner is not in favour of the proposal.

Visibility utilising the land covered by the Covenant

Therefore if the vegetation along the roadside edge on land the subject of the restricted covenant were cut back, from 2.0m back the visibility measurements would be:

- 33m to a point 1.0m off the nearside carriageway edge

From 2.4m back the equivalent measurements would be:

- 32m to a point 1.0m off the nearside carriageway edge including

Access

Both the Planning and Conservation Officers at TDBC have agreed that they would be happy for the access to be widened to 5.0m, over the first 10m of its length, as it would not result in a significant loss of the boundary trees/hedge.

This will enable vehicles to pass each other when entering/exiting the site and to avoid conflicting movements resulting in vehicles reversing or waiting on the adjoining public highway.

The Planning Officer may wish to seek an amended plan to resolve this issue, any

amended plan should also include the visibility splay, as the centreline of the access will be in a slightly different position, to what is currently shown.

Parking and Turning .

Sufficient parking provision that incorporates a segregated and shared turning area has been denoted on the submitted plan which will enable vehicles to enter and exit site in a forward gear when the parking areas are occupied.

Taking the above points into consideration, I would not wish to raise a highway objection and in the event of permission being granted I would recommend conditions.

TRULL PARISH COUNCIL - The Council unanimously rejects this application on the following grounds:

- Wholeheartedly agree with the Inspectors decision at appeal in 1990 and consider nothing has changed.
- Adverse impact on the streetscene, next to Grade II Listed property.
- Site is imposing as higher than houses in the vicinity, destroying privacy of houses on all sides.
- Extra noise generated to rear due to parking next to dividing fence.
- Poor access onto busy road.
- Proposal to reduce length of mature hedge would destroy street scene and lesson privacy of houses facing it.
- Once planning/building is completed, hedge could be removed in its entirety.
- Footpath finishes at the access to the site, this is a hazardous spot.
- Dwelling would take up most of the garden of no.2 leaving two properties with very small gardens, little amenity space and parking for 4 cars.
- Houses in the locality are detached with generous gardens.

CONSERVATION OFFICERS - No objection, improved design.

HERITAGE AND LANDSCAPE OFFICER - I am pleased to see the retention of the roadside yew hedgerow. I recommend a condition to protect it during construction and another to retain it into the future.

WESSEX WATER - The development is located within a foul sewer area and there are water mains within the vicinity of the proposal. It will be necessary for the developer to agree a point of connection onto the system for water supply and for the satisfactory disposal of foul flows generated. Council should be satisfied with arrangements for surface water disposal. Suggests note to applicant regarding uncharted sewers or water mains.

Representations

TWO LETTERS OF SUPPORT RECEIVED on the grounds of:

- There is a row of properties on the other side of the road and this will balance out the appearance of the properties in Church Road.
- It is better to build within the village rather than on the edge, encroaching on the countryside, as has been proposed recently
- The proposed property has an attractive design and will fit very well within other

houses in the road.

- Adding a dwelling would be in keeping with the rest of the road, where houses are generally closer together, and would not spoil the appearance of the road.
- This is a large plot with plenty of space for an extra house and both houses would still have a surrounding garden.
- This dwelling would go some way towards alleviating the need for more housing in Trull, reducing the waiting list for housing in the area and would increase revenue to local services.
- There is already an access to the property and provision for parking so new property would not add to parking problems.

