

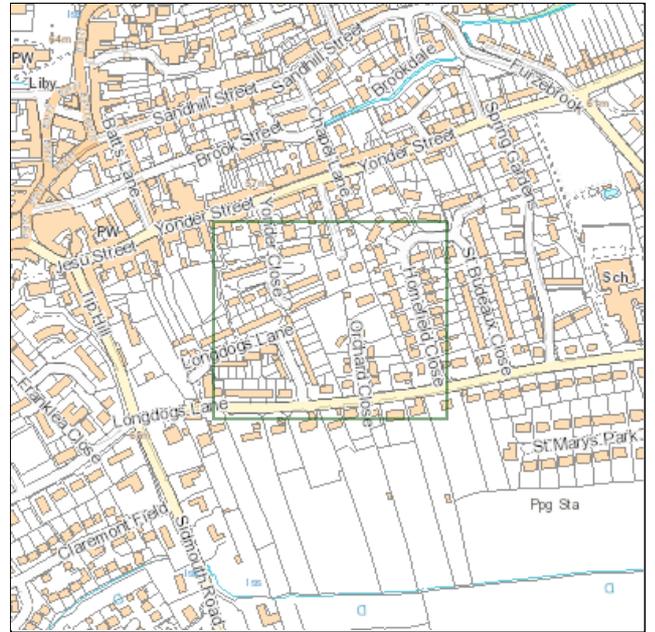
**Ward** Ottery St Mary

**Reference** 21/1313/OUT

**Applicant** Mrs J Jones

**Location** 3 Orchard Close Ottery St Mary EX11 1HT

**Proposal** Erection of a chalet bungalow (all matters reserved)



**RECOMMENDATION: Approval with conditions and adopt the Appropriate Assessment.**



		<b>Committee Date: 1<sup>st</sup> September 2021</b>
<b>Ottery St Mary (Ottery St Mary)</b>	<b>21/1313/OUT</b>	<b>Target Date: 21.07.2021</b>
<b>Applicant:</b>	<b>Mrs J Jones</b>	
<b>Location:</b>	<b>3 Orchard Close Ottery St Mary</b>	
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**RECOMMENDATION: Approval with conditions and adopt the Appropriate Assessment.**

#### **EXECUTIVE SUMMARY**

**The application is before Committee as the officer recommendation is contrary to the views of a Ward Member.**

**The application seeks outline permission for the construction of a chalet bungalow in the rear garden of Orchard Close. All matters with regards to design, scale, layout, landscaping and access have been reserved. The applicant previously secured outline permission in 2006, however this permission has now lapsed.**

**The application site is located within the built up area boundary for Ottery St Mary and therefore the principle of development is considered acceptable. The submission has included an indicative Site Plan that shows how the land could accommodate a dwelling.**

**The build would be largely screened from public view by the host property. However some short distance views are likely to be available within the close immediately forward of 5 Orchard Close and, depending on the height of the build, some glimpsed views of the roof might be available from Yonder Close and the lane that serves Orchard Hill although views will be within the context of the existing housing. Additionally the provision of a dwelling at the site is deemed to follow the established grain of development of the area and would reflect a similar footprint to plot ratio as 4A Orchard Close to the east. Therefore there are no concerns with regards to the development's impact upon the character and appearance of the area.**

**The main issue to consider is whether a chalet style bungalow can be accommodated within the site whilst not causing undue harm to the amenity enjoyed at neighbouring properties. In this case the land falls away gradually to the north resulting in adjoining residential properties being situated on lower**

ground at what could be considered a reasonable distance. Comments received from a Local Ward Member and a third party have expressed concerns over the potential impact the development could have on adjoining neighbours through overlooking from first floor windows. However there is considered ample space within the application site to provide a chalet bungalow that provides first floor accommodation in roof the space. Whilst dormer windows are unlikely to be acceptable facing north towards The Orchard due to falling ground levels, and careful consideration will be required in relation to the acceptability and position of any dormers facing east, south or west, such matters can be controlled by condition and careful consideration at any reserve matters stage

The application is therefore considered to be acceptable.

## **CONSULTATIONS**

### **Local Consultations**

#### Ottery St Mary - Cllr Vicky Johns

I have had a few concerns with regards to this application that have been raised in the neighbours comments, mainly due to the fact that it is a chalet bungalow, I believe the original application was for a bungalow. There is concern for the amount of trees being removed, for the height of the new chalet style bungalow and with the windows being able to overlook neighbouring properties due to the fact that the ground is higher than neighbouring properties, any windows facing north will be directly looking into 2 bedrooms, bathroom and a private back garden. This is my view with the information I have in front of me I reserve the right to change my opinion if other information comes to light.

