

Ward West Hill And Aylesbeare

Reference 22/1094/RES

Applicant Mr G Webb

Location Hasta La Vista Windmill Lane West Hill Devon
EX11 1JP

Proposal Reserved matters application for access,
appearance, layout, scale and landscaping
pursuant to outline planning permission
19/2834/OUT



RECOMMENDATION: Approval with conditions

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		Committee Date: 25.10.22
West Hill And Aylesbeare (West Hill)	22/1094/RES	Target Date: 20.07.2022
Applicant:	Mr G Webb	
Location:	Hasta La Vista Windmill Lane	
Proposal:	Reserved matters application for access, appearance, layout, scale and landscaping pursuant to outline planning permission 19/2834/OUT	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

The application seeks permission for matters reserved subsequent to approval of 19/2834/OUT for the construction of a single dwelling.

Applications 19/2834/OUT and 22/1094/RES are the second series of applications for residential development at the site. The first set of approvals, 16/2517/OUT and 20/0482/RES, have since lapsed. The current applications are an attempt to renew the previous consent.

The current application seeks approval for access, appearance, layout, scale and landscaping.

The site is located within the Built-up area boundary of West Hill as defined within the adopted East Devon Villages Plan. Therefore the site is considered to occupy a sustainable location within an area considered appropriate in principle to accommodate additional residential development.

Over recent years West Hill has seen comparatively high levels of infill village development as people have subdivided large gardens to accommodate additional new dwellings. There has, more recently, been outward expansion of the village to accommodate new houses.

The Neighbourhood Plan through Policy NP3 supports infill, backland and residential garden development in principle stating that such development will only be permitted where it reflects the character of the area, is of an appropriate

density, benefits from adequate parking provision and has boundary treatments that reflect the area.

The plans detail the construction of a two-bedroom brick and tile bungalow forward of Hasta La Vista. Whilst the concerns raised by the Parish Council and Ward Member are acknowledged, the construction of a dwelling east of Hasta La Vista is considered possible whilst respecting the character of the immediate area and retaining neighbouring amenity.

Notwithstanding its limited size and area, the plot is capable of accommodating a single storey dwelling of modest proportions and would not be out of character with the immediate area where dwellings on smaller plots are located close to the highway.

Having regard to the balance of considerations set out above it is thought that notwithstanding its limited size and area, the proposed bungalow would not appear unduly harmful to the character or appearance of the street scene of Windmill Lane or result in any materially adverse impact upon the living conditions of the occupiers of neighbouring or nearby residential properties.

Furthermore, it is considered that development could be accommodated without compromising the health or integrity of the adjacent protected Walnut tree.

It is therefore recommended that the proposal for reserved matters consent be granted.

CONSULTATIONS

Local Consultations

Parish/Town Council

West Hill Parish Councillors considered the application and agreed comments under Delegated Powers, 11th July 2022.

In addition to the comments previously submitted:

The application is contrary to Policy NP26: West Hill Design

- o NP26 Pt 7: the arboricultural report is out of date (dated 15/05/14). The site is small and the proposed development is in the vicinity of trees as indicated in the tree protection plans. The TPP which although dated 2022, still refers to the outline planning application from 2019. Cllrs strongly requested that a new arboricultural report is carried out to assess the impact of the proposed development. Cllrs supported the submitted comments expressing concerns about the adverse impact on a neighbouring walnut tree (TPO). West Hill is a woodland village and these trees contribute to the character of the village.

- o NP26 pts 3, 4: Cllrs supported comments from neighbours that the proposed separate accesses which would be unacceptable for such a small narrow lane, also right next to the access for the existing property.

Parish/Town Council

Cllrs did not support the application for the following reasons:-

1. it is unclear how this application varies from the approved scheme 20/0482.
2. The application is contrary to Policy NP26: West Hill Design
 - a. NP26 Pt 7: the arboricultural report is out of date (dated 15/05/14)
 - b. NP26 5,8,9: Landscaping details have not been submitted as required by the outline approval
 - c. NP26 pts 3, 4: It appears that there could be separate accesses which would be unacceptable and these are not defined on the plans. Details have not been provided.

Cllrs noted that the scheme is incorrectly shown as a outline application on EDDC website and any approval should have a condition for approval of main external materials

West Hill And Aylesbeare - Cllr Jess Bailey

I wish to register my objection to this reserved matter planning application for the following reasons:

1. The tree report is completely out of date and I am concerned about the impact on the impact on the Walnut tree. It is in my view incorrect to validate planning applications when out of date information. Up to date information needs to be submitted and it is important to assess the impact on the walnut tree.
2. I am opposed to 'cramming' which is eroding the verdant and spacious character of the village which the neighbourhood plan policies seek to protect.
3. I am concerned about the proximity of the proposed dwelling both to the 'host' dwelling and the adjacent property and impact on the amenity of these properties through noise etc.