1 LETTER RECEIVED STATING NO OBJECTION (No reasons given)

6 LETTERS OF OBJECTION RECEIVED on the grounds of:

- Proposal is a squeezed into garden of no.2, leaving little space around either house and not at a scale that relates well with the local character of the area. Immediate surrounding area characterised by detached houses in their own gardens giving an aura of space and tranquillity. The proposed house will not continue this theme and will be out of keeping with and ruin the character of the area.
- Overdevelopment of the small site in an area of relatively low density housing, is detrimental to character of immediate area and village and would result in two cramped dwellings, both with inadequate amenity space.
- Site in elevated position and would dominate building line.
- Cramped development and a dwelling in this location (particularly of chalet style design) will detract from the historic and attractive street scene of the Conservation Area.
- Loss of privacy and amenity for surrounding properties including nos 7, 9, Earls wood House, occupiers of 2 Church Road, along with overlooking of the proposed dwellings itself.
- Parking spaces will be right up against the boundary of adjoining properties, leaving no room for landscaping and causing noise and disturbance.
- Highway safety concerns to both vehicles and pedestrians on busy village road due to further traffic using exit, poor sight lines, no footpath, no waiting bay. It does not appear that anything will be done to improve and address pedestrian or traffic issues. Current visibility standards should be met in such a location.
- Suggestion that findings of traffic survey are flawed as undertaken when the road from Pitminster to Corfe was closed, the road from Corfe to Trull is often used as a "rat run" and wouldn't have been included. In addition, the school at Blagdon Hill has since been closed, adding to school traffic.
- Own traffic survey was undertaken by an objector, indicating peak traffic is from 0840 to 0855 when 35 vehicles and 41 pedestrians travelled East (to the school) and 3 pedestrians and 13 vehicles were Westbound.
- Requests preservation order to prevent hedge being removed.
- The proposal may result in detriment to a yew tree on the adjacent site.
- An appeal was dismissed in 1990 as the proposal would be unacceptable detract from the setting of Vine Cottage, result in a cramped appearance, remove a mature hedge which contributes to the street scene and leave little existing garden area. The current application is now for a larger dwelling on a smaller site (as a strip has been sold off).
- Will set a precedent for future development

LETTER RECEIVED FROM AGENTS ON BEHALF OF OCCUPIERS OF NO.4

CONCERNING COVENANT (NON-PLANNING MATTER)

- Our client is not supportive of this planning application nor does she recognise any obligation on her part to co-operate with the applicant regarding the creation of an adequate visibility splay.

LETTER RECEIVED FROM AGENTS ON BEHALF OF APPLICANT'S

- Application in 1990 involved removing large parts of Yew hedge and building garaging as well as house. These issues have now been addressed.
- A lot has been done to improve application and address issues raised by Parish Council last year.
- Development is some way away from Kings Gatchell, it neighbours land belonging to Camelot and has no connection to Kings Gatchell. New property would be between Vine Cottage and no.4.
- Property would be at same level as other properties on that side of road. Being a dormer bungalow, design is in keeping with Vine Cottage and roof line will be lower than Earlswood House and no.4. No windows overlooking no.4, only frosted velux rooflights on rear.
- Access very good, probably one of best in road. Road not heavily trafficked, proven by speed survey.
- Applicants are not planning to remove hedge at later date.
- Footpath ends in a safe place as visibility is good here.
- Development would allow for adequate garden space for both properties, park is only three minutes away. There is already parking for four cars. Not all houses in vicinity have large gardens, there are terraces within metres of proposed development.

PLANNING POLICIES

PPS1 - Delivering Sustainable Development,
PPS3 - Housing,
PPG15 - Planning and the Historic Environment,
S&ENPP9 - S&ENP - The Built Historic Environment,
S1 - TDBCLP - General Requirements,
S2 - TDBCLP - Design,
EN14 - TDBCLP - Conservation Areas,

DETERMINING ISSUES AND CONSIDERATIONS

There is a mix of materials in the surrounding area and the proposal of brick and clay tiles with timber doors is considered acceptable. Whilst the use of upvc is not ideal within the Conservation Area, neighbouring properties already have upvc windows, as does no.2, and it is not considered to cause harm to the area. The dormer windows are of traditional design and reflect the dormer window at no.2, whilst the steep roof pitch and internal chimney are characteristic of surrounding properties. The proposed rooflights are positioned on the rear and are of Conservation style, therefore will have no adverse impact on the Conservation Area. The proposed dwelling has therefore been designed to reflect the appearance of surrounding properties and respect the character of the Conservation Area.

