

Ward Sidmouth Town

Reference 21/2875/VAR

Applicant Mr Spencer Brinton (East Devon Estates Ltd)

Location 55 Peaslands Road Sidmouth EX10 9BE

Proposal Variation of Condition 2 (approved plans) and Condition 4 (landscaping) of planning application 21/1148/FUL (Construction of a two-storey dwelling).



RECOMMENDATION: Approval with conditions

Crown Copyright and database rights 2022 Ordnance Survey 100023746



		Committee Date:16th February 2022
Sidmouth Town (Sidmouth)	21/2875/VAR	Target Date: 27.12.2021
Applicant:	Mr Spencer Brinton (East Devon Estates Ltd)	
Location:	55 Peaslands Road Sidmouth	
Proposal:	Variation of Condition 2 (approved plans) and Condition 4 (landscaping) of planning application 21/1148/FUL (Construction of a two-storey dwelling).	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members as the officer recommendation differs from that of a Local Ward Member.

The application is the latest in a series of applications that relate to a plot of land adjacent to 55 Peaslands Road. Application 18/2280/FUL for the construction a dwelling was refused by officers but subsequently allowed at appeal. A couple of follow up applications sought to make alterations to the layout and design of the build. Both were approved.

This latest Section 73 application seeks permission to vary condition 2 and 4 of 21/1148/FUL and make various alterations to the previously approved landscaping scheme. The main issue for consideration is the impact of the alterations to the Landscaping Scheme on the character and appearance of the area. This has resulted in an objection from the Town Council and a number of third parties. Officers are also mindful that a Local Ward Member has raised concerns over the ecological impact of removing the two sections of hedgerow.

However, having reviewed Policy 7(Local Distinctiveness) of the Sid Valley Neighbourhood Plan and the supplementary Place Analysis, it is considered that refusing the application on grounds that the brick wall and fence would be 'visually intrusive' would be unreasonable. The use of red brick and timber fencing is evident throughout Peaslands Road and whilst it is appreciated that removal and replacement of the hedging would result in a degree of change to the character and appearance of the finished build, compared to what was originally envisaged subsequent to approval of 21/1148/FUL, it is not thought that the proposed changes to the landscaping scheme would amount to significant visual harm that could justify refusal of permission.

Concerns from the Local Ward Member regarding the loss of habitat due to the removal of the hedging are also duly acknowledged. However it is not thought that the Local Authority could insist on the submission of an ecological appraisal or request mitigation measures to be implemented. The extent of hedging and shrubbery removed along the south and northern boundaries is considered modest and the ecological value fairly low. Despite this, it is reasonable to assume that the boundary that bordered Highfield in particular could have been a potential nesting site for birds. In this case the developer would have been subject to the legal requirements of the Wildlife and Countryside Act 1981 and therefore prior to removal of any hedging an assessment into the presence of any nesting birds would have been made.

Overall it is the opinion of officer's that the application proposed an alternative boundary treatment that would be sympathetic to the prevailing character of the area. As such the application is recommended for approval subject to adoption of the appropriate assessment and compliance with conditions listed below.

CONSULTATIONS

Local Consultations

Parish/Town Council

UNABLE TO SUPPORT

The proposed height and design of the wall and fence would not be in keeping with the character of the area creating a visually intrusive and unnatural barrier, tantamount to over development which would be contrary to Policy 7 (Local Distinctiveness) of the Sid Valley Neighbourhood Plan. Members also wished to express their regret at the removal of the original hedge.

Cllr Denise Bickley

I am absolutely against any removal of hedging. We need to be planting more hedges, knowing what we know now about climate and ecological breakdown. Past removals of hedges, and walls being built to replace them, cannot be the basis of future applications being approved - the precedent must largely be ignored and current thinking regarding nature recovery networks, biodiversity gains, habitat improvement be the most important incentive to effective planning applications being approved. We must start taking a firm stance on all applications which will contribute to habitat loss.

Cllr Cathy Gardner

I am concerned about habitat loss more than the visual effect. We are losing yet more dense cover for small birds, when we need to increase this. However if this is not sufficiently strong planning grounds for refusal then I will have to accept the recommended approval.

Other Representations

7 third party comments have been received. Summarised below are the main material planning issues raised.

4 objections have been received raising concerns over the following:

- Visual Impact of the dwelling.
- Increase in surface water run-off
- Increase in traffic
- Increase in noise disturbance.
- Incongruous appearance of the fencing.
- Loss of habitat for birds.

3 Representations have been made that have raised the following issues:

- The applicant shall need to apply to the County Highway Authority to drop the curb.

Planning History

18/2280/FUL - Construction of two storey dwelling within garden and provision of additional parking space. Refused but subsequently allowed at appeal.