#### Parish/Town Council

Town Council Comments:

The Town Council supports this application

### **Technical Consultations**

#### EDDC Trees

The site contains a number of mature trees that are prominent in the local landscape and as such are desirable to retain.

The proposed location of the development is situated such that it should have the minimum impact on the existing trees. As such I do not have any objections to the principle of the development.

However, the following condition should be put in place to ensure the trees are protected throughout any development.

#### Tree Protection

(a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a scheme for the protection of the retained trees, hedges

and shrubs shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To ensure the continued well-being of the trees in the interests of the amenity of the locality.

### Other Representations

Five letters of objection have been received. The comments can be summarised as follows:

- Impact upon trees on the site;
- Single-storey more appropriate (like 4a);
- Proposal will be out of keeping;
- Overlooking concerns to surrounding properties;
- Out of character;
- Small plot;
- Traffic congestion in cul-de-sac;
- Pedestrian and vehicle safety concerns;
- Loss of green space;
- Impact on trees;
- Noise pollution;
- Better position on the site to the west;
- Ownership of the access needs to be correct.

### **PLANNING HISTORY**

06/0682/OUT – New Bungalow. APPROVED

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

H2 (Range and Mix of New Housing Development)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

### Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP2 (Sensitive, High Quality Design)

Policy NP3 (Infill, Backland and Residential garden Development)

## **Site Description and Location**

The application site relates to an area of land currently used as garden space for 3 Orchard Close. The immediate area is characterised by residential properties of varying architectural design. The application site is located within the Ottery St Mary Built Up Area Boundary and is not subject to any landscape designations.

## **Proposed Development**

The application seeks outline consent for the construction of a dwelling with all matters reserved. The applicant has previously secured permission back in 2006 through approval of application 06/0682/OUT which has since lapsed. This application is an attempt to renew that permission albeit with a few differences. This application seeking permission for a chalet bungalow with a slightly altered means of access.

## **ANALYSIS**

The main issues for consideration relate to the principle of development, impact upon the character and appearance of the area and the amenity enjoyed by adjoining properties.

## **Principle of Development**

The site is within the built-up area boundary of Ottery St Mary as defined by the Adopted East Devon Local Plan. The spatial strategy for development is focused around the seven main towns and larger villages with a built up area boundary, as described by Strategy 27, which will form focal points for development. Strategy 6 of the Local Plan sets out criteria against which development within built up area boundaries can be assessed. Therefore the principle of residential development, whilst acceptable in principle, is subject to detailed considerations.

Policies in the 'made' Neighbourhood Plan seek to ensure that backland development is brought forward in an appropriate way.

### **Impact upon Character and Appearance of the Area**

The application has been submitted with all matters reserved. Despite this the development's description indicates that consent is sought for a chalet style bungalow.

The build would be largely screened from public view by the host property. However some short distance views are likely to be available within the close immediately forward of 5 Orchard Close and, depending on the height of the build, some glimpsed views of the roof might be available from Yonder Close and the lane that serves Orchard Hill but within the context of the existing development. Additionally the provision of a dwelling at the site is deemed to follow the established grain of development of the area and would reflect a similar footprint to plot ratio as 4A Orchard Close to the east.

To provide access to the dwelling the existing garage would be removed to facilitate the construction of a driveway. Whilst this would result in three driveways, all serving different properties sitting directly next to one another, this is not thought to be overly harmful to the character of the area.

As such it is anticipated that the site could accommodate a chalet bungalow without causing undue harm to the character and appearance of the area.

### **Impact on Neighbouring Amenity**

The indicative site plan submitted in support of the application gives an insight into how a dwelling could be accommodated within the site although the final location would be considered as part of any reserve matters application. It is considered that there would be an acceptable level of relief between the proposal building and adjoining garden spaces as not to be unduly harmful through overbearing effect.

The description of the development details the construction of a 'chalet' bungalow. It is anticipated that the applicant's intentions are to provide a bungalow with dormer windows/rooflights within the pitch of the roof to serve living space at first floor level. It is appreciated that the inclusion of this first floor living space has prompted objection comments from third parties and a Local Ward Member with concerns of overlooking.