Other Representations

Four objections have been received raising the following issues:

- Cramming too much development onto a modest site
- It will put at risk a protected walnut tree causing damage to its roots
- The tree report was made in 2014 and is out of date and incorrectly identified the tree as a Monterey cypress
- Lack of sufficient off-street parking with consequential issues of parking on the highway near a bend. This can lead to vehicles mounting the pavement to get past which is dangerous to pedestrians including school children
- Overlooking and loss of privacy due to the close proximity of the proposed property to the boundary

PLANNING HISTORY

Reference	Description	Decision	Date
19/2834/OUT	Outline application for the construction of a single dwelling house with all matters reserved	Approval with conditions	30.07.2020
16/2517/OUT	Outline application for the construction of a new dwelling house with all matters reserved.	Approval with conditions	07.03.2017
20/0482/RES	Application for approval of reserved matters (access, appearance, landscaping, layout and scale) for the construction of a new dwelling house pursuant to outline planning permission 16/2517/OUT	Approval with conditions	30.07.2020

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)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

Ottery St Mary and West Hill Neighbourhood (Made)

NP2 (Sensitive, High Quality Design)

NP3 (Infill, Backland and Residential Garden Development)

NP26 (West Hill Design)

Site Location and Description

The site comprises of a plot of land approximately 0.045 hectares in area that currently forms the front garden of Hasta La Vista, a detached residential property located on the west side of Windmill Lane, a residential cul de sac, towards the north western corner of the built-up area of West Hill.

The existing dwelling itself is set well back within the curtilage, the overall area of which is around 1 hectare, and is positioned towards its north western corner. Vehicular access is taken from Windmill Lane at a point positioned towards the north eastern corner of the plot and application site.

The plot is mainly laid to lawn with some shrubs and rises gently from its road frontage, which is defined by established, and mainly evergreen, hedge and tree planting to the rear of a low stone wall, to the west.

Windmill Lane is characterised by a mix of detached houses, bungalows and older properties that are sub-divided into flats set within plots of varying areas and configurations with, in some cases, building forms positioned close to plot frontages that are predominantly either open or defined by tree and hedge planting. It is therefore perhaps slightly less typical of the lower density layout and spacious settings of many residential properties elsewhere throughout West Hill.

Proposed Development

This fully detailed application proposes a 'T' shaped bungalow with a north facing gable and hipped western and eastern projections. The submitted elevations indicate that the dwelling would be constructed in brick with a tiled roof.

Principle of Development

The principle of residential development was considered at outline stage during the assessment of 19/2834/OUT. The current application provides details regarding access, appearance, layout, scale and landscaping for consideration.

Visual Impact

Since the first series of applications were approved (16/2517/OUT & 20/0482/RES), the applicant has secured further outline consent (19/2834/OUT). The details submitted with the current reserved matters application still seeks consent for the construction of a brick bungalow and mimic the layout and design approved under 22/1094/RES albeit with minor changes to materials used.

Concerns have been raised by a Local Ward Member, the Parish Council and a number of third parties regarding the developments relationship with adjacent and nearby properties and the subsequent impact on the character of the immediate area. Comments have made reference to policies NP3 (Infill, Backland and Residential Garden Development) and NP26 (West Hill Design) of the Neighbourhood Plan. In particular concerns of the proposal failing to conserve the low density pattern of development of West Hill.

The impact of construction of a dwelling at the site was a material consideration during outline stage. During the assessment of 19/2834/OUT that went before members on the 29th July 2020, the officer's committee report concluded the following;

“It is acknowledged that the plot is modest in size and any subsequent dwelling would need to have a limited footprint to reflect this and enable the provision of suitable amenity space and parking whilst protecting existing landscape features. Additionally it is accepted that the plot is small when compared to the spacious character, layout and pattern of development that prevails throughout the remainder of West Hill. However, Windmill Lane itself is characterized by smaller plots with dwellings and outbuildings positioned in close proximity to their highway frontages with very limited front garden areas. As such, it is not considered that the construction of a modest dwelling on the plot close to its highway boundary would appear unduly harmful to the character or appearance to the street scene of Windmill Lane.

Whilst the Neighbourhood Plan was not a material consideration during the assessment and approval of the previous outline application (16/2517/OUT) in 2017, it is considered that the objectives of Policies NP3 and NP26 are reflected within Policy D1 (Design and local Distinctiveness) of the East Devon Local Plan. The delegated officer’s report for application 16/2517/OUT, detailed how the development, when assessed against Policy D1, was deemed acceptable and would not be out of character.

