

**DEFERRED AT PLANNING COMMITTEE 9 SEPTEMBER 2020 FOR SITE VISIT  
(PROPOSED SITE VISIT 18 SEPTEMBER 2020)**

Application No. 20/00622/OUT

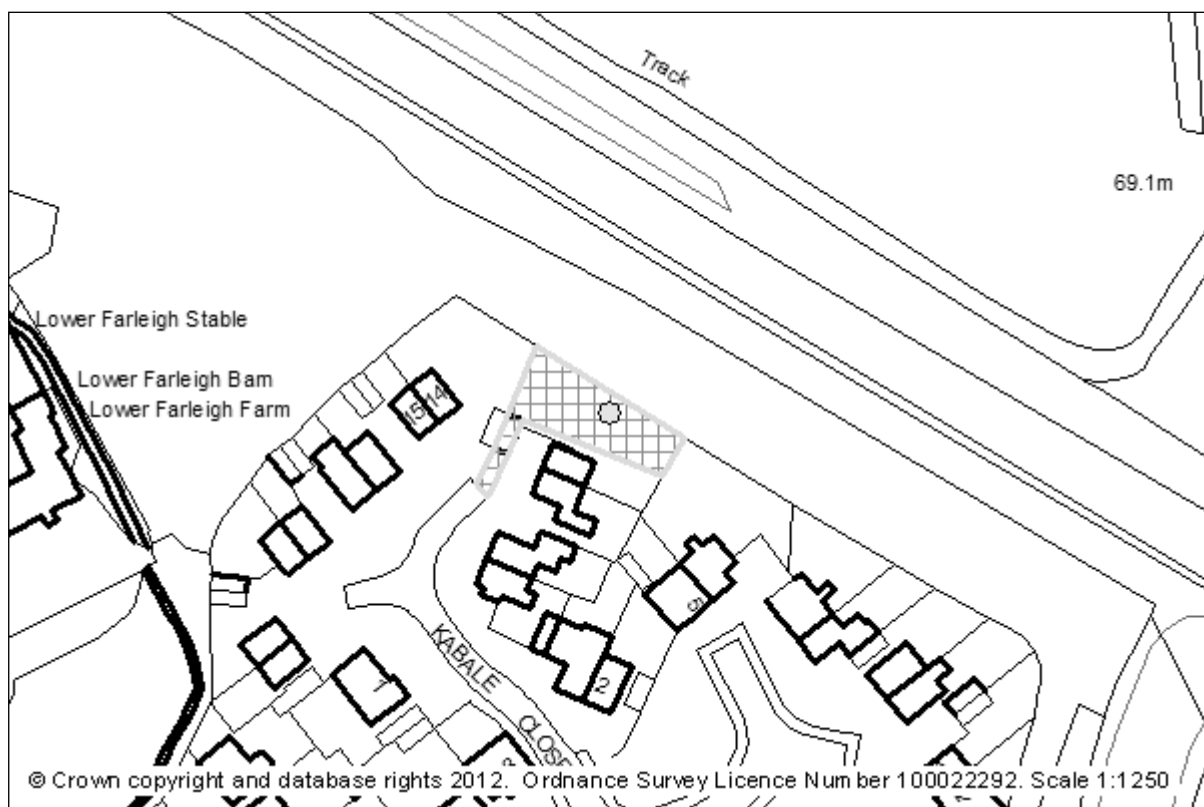
Grid Ref: 294424 : 113848

Applicant: Mr & Mrs G Wright

Location: 12 Kabale Close  
Tiverton  
Devon

Proposal: Outline for the erection of 1 dwelling

Date Valid: 21<sup>st</sup> April 2020



**APPLICATION NO: 20/00622/OUT**

**MEMBER CALL-IN**

Councillor Ron Dolley has called this into committee for the following reason:

1. For the Planning Committee to consider whether to the access and parking arrangements are adequate.

**RECOMMENDATION**

Grant planning permission

**PROPOSED DEVELOPMENT**

The applicant seeks outline consent for the erection of 1 dwelling at 12 Kabale Close, Tiverton.

