

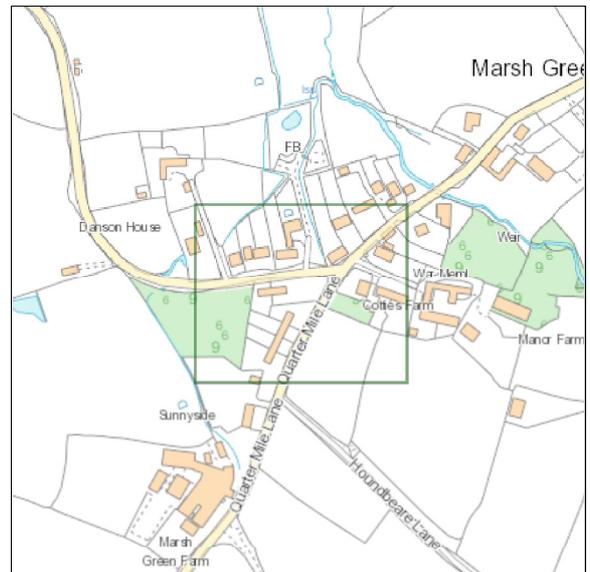
Ward Whimble And Rockbeare

Reference 19/1516/FUL

Applicant Mrs R Johns

Location 2 Marsh Green Exeter EX5 2ET

Proposal Retrospective application for the removal of earth bank, creation of vehicular access/hardstanding and retention of fencing



RECOMMENDATION: Refusal



	Committee Date: 29th October 2019	
Rockbeare Whimple And Rockbeare	19/1516/FUL	Target Date: 26.09.2019
Applicant:	Mrs R Johns	
Location:	2 Marsh Green, Exeter. EX5 2ET	
Proposal:	Retrospective application for the removal of earth bank, creation of vehicular access/hardstanding and retention of fencing.	

RECOMMENDATION: REFUSAL

EXECUTIVE SUMMARY

This application is brought before the Development Management Committee for determination because the land in question is within the ownership of East Devon District Council and objections have been received to the proposal.

This retrospective application is for the removal of a section of earth bank, creation of a vehicular access/hardstanding and retention of fencing to the top of the earth bank.

The removal of a section of the earth bank and the creation of a vehicular access is considered to be contrary to Neighbourhood Plan Policy ROCK02 as it has not been demonstrated that the additional car parking cannot be provided elsewhere without resulting in the loss of a 5.5m section of Devon Bank and the subsequent visual impact that this creates.

In addition, the retention of the 1 metre high fencing on top of the existing earth bank, by virtue of its resulting height and length, represents an unduly intrusive and incongruous form of boundary treatment which is considered to be harmful to the character and appearance of the street scene, and fails to respect the key characteristics and special qualities of the area.

Although the fence is located within the visibility splay at the junction to the front of the site, County highways are not raising a highway safety objection to this.

Whilst the proposal may result in increased flooding of the garden to the application site through the gap created in the Devon Bank, this will not result in any wider flood risk impacts that could justify refusal of planning permission.

The application is therefore recommended for refusal on the basis of the detrimental visual impact from the loss of the Devon Bank contrary to Neighbourhood Plan Policy ROCK02, and due to the harmful visual impact from the fence upon this prominent corner site contrary to Local Plan Policy D1.

LOCAL CONSULTATIONS

Parish Council

The Parish Council OBJECTS to this application and would add that it is contrary to Rock02 of Parish NP.

Ward Member – Cllr K McLauchlan

I have been to look at the removal of the bank and my concerns are that the removal of the bank has been completed without consideration for the overall street scene. It is contrary to the neighbourhood plan,02, re: Devon banks.

To the left of the gap there is a young oak tree, very close to the edge which I would like to be assessed as it may warrant a TPO.

In extreme precipitation the banks act as a flood defence, this would no longer be the case on this corner. The property already has 2 parking spaces to the front which adheres to policy for a home this size, I cannot see the need for more at the cost of the bank.

Finally, I must reserve my position until I am in full possession of all the relevant facts and arguments both for and against when this application comes before DMC.

TECHNICAL CONSULTATIONS

John Moss – EDDC Housing

I can confirm that, on behalf of Housing, I have no objection to the proposal.

Further comments – 10 October 2019:

The comments of no objection are subject to the occupier obtaining any necessary planning permission as advised in the letter to R Johns from Housing dated 15th June 2017.

Environment Agency

I recall looking at this site following notification to our enforcement section.

I made the following comments, following representations from a local resident.

Looking at our mapping, this is a surface water issue and not a fluvial flood risk matter linked to 'Main River' and the associated FZ2/3. I would therefore suggest that it should be passed to DCC, as the lead for surface water issues.