Due to the well landscaped nature of the road, public views of the proposed dwelling would be restricted to, and most prominent from, the northern most part of Windmill Lane where it will be viewed in association with the dwellings opposite that sit at the back edge of the road. Therefore it is not considered that the development would result in material harm to this part of settlement such that it could be reasonably resisted.”

The proposed siting of the dwelling and reduction in the hedging to the east that runs parallel to Windmill Lane would result in the development being visible upon approaching from the north. However, the scale and form of the single storey dwelling, despite being located close to the highway, is considered in keeping with the character of Windmill Lane. The use of brick and tiles mimics the existing property and other dwellings within the immediate area and therefore their use is considered appropriate.

Development forward of Hasta La Vista would undoubtedly lead to a visible increase in built form at the application site. However, the host property, which is set back from the adjacent highway, would retain an acceptable level of garden to the front and rear. The subsequent impact on the grain of development within the immediate area is considered minimal, particularly when the development is viewed in the context of Windmill Lane rather than Bendarroch Road which is much more akin to the prevailing character throughout West Hill of which Policy NP26 provides emphasis on preserving. Windmill Lane has its own character type and as such a higher level of density is considered acceptable.

Overall the design of the bungalow is largely what was envisaged to be acceptable at outline stage and reflects the scale and form of the dwelling shown on an indicative site plan submitted with 19/2834/OUT (DRWG:P1920:05). Therefore, condition 6 of the decision notice of 19/2834/OUT is considered to have been complied with. As such, whilst concerns raised by the Local Ward Member and

Parish Council are duly acknowledged, it is the position of officers that the application could not be reasonably resisted on design grounds.

Impact on Neighbouring Amenity

Retention of the vegetation along the southern boundary ensures that the dwelling would be unlikely to result in any harm detrimental to the living conditions to occupiers of Four Seasons. Additionally the boundary to the north consists of dense mature tree growth that completely screens the site from views along the rear gardens that serve properties along Bendarroch Road. The landscaped boundary with the road and presence of the road itself provide adequate separation with the dwellings on the opposite side of Windmill Lane. The single-storey nature of the proposed dwelling reduces the physical impact of the development upon surrounding properties.

The area with the potential for the greatest impact would therefore be upon the host dwelling itself. The land rises slightly from east to west and therefore the proposed dwelling is located on lower lying ground and as such would not be physically overbearing or dominating to the amenity enjoyed at Hasta La Vista. The proposed dwelling's primary outlook would be to the north and west. The bedrooms would have a primary outlook to the north over the shared driveway. The living and dining space would have a main outlook to the west through two sets of bi-folding doors. Whilst these doors face towards part of the host dwellings outdoor amenity space, the difference between levels in addition to the proposed fencing ensures that overlooking is not an issue.

Impact on Existing Trees

The application necessitates the removal of two small individual trees, annotated as T3 and T4 on the Constraints Plan. These two trees are considered to be of little amenity value and their loss is not considered unduly harmful or of any particular significance to warrant the need for replanting. The application also necessitates the removal and replacement of the tree indicated as G2 on the Constraints plan.

To the south east of the site, in the north eastern corner of Four Season's garden, is a mature Walnut tree which is approximately 17 metres tall. The arboriculture report, conducted by Devon Tree Services, categorises the tree as a 'B1' which allocates it as a tree with moderate quality. The Walnut is protected under a blanket Tree Preservation Order (TPO) and makes a positive contribution to the immediate area providing visual amenity along Windmill Lane.

The subsequent impact on the adjacent walnut has prompted concerns from the Local Ward Member, the Parish Council and a number of third parties, including the occupants of Four Seasons. However concerns over the proximity of the build to the protective fencing communicated on the Tree Protection Plan (TPP) have been addressed. The applicant's architect has provided revised drawings to communicate that the layout is to be identical to the original series of applications (16/2517/OUT & 20/0482/RES).

During the assessment of 19/2834/OUT an indicative Site Plan (DRWG:P1920:05) was submitted alongside the current TPP in addition to further information from Devon Tree Services. The layout has been informed by the Root Protection Area of the walnut with the car port, rather than an external wall with standard foundations, being constructed on the south eastern side of the dwelling. A Construction Exclusion Zone (CEZ) is annotated on the TPP and would be protected by Heras fencing which would be erected prior to any development taking place.