**RELEVANT PLANNING HISTORY**

85/00613/FULL - PERMIT date 23rd December 1985

Residential development including off site road and drainage works and a shop

86/00080/FULL - PERMIT date 21st March 1986

Erection of dwellings with garages, drainage and access roads thereto (revised drawings)

**DEVELOPMENT PLAN POLICIES**

**Mid Devon Local Plan Review 2013-2033**

S1 – Sustainable development priorities

S2 – Amount and distribution of development

S3 – Meeting housing needs

S8 – Infrastructure

S9 – Environment

S10 - Tiverton

DM1 – High Quality Design

DM5 – Parking

**CONSULTATIONS**

**Tiverton Town Council** – 22nd July 2020

Unable to support as felt to be over development

**Highway Authority** – 15th July 2020

This application would normally be dealt with using Standing Advice and the Planning Officer would assess the impact this would have on the Highway Network. In this case the Planning Officer has asked for the County Highway Authority's observations.

The site is accessed off an unclassified County Route which is restricted to 30 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2014 and 31/12/2018 is none. The Drawing Number C/PLP/OWG Rev 1 shows the proposed property to have a 2 parking spaces and an open drive way to these parking spaces. The number of trips this development could generate will not be a severe affect on the Highway. The Highway Authority has no objections to this proposal

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

**Environment Agency** - Standing advice – flood zone 1

**Public Health**

Contaminated Land: No objection to this proposal. (29.04.20).

Air Quality: No objection to this proposal. (29.04.20).

Environmental Permitting: No objection to this proposal. (24.04.20).

Drainage: No objection to this proposal. (29.04.20).

Noise & other nuisances: This is a noise sensitive dwelling being brought to an existing noise source (A361), the developer needs to demonstrate that all mitigation methods have been considered to achieve satisfactory internal noise levels within the proposed build.

To help achieve this, a BS 8233 (2014) noise assessment should be undertaken.

For a new noise sensitive development near an existing source of transport noise the LAeq (16hr day and 8hr night), or the shortened calculation method, should be measured. In addition, suitable shorter term LAeq, LA90, LA10 and LAmax would be expected to give a clearer picture of the existing noise environment. (29.04.20).

Update - Noise assessment can be dealt with at reserved matters (02.07.20)

Housing Standards: There are no floor plans to comment on. (04.05.20).

Licensing: No comments. (24.04.20).

Food Hygiene: No comments. (24.04.20).

Private Water Supplies: Not applicable. (24.04.20).

Health and Safety: No comments. (24.04.20).

**REPRESENTATIONS**

Representations in objection to the proposal have been received from 5 individuals and a petition of objection with 12 names and addresses listed. The comments received are summarised as follows:

1. The new access goes past the front of the neighbouring property, concern that traffic might drive over yard and possibly damage property
2. The access is not big enough to accommodate another property
3. There is not enough room for parking. Kabale Close and Hofheim Drive are already congested at evenings and weekends
4. Overdevelopment of the area. All of the other houses have garages and spacious gardens
5. The access will require demolition of part of a shared double garage
6. The windows and doors from the house would overlook other properties and result in loss of privacy
7. The application does not maintain the area's character and setting and shows a downgrading of local amenity
8. The access will cause disturbance through noise and exhaust fumes
9. Joint access is not common to other properties locally
10. More details should be show if it is proposed to be a bungalow or house
11. The driveway width is less than highways standing advice
12. The porch of No12 is not shown on the plans and the front garden has been shown shortened

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1. Policy**
- 2. Impact on character and appearance of the area**
- 3. Suitability of access, parking and highway safety**
- 4. Impact on neighbours**

### **1. Policy:**

The site is located within the settlement boundary for Tiverton.