19/2142/FUL - Construction of two storey dwelling within garden and provision of 2no. parking spaces (amendment to 18/2280/FUL to amend the ground floor plan to facilitate the formation of a parking space in front of the new dwelling). Approved

20/1616/FUL - Construction of dwelling within garden (amendment to 19/2142/FUL to include a studio/bedroom within the loft space). Approved.

21/1148/FUL - Construction of a two storey dwelling. Approved.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 26 (Development at Sidmouth)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

Sid Valley Neighbourhood Plan (Made)

Policy 7 (Local Distinctiveness)

Policy 9 (Residential Development)

Site Location

San Remo, also known as 55 Peaslands Road, is a large detached house on a corner plot at the junction of Peaslands Road and Brewery Lane. The existing dwelling of San Remo is detached whereas the remaining properties along this southern side of Peaslands Road form a terrace. Within the site there are currently domestic outbuildings and other garden paraphernalia screened by a large mature screened by

a large mature hedge. The site is located within the Built-up Area Boundary of Sidmouth.

Proposed Development

This application seeks permission to vary condition 2 (approved plans) and condition 4 (landscaping) of application 21/1148/FUL to make various alterations to the previously approved landscaping scheme.

The application for describes the changes being applied for as follows:

The boundary with Highfield comprises of a dilapidated dwarf wall topped with a mixture of rotten screen fencing and overgrowth of Laurel, Bamboo and other unsuitable species of plants. Over the years this has been a source of annoyance to the residents of Highfield who reside in the properties on the opposite side of the road. Although these properties all have their own parking spaces they choose to park their vehicles adjacent to the boundary with San Remo, now the building plot. These residents have often complained about the state of this boundary.

What we propose is to remove the overgrown hedge, fencing and wall and replace it with a new dwarf brick wall topped with vertically boarded screen fence.

Appropriate trees will be planted behind the fence to soften the visual impact.

Similarly along the boundary with Peaslands Road we wish to remove the existing hedge and again replace this with a dwarf wall topped with vertically boarded screen fencing with appropriate planting behind. After an inspection by our landscaping contractor it is considered that the existing hedge is of poor quality having become neglected and somewhat out of control. This hedge if retained will present a serious problem to any purchasers of the new dwelling and would we feel become a significant sale deterrent.

Analysis

As the principle of development and form of the dwelling have been granted on appeal, these matters cannot be revised under this applications and the main issues for consideration are the impact of the alterations to the Landscaping Scheme on the character and appearance of the area and impact upon ecology from removal of hedges.

Impact to Character and Appearance of the Area

The application details that retention of the existing hedging that borders Peaslands Road and Highfield, as indicated on the previous landscaping scheme approved 21/1148/FUL, is no longer possible. And in fact has already been removed.

The applicant has provided a statement explaining that the extent of hedgerow annotated on plan SR.20.01 along the southern boundary that borders Highfield is not possible. Reducing the bramble, bamboo and laurel hedging to the width shown on the plan would not be possible without replacing it.

The developer has therefore applied to vary the landscaping scheme and most notably construct a low brick wall with a close board timber fencing around the perimeter of the site. The argument has been put forward that the brick and timber fence shall provide an improved amenity space for prospective occupiers of the dwelling.

Removal of the hedging has altered the character of the application site which has historically always been enclosed with a privet hedge running parallel to Peaslands Road and a mix of shrubs and hedging along Highfield. The site is also located on a prominent corner adjacent to a junction between Peaslands Road and Highfield and the removal and replacement of the boundary would be particularly noticeable upon approaching the site from the west. The wider area is also characterised by intermittent spots of greenery, hedging and trees that enclose garden areas. Some local trees of particular significance are those that front Halwell, 52 and 54 Peaslands Road, a number of which are protected under a preservation order. Loss of the hedging at the site on prominent corner is unfortunate and as such there is sympathy with comments made from The Town Council, Local Ward Members and third parties.

Despite this, the application proposes to replace the hedging with a low brick wall below closed timber board fencing with a section of trellis. The submitted plans also indicate that the fencing would be finished in sage green. The application also includes a pair of sections that communicate how the overall height and proportion of brick to fence shall differ on the boundary of Peaslands Road and Highfield. Due to the level differences between the application site and Highfield Road the southern boundary at the eastern end shall be 2.3 metres, however, this would gradually taper towards the western gate. The northern boundary, that front Peaslands Road, shall consist of a 500mm of facing brick below 1300mm of timber fencing, 300mm of which would be trellis.