Surface water flood maps held by the EA do show a pathway for surface water down Quarter Mile Lane towards to village centre and it would appear that the embankment confines flows to the highway, thereby preventing flows entering the grounds of No. 2. There is no clear evidence from the mapping that excavating the bank would provide a more direct pathway for floodwaters to reach the complainant's property. There is an argument that the works could increase surface water flood risk to No. 2, through creating an additional storage area, and thereby reduce the risks to the complainant's property.

In essence, I would suggest that the works could increase flood risk to No.2 through offering flood water storage capacity within the grounds of this property.

It therefore follows that flood risk would be marginally reduced to other 3rd parties in the vicinity as a result of this additional storage and subsequent reduced flooding pressures on existing flooded areas. I am aware that improvements were made for surface water drainage from the road in the village centre through the provision of a new drainage channel flowing to the north in c. 2000.

Devon County Highway Authority

The site is situated on the junction of road, C306 and road, C92.

Advice was sought from our Neighbourhood officer colleagues, who are satisfied that the embankment does not belong to the County Highway Authority and as a result this bank could well of been built up with a hedge before now.

The restriction upon visibility until at the give-way line, helps to encourage vehicles to take caution at the junction, upon the give-way line, vehicles are able to utilise a satisfactory visibility line.

Therefore the County Highway Authority has no objections to this planning application.

Third Party Representations

7 representations have been received in response to the application comprising 6 objections and 1 in support.

The representation in support can be summarised as follows:

- There are no environmental effects from the application;
- The driveway cannot be seen from other properties.

The objections can be summarised as follows:

- Height of fence on bank;
- Loss of visibility for drivers at the junction;
- Additional access unnecessary;
- Loss of open aspect to the front of the property;
- Impact upon streetscene;

- Contrary to neighbourhood Plan Policy 02;
- The bank will no longer act as a flood defence;
- Other properties water supply runs under the proposed parking area;
- Poor visual impact.

PLANNING HISTORY

None relevant.

POLICIES

Government Planning Documents

NPPF (National Planning Policy Framework 2019)
National Planning Practice Guidance

Adopted East Devon Local Plan 2013-2031 Policies

D1:	Design and Local Distinctiveness
Policy EN21:	River and Coastal Flooding
Policy TC2:	Accessibility of New Development
Policy TC7:	Adequacy of Road Network and Site Access

Rockbeare Neighbourhood Plan (Made)

Rock02 – Devon Banks

Site Location and Description

No 2 Marsh Green is a semi-detached dwelling house with a generous garden which wraps around the property on the North, East and Southern sides.

The site is located outside of any Built-Up Area Boundary and is at a prominent corner location.

The dwelling is set back from the road with a large garden enclosed by a Devon Bank that has a frontage to two roads. The site benefits from off-street car parking to the front of the property.

The two roads adjoining the site are at risk from river and surface water flooding.

The tree adjacent to the new parking area has recently become the subject of a Tree Preservation Order.

The application property is owned by East Devon District Council.

Proposed Development

Retrospective planning permission is sought for the following:

- removal of a section of earth bank to facilitate the creation of a vehicular access/hardstanding;
- retention of the 1m high fence on top of the Devon Bank to the two road frontages.

These works have already been carried out on site and the application is received as the result of an enforcement complaint.

Planning permission is required for the new access given the removal of a section of Devon Bank, with the fence requiring planning permission as it is located within a visibility splay.

Analysis

The principal issues for consideration in the determination of the application are the visual impact of the proposals on the character and appearance of the surrounding area, matters of flood risk and highway safety.

Visual Impact

The application has a visual impact in two forms. Firstly from the removal of a section of Devon Bank to form the parking area, and secondly from the erection of the fence.

In order to create the vehicular access and parking area, a 5.5m wide section of the Devon bank has been removed.

Neighbourhood Plan Policy ROCK02 states:

‘Where change to existing traditional Devon banks is unavoidable, proposals for development which affect traditional Devon hedges will only be supported where it is demonstrated that options have been assessed and, as a result, the least damaging option is proposed (to the hedgerow / bank, setting in the landscape, biodiversity and habitats).

Wherever suitable, boundaries for new development should include the use of native species of trees and hedges and be constructed using traditional techniques.’

This policy seeks to resist the loss of Devon Banks, only supporting their loss where it is demonstrated that the least damaging option has been chosen.