Policy S1 of the Mid Devon Local Plan Review seeks to support the creation of sustainable communities by focusing development in Mid Devon's most sustainable settlements, including Tiverton and delivering a wide choice of high quality homes through a diverse housing mix.

Policy S2 states that development will be concentrated at Tiverton, Cullompton and Crediton to a scale and mix appropriate to their characters and constraints.

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets.

Policy DM1 requires the design of new development to be high quality, making efficient and effective use of a site based on a clear understanding of the character of the site, its wider context and the surrounding area. Also ensuring adequate levels of privacy to private amenity spaces and adequate external for recycling, refuse and cycle storage.

Policy DM5 sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling, rounded up to 2 spaces per dwelling for developments comprising one or two dwellings.

### **2. Impact on the character of the area:**

The site comprises part of the garden to the north of No12 Kabale Close measuring approximately 280 square metres. It is broadly level and is currently laid to grass. The site is bounded to the north by a hedge; the eastern and western boundaries are closeboarded fences approx. 1.8m high.

The site is located at the end of the cul-de-sac. The access to the site would be via an existing driveway which extends to the front of the property and also forms the eastern boundary of No10. The proposal would involve removing half of the existing shared double garage in order to provide access. Parking for the existing property would be provided immediately to the front of the house.

The application is for outline with all matters reserved. Details relating to appearance, means of access, landscaping, layout and scale would be considered through a subsequent reserved matters application. The application is therefore a consideration as to whether the principle of a dwelling on this would be acceptable.

The application site is comparable to if not larger in area than most of the other individual plots within Kabale Close. The new dwelling could be located so that it would not project forward of the existing houses at Nos 10 & 12 while maintaining adequate external space to the front and rear for parking and private garden respectively.

The properties on Kabale Close are predominately two storey semi-detached buildings which front onto the public highway. A new dwelling on the proposed site would be different in that it would be set back from public highway and would be the only property in the Close which would be accessed via a shared drive. The proposed development would also result in the loss of a part of an existing garage building and the introduction of parking to the front of the existing house. Notwithstanding these matters it is considered that, subject to the agreement of a suitable design, materials and siting through a reserved matters application, a single dwelling could be adequately accommodated within the site without adversely affecting the character and appearance of its immediate surroundings in accordance with Policy DM1 of the Mid Devon Local Plan Review.

Further to the above, Members should be aware that the elements of the proposal comprising the removal of the garage and the provision of a permeable hardsurface for parking to the front or side of the property are permitted development and could be carried out at any time without the need for planning permission.

### **3. Suitability of access, parking and highway safety**

A number of concerns have been raised from the nearby residents regarding the use of the existing driveway as a vehicular access for the proposed new dwelling. Currently the tarmac driveway terminates at the garage. The proposal is to demolish half of the garage to provide vehicle and pedestrian access to the site from the public highway.

The alignment of the drive is slightly awkward where it meets the road as it projects back from the junction at an angle. The width of the access is also narrower than the minimum width set out Devon County Council's Highways Standing Advice which requires private drives serving up to three dwellings to be 3.0m wide. The access as shown on the plans would be 2.3m at the back edge of the turning head widening to 2.5m adjacent to the front of the garage.

While officers accept that it would be preferable for the width of the driveway to meet the standards set out in the standing advice the fact is that the driveway is a lawful access which is clearly capable of serving as an access for vehicular traffic as it has done so for many years. It is located at the end of the cul-de-sac where vehicle speeds are low. As referred to in section 2 above the owner of No12 could remove the garage and provide permeable hardstanding to the front and/or side of the property at any time without requiring planning permission. The Highways Authority has appraised the impact of the proposed development on the public highway and has raised no objections to the use of the existing driveway to serve the new dwelling.

While there would undoubtedly be an increase in level of traffic using the access should planning permission be granted for an additional dwelling on the site having regard for the above it is not considered that the increase would cause demonstrable harm to the highway safety or present a situation which would cause significant conflict for users of the other private driveways in the area.