Despite the submitted drawings communicating a scheme that is anticipated to preserve the walnut, further verbal discussions have taken place between planning officer and the Local Authority's tree officer. It has been confirmed that the position remains as it did during the assessment at outline stage that the layout put before the LPA is acceptable on arboricultural grounds.

Some third party comments have raised concerns with regards to future pressure to prune the walnut as a result of prospective occupants complaining of shading during daylight hours. However, owing to the adjacent blanket Tree Preservation Order that includes the walnut, any works to the tree would require consent from the Local Authority.

Furthermore, the issue of liveability has already been considered and in this case, the shading caused by the Walnut would only impact one habitable room (Kitchen) for a relatively short period of the day. Additionally, the canopy of the Walnut tree already has a clearance of almost 9 metres over the ground level of the garden due to past pruning. Whilst recent appeal decisions at Sidmouth and Exmouth (APP/U1105/W/19/3235304 & APP/U1105/W/19/3233336) establish that such reasons for refusal are well founded when a certain level of harm is inevitable, the potential harm in this case, and associated risk of this harm arising, is considered to be relatively low.

As such the position of officers remains that the subsequent relationship of the development with the adjacent walnut tree is acceptable.

Highways

The application proposes a shared access with the host dwelling of Hasta La Vista. The County Highway Team have not come forward with any comments and the access is suitable to serve two dwellings.

The site plan proposes that two parking spaces would be incorporated along the eastern boundary in tandem with one located under a car port. It is considered that sufficient parking and turning could be provided for at least two cars on the site.

Habitat Mitigation and Appropriate Assessment

The nature of the outline 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 Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. 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 so will pay the infrastructure element of the required mitigation through this route. A financial contribution towards non-infrastructure elements of the mitigation strategy has also been secured through submission of a section 111 agreement as part of the outline application (19/2834/OUT) against which this reserved matters application is made. 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

The submitted details have been assessed against policies within the Neighbourhood Plan that specifically addresses applications for infill, backland and residential development (Policy NP3) and the design of dwellings (NP26) in West Hill. The drawings communicate a modest dwelling with an appropriate level of outdoor amenity space, parking and landscaping. Whilst concerns with regards to overdevelopment and cramming are acknowledged, the ratio of the footprint and garden is thought to be similar to that exhibited at other properties along Windmill Lane.

The design, scale and form of the bungalow reflect what was envisaged at outline stage and is therefore considered sympathetic to the character of Windmill Lane that it would meet the objectives of Policy D1 (Design and Local Distinctiveness) of the Local Plan and Policy NP26 (West Hill Design).

The application is therefore recommended for approval subject to conditions that secure provision of Tree Protective Fencing prior to commencement and remove some Permitted Development Rights.

RECOMMENDATION

1. ADOPT the Habitats Regulations Appropriate Assessment that forms part of the report.
2. APPROVE the reserved matters application subject to the following conditions:
 1. East Devon District Council as Local Planning Authority HEREBY APPROVE THE FOLLOWING RESERVED MATTERS of the above described development proposed in the application numbered as shown above and in the

plans and drawings attached thereto, copies of which are attached to this notice relating to:-

- (a) Access
- (b) Appearance
- (c) Landscaping
- (d) Layout
- (e) Scale

This Reserved Matters application numbered as shown above is made pursuant to the Outline Planning Permission (ref. No. 19/2834/OUT) granted on 15th July 2020.

The following reserved matters have yet to be approved:

None

The following conditions attached to the Outline Planning Permission (ref. No. 19/2834/OUT referred to above and relating to the site covered by this reserved matters application are hereby discharged, have previously been discharged or remain to be complied with on-site but without the need for the submission of details or separate agreement:

3, 6

2. The development hereby approved shall be carried out in accordance with the Tree Protection Plan and Arboricultural Method Statement prepared by Devon Tree Services, Drawing No. DTS19.1167.1.TPP. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant. In any event, the following restrictions shall be strictly observed:
 - (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
 - (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
 - (c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.
(Reason - To ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that

Order, with or without modification), no development of the types described in Classes A, B or E of Part 1, or Class A of Part 2, of Schedule 2 to the Order shall be carried out without a grant of express planning permission from the Local Planning Authority.

(Reason - To enable the Local Planning Authority to retain control over operations that would not ordinarily require a grant of planning permission in the interests of preventing overdevelopment of the site and to comply with Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan 2013 - 2031.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

WL AL (-) 05 A	Layout	27.09.22
WL AL (-) 04 A	Block Plan	27.09.22
WL AL (-) 02	Proposed Floor Plans	18.05.22
WL AL (-) 01	Proposed Elevation	18.05.22
WL AL (-) 10	Location Plan	25.05.22

List of Background Papers

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