

REPORT OF THE HEAD OF PLANNING AND REGENERATION

19/01608/HOUSE – Tanglewood Dukes Orchard Bradninch Exeter

Erection of single storey extension and separate garage/annex/workshop accommodation

Reason for Report:

At the Planning Committee meeting on 12th February 2020, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

RECOMMENDATION(S)

Grant planning permission subject to conditions.

Relationship to Corporate Plan:

Homes

- Planning and enhancing the built environment

Environment

- Protect the natural environment

Financial Implications:

An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal—in line with the development plan and all other material considerations.

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 12th February 2020 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal.

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

Consultation carried out with:

1. Statutory Consultees

1.0 BACKGROUND:

1.1 At the meeting on 12th February 2020, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the proposed reasons for refusal, that of: the proposal was not in accordance with Policies DM13 (a) and (c) of the Local Plan Part 3 (Development Plan Policies)

a) Respect the character, scale, setting and design of existing dwelling;

c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

and DM2 (a) and (e) of the Local Plan Part 3 (Development Plan Policies)

a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;

e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:

i) Architecture

ii) Siting, layout, scale and massing

iii) Orientation on and fenestration

iv) Materials, landscaping and green infrastructure

2.0 FURTHER OFFICER ADVICE:

2.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:

2.2 The proposed development is not in accordance with policies DM13 (a) and DM2 (a) and (e)

Policy DM2 requires development to demonstrate a number of positive development principles including a clear understanding of the characteristics of the site, its wider context and the surrounding area and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes taking in to account architecture, siting, layout and massing, materials, landscaping and green infrastructure.

Policy DM13 requires that extension to existing dwellings and other ancillary development will be permitted provided that they respect the character, scale setting and design of the existing dwelling.

In respect to the visual impact of the proposed development, and its impact on the character of the area, your officers noted in the committee report that the garage/workshop/annexe would be large in scale and prominently positioned to the southern edge of the application site, where it would be more visible from views within Dukes Orchard. On balance, the officer's view was that the proposal would have an acceptable impact.

The consideration of matters such as design and overall impact on the character and appearance of the area is a subjective matter and in assessing the application, Members are perfectly entitled to take a different view to that of the recommending officer. Despite the

officer's recommendation, the proposed garage/workshop/annexe would be a large structure, highly visible from public vantage points.

With this in mind, your officers do not consider that a reason for refusal in relation to the visual impact of the proposed building, and its failure to respect and relate to the character of the area, would be unreasonable.

2.3 The proposed development is not in accordance with policies DM13 (c) and DM2 (e)

Policy DM2 requires development to demonstrate a number of positive development principles including a clear understanding of the characteristics of the site, its wider context and the surrounding area and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses

Policy DM13 requires that extension to existing dwellings and other ancillary development will be permitted provided that they will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

In respect to the impact of the proposed development, on the residential amenity of the neighbouring occupiers, in particular the occupier of no. 2 Dukes Orchard, your officers advised in the committee report that the garage/workshop/annexe would close to the western boundary of the site, adjoining 2 Dukes Orchard, however due to its location to the north east of this adjoining bungalow, the movement of the sun will be such that any overshadowing would be minimal, with the shadow being cast predominantly over the applicant's garden and property as the day passes.

In considering the opportunities for overlooking, the areas of concern identified were potential views from the eastern gable window serving the annexe, and the stairs accessing the annexe, which could provide overlooking of the Beeches and 2 Dukes Orchard. National policy and guidance advises that planning permission should not be refused, where appropriate conditions could be imposed to mitigate the adverse effects. In this case, conditions could be imposed to require the provision of obscured and non-opening windows to the east elevation window and a privacy screen to the top of the stairs could adequately prevent the identified overlooking issues, thereby preventing harm to residential amenity, through overlooking.

In respect to general overbearing impact, the property most likely to be affected was identified again as being 2 Dukes Orchard. In considering the impact, it is noted that the building would be set away from the nearest part of 2 Dukes Orchard by approximately 5.5m. It would adjoin a small part of the boundary with the garden of this property, however due to the alignment of the fence, the majority of the building would be over 3m from the boundary fence and reasonably distant from the adjoining property. It should also be noted that the building is proposed to be constructed at the lowest ground level, to allow vehicular access from the adjoining drive, with the land behind excavated and the property dug in, which would further reduce the impact of the building. The majority of the proposed building will be level with the garden of 2 Dukes Orchard, rather than the property itself. In this respect, the adjoining garden is raised above the level of the associated house, at a similar level to the application site. Taking into account the similar levels of the two gardens, and the height of the proposed building following excavation of the site, the impact on the garden area, your officer's view was that the proposal would be acceptable. Notwithstanding this, the proposed garage/workshop/annexe is a large structure near to the boundary of 2 Dukes Orchard, projecting to the rear and side of this property. While the officer's recommendation was one of approval, this was a very balanced recommendation.

While it is not considered that the proposal would create harm as a result of overlooking or overshadowing, for the reasons identified above, there will be some harm from general overbearing impact due to the presence close to the boundary, and due to its size and scale. As with design and visual impact, there is an element of subjectivity in assessing impact on residential amenity, and apportioning the level of harm where this is identified. As such, it is perfectly reasonable for Members to come to a different conclusion to the officer's recommendation.

With the above in mind, your officers do not consider that a reason for refusal based on harm as a result of overlooking or overshadowing, in this instance, would be successful. It is not however considered that a reason for refusal based on general overbearing impact, would be unreasonable.

3.0 REASONS FOR REFUSAL:

3.1 Members are advised that while the officer's recommendation is one of approval, the matters discussed are subjective. In neither case is it considered unreasonable for Members to come to a different view of the recommending officer, provided that these concerns have been properly debated and cogently articulated in the reasons for refusal.

If, having considered all the above further, Members still consider that the proposal should be refused, then consideration should be given to the following reasons for refusal:

1. The proposed garage/store/annexe by reason of its siting, layout, scale and mass, fails to respect or relate to the character, scale and setting of the existing dwelling and its surroundings. As such it would have a detrimental impact on the character and appearance of the locality due to its failure to demonstrate a clear understanding of the characteristics of the site, its wider context and the surrounding area. The proposal is therefore contrary to policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.
2. The proposed garage/store/annexe by virtue of its height, bulk and close proximity to the boundary of the site would result in an overbearing and unneighbourly form of development that will have an unacceptably adverse effect on the residential amenity of the occupiers of 2 Dukes Orchard. As such, the proposal is contrary to policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

Contact for any more information

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Background Papers

Application file and previous committee report

File Reference

19/01608/HOUSE

Circulation of the Report

Cllr Graeme Barnell