The Town Council and a Local Ward Member in addition to a number of third parties, have expressed concerns over the visual impact of the replacement boundary. As already alluded to above, it is acknowledged that the proposed removal of the existing hedging would lead to a change in character at the site that would be visible from adjacent highway and private property. However in this case the change in boundary treatment, whilst different, is not considered to amount to significant visual harm. It is also important to highlight that the use of brick and timber has been used throughout Peaslands Road, particularly along the frontages of a number of the properties on the northern side of the road. The applicant has also submitted photos of a number of photos that has sought to identify properties that are enclosed using similar boundary treatments.

Policy 7 of the Sid-Valley Neighbourhood Plan states that development proposals will be expected to have regards to the character of the immediate area as set out in the Place Analysis. Peaslands Road and Highfield are addressed at section 6.3 of the Place Analysis and falls within the Elysian Fields catchment area. The frontage along Peaslands Road is identified as one of a number of roads that have a defined street frontage characterised by varied and distinctive interfaces between buildings and streets. For reasons already highlighted in the previous paragraph, the use of brick and timber for the boundary treatment is considered sympathetic to the area and would reinforce characteristics highlighted within the Place Analysis.

On balance therefore, and whilst the loss of the boundary planting is regrettable, it is not considered that a refusal of planning permission could be justified given the poor condition of the previous hedge and suitable replacement boundary treatment that will be supplemented by new tree planting.

Ecological Impact

A local Ward Member has objected with concerns over the loss of ecological habitat due to the loss of hedging.

Upon submission of the current application all hedging had already been removed from the site. In this case it is hoped that the developer carried out the hedge removal works in accordance with the Wildlife and Countryside Act 1981 and that trees were checked for nesting birds.

However, due to the hedge removal works, conducting an investigation into the presence of potential nesting birds is no longer possible. Despite this, due to the extent of the hedging removal works, and as the works do not include the removal of trees or demolition of an existing building, it is unlikely that the Local Planning Authority would have insisted on the completion of a full survey to support the application even if the hedging was still present upon submission.

The landscaping does detail the planting of a Japanese Cherry, 2 Mountain Ash and a Magnolia tree. Overtime, once these establish, could provide an alternative means of potential nesting sites for birds.

Overall, despite concerns raised from the Local Ward Member, it is the opinion of officers that the ecological impact of the hedge removal works are not significant enough to warrant refusal of the application.

Appropriate Assessment

The nature of the application and its location close to the Pebblebed Heaths and their European Habitat designation is such that the proposal requires a Habitat Regulations Assessment. The Appropriate Assessment is 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 the 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.

CONCLUSION

In light of the above, refusing the application on grounds that the brick wall and fence would be 'visually intrusive' would, in the opinion of officers, be very hard to justify on appeal. The use of the materials proposed to enclose the site are used throughout Peaslands Road and whilst it is appreciated that the construction of the wall and fencing would result in a degree of change to the character and appearance of the finished build compared to what was originally envisaged subsequent to approval of 21/1148/FUL, it is not thought that the proposed changes to the landscaping scheme would amount to visual harm enough to justify refusal of planning permission.

Concerns from the Local Ward Member regarding the loss of habitat due to the removal of the hedging are also duly acknowledged. However, for reasons given above it is not thought that the Local Authority could insist on the submission of an ecological appraisal or request mitigation measures.

On balance therefore, and very much regretting the loss of the boundary planting, the application is recommended for approval subject to the conditions listed below.

RECOMMENDATION

1. Adopt the Appropriate Assessment
2. APPROVE subject to the following conditions:
 1. The development hereby permitted shall be begun before the 22nd July 2024 and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
 2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
 3. Notwithstanding the approved plans, the proposed dormer, on the eastern roof pitch, shall be constructed in accordance with drawing number SR.20.04.
(Reason - for the avoidance of doubt and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
 4. Prior to occupation of the dwelling, the submitted Landscaping Scheme (SR-20-1 A) shall be implemented in full and maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the 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 D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

5. The dwelling hereby approved shall be constructed using smooth red facing brick as per the sample submitted to the Local Planning Authority on the 29.10.21 and Villa Del Rey Spanish Natural Slate unless otherwise agreed, in writing, by the Local Planning Authority.
(Reason - In the 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 D2 - Landscape Requirements 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.

The historical planning application is referenced under 21/1148/FUL for which the approved plans were as follows:-

	Location Plan	20.05.21
	Block Plan	20.05.21
SR-20-01 A	Proposed Combined Plans	22.04.21
SR-20-02 A	Proposed Combined Plans	22.04.21
SR-20-04	Staircase Dormer	15.07.21

This decision notice for the variation should be read in conjunction with these previously approved plans.

Plans relating to this application:

	Sections	07.01.22
	Sections	07.01.22
SR-20-01 A	Landscaping	01.11.21

List of Background Papers

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