On the issue of parking the application site is considered large enough to be able accommodate the two spaces required by Policy DM5 for the new dwelling. The plans indicate that there would also be two spaces provided to the front of No12 for the occupiers of the existing dwelling however this does not take into account the existing porch to the front of the property and it has not been demonstrated on the drawings that there is sufficient area to manoeuvre in and out of the using the shared access driveway if both spaces were in use at the same time. Notwithstanding these matters the existing property only currently has one parking space in policy terms as the garage is discounted from any calculation under Principle 5 of the Mid Devon 'Provision of parking in new development' Supplementary Planning

Document since it states that garages will not be counted as parking spaces.

There would be adequate ground area for a minimum of one space to the front of No12 which is all that is required to meet policy requirements.

#### **4. Impact on neighbours:**

Paragraph 127(f) of the NPPF states that developments should create a high standard of amenity for existing and future users. This is reflected in Policy DM1 which states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

As this is an outline application with all matters reserved it provides no formal detail of the proposed scale of development, layout or window placement and this detail will be assessed as part of a reserved matters application. However given the siting of the plot in relation to neighbouring dwellings and their orientation in relation to the site, it is considered that it is likely that residential development could be accommodated on the site in a fashion that provides sufficient distance and juxtaposition between the possible development and the neighbouring properties so as to not to significantly adversely affect the living conditions of the occupiers of those dwellings.

Given the proximity of the adjoining neighbour to the proposed access and its alignment with the highway it is acknowledged that there would be some additional disturbance on the occupiers of No10 through the noise and headlights from vehicles passing along the driveway to the access the site however it is not considered that this would be materially harmful to amenity for those occupiers and not significantly different from the relationship that some other properties in the area have with vehicles using the public highway in terms of distance separating the two.

The garden that would be retained for No12 would be adequate in terms of size and quality to serve the occupiers of the existing dwelling.

#### **5. Other matters:**

The northern boundary of the application site is located approximately 25m from the edge of the northbound carriageway of the A361 which has been identified by MDDC Public Health as being a noise source with potential to cause nuisance to the potential occupiers of the proposed property.

Paragraph 170(e) of the NPPF states that new development should not be adversely affected by unacceptable levels of noise pollution. Policy DM1 requires development not to have an unacceptably adverse effect on the amenity of proposed properties.

It will need to be demonstrated through the reserved matters application that mitigation methods have been considered to achieve satisfactory internal noise levels within the proposed build.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

## **SUMMARY/REASON FOR APPROVAL**

The proposal is acceptable in principle as the site is considered to be a sustainable location within the settlement boundary of Tiverton. The site is large enough to accommodate an additional dwelling at a density that would be compatible with its surroundings. It is considered that access to the new residential use can be achieved without significant harm to the living conditions of the occupiers of nearby properties. The reserved matters application will ensure that the proposal would not result in harm to the character or appearance of the area, the amenity of neighbouring properties or any adverse impacts to the local highway network. As such the proposal is considered in accordance with the Mid Devon Local Plan Review 2013-2033 Policies S1, S2, S8, S9, S10, DM1 and DM5 and the advice contained in the National Planning Policy Framework.

## **CONDITIONS**

1. No development shall begin until detailed drawings to an appropriate scale of the access, layout, scale and appearance of the building, and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by Condition 1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, finished floor levels, materials, surface water drainage methods, foul water disposal methods and replacement parking provision for 12 Kabale Close.
5. Construction works shall not take place outside 07.30 hours to 19.00 hours Mondays to Fridays and 07.30 to 13.00 hours on Saturdays and at no time on Sundays, Bank Holidays and Christmas Day.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of The Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004
3. In accordance with the provisions of Section 92(2) of The Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004
4. To enable the Local Planning Authority to consider the proposed scheme details in accordance with Policies S1, S9, DM5 and DM12 of the Mid Devon Local Plan Review 2013-2033.
5. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policies DM1 and DM12 of the Mid Devon Local Plan Review 2013-2033.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.