Whilst the properties directly adjacent are situated on larger plots, there is evidence of smaller plots in close proximity and opposite. The proposed development is not

therefore considered to be out of keeping with the general pattern of development in this part of Trull. There are no set standards which govern the minimum acceptable amount of amenity space. Each property retains an element of amenity space, which is considered satisfactory.

In order to widen the access, the removal of approximately 2 metres of the Yew hedge is required. The removal of this minimal amount is not considered to result in detriment to the appearance of the street scene and will preserve the surrounding Conservation Area.

Situated on the boundary between the proposed site and no.4 is a large garage, with the dwelling being situated to the other side of this. The proposed dwelling is situated adjacent to the garage/area to the front of the property, rather than the main amenity space so is not considered to harm the amenities of the occupiers of that dwelling. To the rear, Eastwood House is separated from the plot by a 2 metre high wooden fence. The proposed dwelling is situated approximately 9 metres from the boundary and is therefore considered a sufficient distance to avoid a loss of light or overbearing impact. Whilst there are rooflights in the rear of the proposed dwelling, these are frosted and serve two bathrooms and a landing, rather than habitable rooms, therefore there are no concerns regarding overlooking of Earlswood House from these windows. The proposed side first floor window serving bedroom 3 will face onto the driveway. There are no habitable room windows in the end of no.2 and this window is a sufficient distance from the garden at the rear of no.2 to avoid overlooking.

Since the refusal of the previous application, there have been lengthy discussions with the County Highways Authority and an independent speed survey has been undertaken. Following the results of this survey, a satisfactory distance for visibility has been agreed with the County Highways Authority. This application indicates that the visibility splay to the east can be achieved, utilising land owned by the neighbouring property at its eastern extremity. Although outside of the ownership of the applicant's, there is a covenant attached to the land, preventing the landowner doing or permitting to be done, anything that may grow to cause a nuisance or annoyance to the Vendors. As such, the applicant's have control of the land through this legally enforceable covenant, although this could be lengthy process.

The access is proposed to be widened to allow cars to pass when entering/exiting the site and avoiding the need for cars to reverse out onto or wait on the highway. In addition, adequate parking and turning facilities have been provided to each property.

Although it is acknowledged that an appeal was dismissed in 1991, this was for a scheme of different layout and also included a detached garage. In view of the significant drive of PPS1 and PPS3 towards sustainable development and making best use of land within urban areas, this site is now considered a suitable infill site for a modest dwelling of appropriate design. By virtue of the design of the property and retention of the roadside Yew hedge, it is considered that the proposal would not result in detriment to the residential amenities of neighbouring properties or harm to the character and appearance of the surrounding Conservation Area.

RECOMMENDATION AND REASON(S)

Recommended Decision:

The proposed dwelling has been designed to be in keeping with surrounding properties and to avoid harm to the residential amenities of nearby dwellings. It is considered to preserve the character and appearance of the Conservation Area, not to detract from the street scene and to be in keeping with the surrounding pattern of development. Sufficient car parking is available and adequate visibility splays can be provided, by virtue of the restrictive covenant on the adjacent land, to overcome previous highway safety concerns. As such, the proposal is in accordance with policy 49 (Transport Requirements of New Development) of the Somerset and Exmoor National Park Joint Structure Plan Review and policies S1 (General Requirements), S2 (Design) and EN14 (Conservation Areas) of the Taunton Deane Local Plan.

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and thereafter retained as such, in accordance with the approved details as above, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the character and appearance of the existing building in accordance with Policy S2 of the Taunton Deane Local Plan.

3. All rooflights hereby approved shall be flush fitting Conservation Style with a central glazing bar.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policies S1(D) and S2(A).

4. All windows/doors hereby approved shall be of the design shown on the approved plans, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the Conservation Area in accordance with Taunton Deane Local Plan Policies S1(D), S2(A) and EN14.