Being retrospective, the application does not demonstrate that this is the only, least damaging option for providing additional car parking for the property. It is clear however that the property currently benefits from off-street parking to the front elevation of the house, and that this could accommodate 2 cars, albeit it at a squeeze. If the property requires further car parking, it is considered that this could be created by extending the existing hardsurfacing to the front of the property as this would result in a reduced visual impact and not necessitate the loss of any further bank, or at least a smaller loss than the 5.5m proposed through the application.

It is therefore considered that the loss of the Devon Bank, and subsequent visual impact, is contrary to Policy ROCK02 of the Rockbeare Neighbourhood Plan.

With regard to the fence, it is considered that the location of the fence, combined with its height, result in a harmful visual impact upon this prominent corner site.

Given that the wider area is defined by boundary treatment mainly formed from Devon Banks or hedging, it is considered that the construction of the 1m high fence on top of the back results in a harsh visual impact that is out of character with the area to the detriment of the visual amenity of the area.

It is therefore considered that the application has an unacceptable visual impact from the removal of the Devon Bank and construction of the boundary fence contrary to local and neighbourhood planning policies.

Flood Risk

The roads bounding the site are either within a flood zone, or at risk from surface water flooding.

Whilst the concerns raised by local residents regarding the potential for the removal of the section of Devon Bank to impact upon flooding are understood, it is considered, and supported by the Environment Agency comments, that the works are only likely to result in an increase in the flooding of the garden to the application property.

The removal of the section of bank will enable some surface water to enter the garden of number 2 rather than flowing down to the junction. Whilst this may inconvenience the occupiers of number 2, it will not increase flood risk to the wider public domain.

As such, the proposal is considered to be acceptable in terms of flood risk.

Highway Safety

Officers have spoken to Devon County Highway Officers who, whilst acknowledging that the fence is located within the visibility splay for the adjoining junction, do not raise a highway safety objection to the proposal.

In addition, they have no objection to the creation of the new access and off-street car parking area.

In light of the lack of highway safety objection from County Highways, it is not considered that a refusal of planning permission could be justified despite acknowledging that the fence is within the visibility splay.

Other matters

One of the letters of objection mentions that water supply to their property runs under the new car parking space. Whilst this is recognised, this is a private matter between the two parties and South West Water.

There is a tree adjacent to the Devon Bank and new access but the tree would not be harmed by the development and has recently become the subject of a Tree Preservation Order.

Finally, the site is owned by East Devon District Council and whilst the Hosing Department have raised no objections to the works, they have clarified that their support is subject to the receipt of planning permission. The Housing Department confirming that they advised the occupier of their support only being subject to the receipt of any necessary planning permission before the works were carried out.

Should Members determine to refuse planning permission, the Housing Department will need to take action against the occupiers of the property to seek removal of the fencing and re-instatement of the Devon Bank.

CONCLUSION

The application is retrospective proposing the removal of a section of earth bank, creation of a vehicular access/hardstanding and retention of fencing to the top of the earth bank that surrounds the garden to the property.

The removal of a section of the earth bank and the creation of a vehicular access is considered to be contrary to Neighbourhood Plan Policy ROCK02 as it has not been demonstrated that the additional car parking area cannot be provided elsewhere without resulting in the loss of a 5.5m section of Devon Bank and the subsequent visual impact that this creates.

In addition, the retention of the 1 metre high fencing on top of the existing earth bank, by virtue of its resulting height and length, represents an unduly intrusive and incongruous form of boundary treatment which is considered to be harmful to the character and appearance of the street scene, and fails to respect the key characteristics and special qualities of the area.

Although the fence is located within the visibility splay at the junction to the front of the site, County Highways are not raising a highway safety objection to this.

Whilst the proposal may result in increased flooding of the garden to the application site through the gap created in the Devon Bank, this will not result in any wider flood risk impacts that could justify refusal of planning permission.

The application is therefore recommended for refusal on the basis of the detrimental visual impact from the loss of the Devon Bank contrary to Neighbourhood Plan Policy ROCK02, and due to the harmful visual impact from the fence upon this prominent corner site contrary to Local Plan Policy D1.

RECOMMENDATION

REFUSE:

1. Retention of the 1 metre high fencing on top of the existing earth bank, by virtue of its resulting height and length, represents an unduly intrusive and

incongruous form of boundary treatment which is considered to be harmful to the character and appearance of the street scene, and fails to respect the key characteristics and special qualities of the area, contrary to Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.

2. The removal of the section of Devon Bank has not been justified with the subsequent loss of the bank resulting in a detrimental visual impact upon the street scene. As such the proposal is contrary to Rockbears Neighbourhood Plan Policy ROCK02 and Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

PLOCPL - Location Plan - Received 10.07.2019

PBLOCK - Block Plan – Received 10.07.2019

PPSLP – Proposed Site Plan – Received 01.08.2019