It is acknowledged that the application site is located on elevated land that falls away to the north. As such, a number of properties along Yonder Close are situated at a lower level than the site and therefore could be overlooked by the development. The row of terraced properties to the North West have a row of garages that sit between them and the application site. Additionally these properties primary amenity space is to the north west of the properties and therefore the development would have limited impact upon these areas. However the Orchard, and in particular its rear garden area, immediately borders the application site to the north east. Despite this, bearing in mind that details regarding design are reserved at this stage, there is considered potential to provide high-level velux windows at first floor that do not overlook the rear garden and windows of The Orchard. This may necessitate some obscure glazing depending

upon the final design/orientation and position put forward but it is unlikely that a dormer with windows would be acceptable and an Informative to reflect this is recommended.

With regard to the properties in Orchard Close, it is considered that a chalet bungalow with rooflights or appropriately designed downer window could be provided without causing undue harm. This will of course be subject to detailed consideration at the reserve matters stage depending upon the final location and design of the dwelling.

As such the application is considered acceptable on amenity grounds and, despite concerns being raised regarding the impact of the development on the adjoining neighbours, the site is considered able to take on a chalet bungalow that could be designed so as not to be unduly harmful to surrounding residents – even if at reserve matters stage this necessitates the use of high level/velux windows only.

### **Highway Impact**

This outline application proposes a very similar access arrangement to that of the original outline ref: 06/0682/OUT. Essentially the details submitted indicate that three driveways that serve no3, no4A and the application building would be immediately next to one another. The County Highway Authority raised no objections to the 2006 scheme or the current proposal. As such the application is considered acceptable on highway grounds.

The indicative site plan appears to communicate enough space for two parking spaces and turning. Final details concerning parking and turning shall be submitted within a follow up, fully detailed, application.

### **Habitat Regulations Assessment and Appropriate Assessment**

The nature of this application and its location close to the Pebblebed Heaths and its European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of this designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

### **Impact on Trees**

The north western corner of the site is characterised by various shrubs and has a number of trees present including a fairly large Scotts Pine, Birch, eucalyptus and some smaller cherry trees. The Scotts Pine is prominent within the wider landscape and its retention is considered important due to its high amenity value. The site can accommodate the dwelling without the need to remove the valuable trees. Their retention during the construction phase is also important. As such, any approval should include conditions requiring the provision of Tree Protective Fencing prior to commencement of the development.

## **CONCLUSION**

Despite having previously obtained planning permission in 2006 the policy context in which the application has been assessed against has changed. The Ottery St Mary and West Hill Neighbourhood Plan contains policies that specifically addresses back garden development, such as this, through the provisions of Policy NP3 (Infill, Backland and Residential garden Development). Despite this, site still falls within the built-up area boundary where residential development is acceptable in principle.

The site is still considered to be able to accommodate development that would be in keeping with the character and appearance of the area whilst not causing undue harm to the amenity enjoyed at surrounding properties. Despite concerns raised by third parties and a Local Ward Member regarding impact of potential windows, the exact layout, scale and positioning of windows (including any dormer windows and rooflights) can be considered and controlled at reserved matters stage. A fully detailed application will still have to meet the provisions of Policy D1 (Design and Local Distinctiveness) of the Local Plan and NP3 of the Neighbourhood Plan and demonstrate that the development will not overlook adjoining garden areas or dominate the outlook of adjoining properties. It is however recommended to include an Informative on any decision to identify that dormer windows/velux overlooking The Orchard is unlikely to be acceptable.

The outline application is considered acceptable on the basis that the principle of development is acceptable and that a scheme for a chalet bungalow can be put forward without harm and as such the proposal is recommended for approval subject to conditions.

## **RECOMMENDATION**

### **1. Adopt the Appropriate Assessment**

### **2. APPROVE subject to the following conditions:**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.).

2. Approval of the details of the access, layout, scale and appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

(Reason - The application is in outline with one or more matters reserved.)

3. As part of any reserved matters application relating to layout details of final finished floor levels and finished ground levels in relation to a fixed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that adequate details of levels are available and considered at an early stage in the interest of the character and appearance of the locality in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

4. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

(a) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(c) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required in interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local

Distinctiveness and D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)

NOTE FOR APPLICANT

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 works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Informative:

Please note that it is considered unlikely that low-level velux windows or dormer windows will be acceptable facing the nearby property to the north-east (The Orchard) and care will be needed in relation to any windows in the roof facing 3, 4 and 4A Orchard Close. As such the design and location of the dwelling put forward at reserve matters stage should carefully take into account the need to protect the privacy of all surrounding properties. This may necessitate the construction of a chalet bungalow with no dormer windows or with high level velux roof lights only.

Plans relating to this application:

9249-PL-01 REV	Combined Plans	10.05.21
P1:	location/site	

List of Background Papers

Application file, consultations and policy documents referred to in the report.