5. The existing hedge on the roadside (north) boundary shall be retained at a height no less than 1.8 metres above ground level, with the exception of the small element to be removed to widen the access, unless otherwise agreed in writing with the Local Planning Authority. Before any part of the development hereby permitted is commenced, this hedge shall be protected by a chestnut paling fence 1.5 m high, placed at a minimum distance of 2.0 m from the edge of the hedge, unless otherwise agreed in writing. The fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soils levels around the base of the hedge shall not be altered.

Reason: To avoid potential harm to the root system of any hedge leading to possible consequential damage to its health and to ensure the preservation of the local character and distinctiveness of the Conservation Area in accordance with Taunton Deane Local Plan Policies S1(D), S2(A), EN6 and EN14.

6. Before any part of the development hereby permitted is commenced, the access to be used in connection with the proposed dwelling shall be widened so as to have a minimum width of 5m over the first 10m of its length.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

7. Before the dwelling is first occupied, the revised access/parking/turning shall be properly consolidated and surfaced (not loose stone or gravel). It shall be made of porous material, or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface with the curtilage of the dwelling.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

8. The area allocated on the approved plan as parking and turning for the existing and proposed dwelling shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the existing dwelling, no. 2 Church Road and the dwelling hereby permitted.

Reason: To ensure that there is adequate space within the site for the parking of vehicles clear of the highway in accordance with Taunton Deane Local Plan Policy M4.

9. Before any part of the development hereby permitted is commenced, there shall be no obstruction to visibility greater than 900mm above the adjoining road level forward of a line drawn 2.0m back from the carriageway edge on the centreline of the access and extending to a point on the nearside carriageway edge 33m to the east and 50m to the west of the access. Such visibility shall thereafter be maintained at all times.

Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

10. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: To prevent surface water being deposited into the highway, in the interests of highway safety and neighbouring amenities, in accordance with Taunton Deane Local Plan Policies S1(D) and (E).

11. Before any works are commenced, details of all guttering, downpipes and disposal of rainwater shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the Conservation Area in accordance with Taunton Deane Local Plan Policies S1(D), S2(A) and EN14.

12. All services shall be placed underground.

Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policies S1(D) and S2(A).

13. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") (or any order revoking and re-enacting the 1995 Order with or without modification), no extensions, other alterations (including balconies, windows, chimneys, flues, antennae) or curtilage structures (of the types described in Schedule 2 Part 1 Class A-E and G-H of the 1995 Order), other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To ensure that the amenities of neighbouring properties is not harmed, in accordance with Policies S1 and S2 of the Taunton Deane Local Plan.

Notes for compliance

1. Note at request of Wessex Water
It will be necessary, if required, for the developer to agree points of connection with Wessex Water, for water supply and the satisfactory disposal of foul flows.
2. Note at request of Wessex Water
The developer should be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted sewers or water mains within (or very near to) the site. If any such apparatus exists, applicants should plot the exact position on the design site layout to assess the implications. Please note that the grant of planning permission does not, where apparatus will be affected, change Wessex Water's ability to seek agreement as to the carrying out of diversionary and/or conditioned protection works at the applicant's expense or, in default of such agreement, the right to prevent the carrying out of any such development proposals as may affect its apparatus.

3. Note at request of County Highways Authority:
Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that a Section 184 Permit must be obtained from the Highway Service Manager, Taunton Area Office, tel 0845 3459155. Application for such a Permit should be made at least three weeks before access works are intended to commence.
4. Note at request of County Highways Authority:
Where works are to be undertaken on or adjoining the publicly maintainable highway a licence under section 171 of the Highways Act 1980 must be obtained from the Highway Authority. Application forms can be obtained by writing to Roger Tyson of the Transport Development Group, Environment Department, County Hall, Taunton TA1 4DY, or by telephoning him on 01823 356011. Applications should be submitted at least four weeks before works are proposed to commence in order for statutory undertakers to be consulted concerning their services.
5. Soakaways should be constructed in accordance with British Research Digest 365 (September 1991).

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

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