PLANNING APPLICATION REPORT

Case Officer: Lucy Hall Parish: Brixton Ward: Wembury and Brixton

Application No: 0670/19/ARM

Agent/Applicant:

Mr Jason Battle - Studiojb Architectural

Services Ltd Unit A1 Apollo Court

Neptune Park, Plymouth

PL4 0SJ

Applicant:

Mr Johnny Fraser Top Floor Apartment 3 Woodlands Terrace

Greenbank Plymouth PL8 2AT

Site Address: Land Adjacent to Cofflete Lodge (South A379), Brixton, PL8 2AT

Development: Application for Approval of Reserved Matters following Outline Approval

2481/16/OPA

Reason item is being put before Committee

Given the valid representations put forward by Brixton Parish Council, and the new view of the Tree Officer.



Recommendation: conditional approval

Conditions (full list at the end of the report)

- 1. Accord with plans
- 2. Natural slate
- 3. Natural stone
- 4. Weatherboarding
- 5. Joinery

- 6. Ducts, flues, vents, etc
- 7. Render
- 8. Boundary treatment
- 9. Tamar ZOI Mitigation
- 10. Tree Protection and Arboricultural Method Statement

Site Description:

The application site is an area of broadleaf woodland, which is subject to a blanket Tree Preservation Order (TPO). It is located on the western edge of the village of Brixton and contains an existing village Scout Hut. Access to the site is via a meandering tree line private driveway off to the A379. Court View, residential road, lies to the east of the site, Brixton. Camp Site to the south, the A379 to the north (Brixton Lodge Garden beyond) and open countryside to the west.

The site is located within the South Devon Area of Outstanding Natural Beauty and falls within the 12KM radius of the Tamar Zone of Influence for new residences having a recreational impact on the Tamar European Marine Site (comprising Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA).

The Proposal:

The application seeks the approval of reserved matters following outline approval (ref 2481/16/OPA). This application was a hybrid application with full planning consent approved for the erection of a new scout hut on a nearby parcel of land, and outline permission given for the demolition of the existing scout hut and the erection of two dwellings.

With regards to the outline consent all matters were reserved with the exception of access which is to be taken from an existing wooded track that leads off the A379 past Brixton Lodge to the west of the site. The outline consent also allowed for the removal of a large oak tree within the woodland, referred to as 'T17' on the tree protection plan.

The proposed detached dwellings would sit fairly centrally within the site, with their frontages orientated towards the access track. Parking and turning would be provided to the front of the buildings with gardens concentrated to the rear.

Plot 1 would be situated on the southern side of the site, where the existing scout hut is located. The dwelling would take the form of a rectangular two storey block with wrap around single storey element to the south east and south west elevation. The external palette includes natural stone, Cedar timber cladding and render to the walls, aluminium framed openings and natural slate to the roof. Internal accommodation includes a bathroom and 3 bedrooms, including the master room which would contain an en-suite to the first floor and a study/4th bedroom, kitchen, utility and open plan lounge/dining to the ground floor.

Plot 2, which also the form of a two storey rectangular block with wrap around single storey element. The external palette is the same as for plot 1 and the internal layout is similar with 3 bedrooms including master suite and bathroom at first floor and at ground floor 4th bedroom, office, utility and open plan kitchen/dining/living area.

Consultations:

County Highways Authority no objections

Environmental Health Section no comments received

- Brixton Parish Council objection
 - 1. The proposal to build these 2 houses is entirely dependent on the dismantling the old scout hut and the building of a new Scout Hut in the field adjacent to the campsite for which there planning permission has been granted. The plan is for the new scout hut to be built and available for use by Brixton Scouts before the existing scout hut is dismantled for this housing development. There is no reference to this plan in the paperwork either text or drawings submitted for consultation with an indication of timescales etc. Until this matter is clear and resolved BPC object to this application as the priority is for the Scouts to have a new venue which is up and running before the old one is dismantled and this is all part of the plan for the 2 applications.
 - 2. For the development of 2 detached houses there are no indications of how foul and water drainage are planned to be addressed. Will there be a mains sewerage connection or septic tanks and how will surface water be addressed?
 - 3. There is no indication of a footpath allowing access from the south side of the A379 through/around the property to the adjacent dwellings. There has been a footpath in use through the grounds of this site for probably 20 years and it is the only way to allow safe access from the bus stop at Cofflete Lodge to the residential area adjacent to Steer Point Road. Brixton Parish Council recommends that this access is retained for safety and community benefit and that a new route for the footpath is clearly indicated on the plans possibly to the north side of the properties (parallel to the A379 and inside the tree line/hedgerows), so as to continue to allow pedestrian access to the residential road 'Court View', Steer Point Road etc,. Highways have commented on the small pedestrian gates on the eastern side of the plans for the two new properties but there is no indication of public right of way or a permissive path in accessing these gates planned use of these gate
 - 4. The felling of the established oak tree could be avoided by minor tree surgery to top out one branch.

Drainage no objection

Ecology no comment

Tree Specialist objection

Representations:

No comments received from third parties

Relevant Planning History

2481/16/OPA, Full application for the erection of a Scout Hut. Outline application for the demolition of Brixton Scout Hut and erection of two dwellings (access to be considered), Brixton Scout Hut And Brixton Football Pitch, Brixton, PL8 2NY – conditional approval

ANALYSIS

Principle of Development/Sustainability:

While the principle of erecting two new dwellings on the site has already been established and accepted by the Local Planning Authority, since the outline permission was consented there has been a change in the Council's policy position following the adoption of the Plymouth and South West Devon Joint Local Plan (JLP) in March. The Council is also able to demonstrate a 5 year land supply. The current proposal will be assessed against the policies contained within the JLP.

With regards to the outline permission for the dwelling all matters, except for access were reserved and the consent did allow the removal of a large oak tree which is referred to as 'T17' on the tree protection plan. The proposal scheme involves the removal of this tree.

Housing Mix:

The proposal includes two sized detached 4 bed units. JLP Policy DEV8 in trying to address the existing housing imbalance within the TTV policy area requires new developments to provide an appropriate housing mix that does not perpetuate existing imbalances. However in this case evidence does not indicate that the proposed development would not meet local need.

Design/Landscape:

The site lies within the AONB which is afforded the highest status of protection in relation to landscape and scenic beauty and where there is a policy requirement for development to conserve and enhance the natural beauty of the protected landscape. The Council's landscape specialist did not raise any objection at outline to the principle of residential development within the site stating: -

'The sites are both discreet and visually well contained by topography and vegetation, though both are constrained to some extent through the attractive parkland landscape to the south and the Woodland TPO to the north. The context of existing residential development in Brixton and the existing caravan site gives a reasonable context of low density built form... Though there would be some localised impacts upon landscape character and the AONB, given the existing settlement context and limited extent of these effects, they would not be considered sufficient to result in an objection under adopted policies CS9 and DP2 which seek to conserve and enhance landscape character.'

In the context of the outline consent which allows for a residential use of the site, the proposal dwellings which are simple in their form are considered to be well designed and the proposed palette of external materials has the opportunity to really enhance the appearance and finish of the buildings. The scale of the buildings are generous and the addition of the single storey wrap around additions helps to break up the visual mass. Appropriate conditions are recommended to ensure a high quality of design is achieved.

The addition of boundary fencing around the site is an unwelcome addition and officers would prefer an alternative treatment such as a soft, natural boundary which was appropriate to its semi-rural context. The case officer has discussed this with the applicant who is open to considering an alternative treatment for the boundaries. An appropriate condition is therefore recommended.

One of the fundamental issues with the proposal at outline was the impact on the protected trees and the removal of a large oak tree, which is referred to as T17 on the Tree Protection Plan. The applicants argued that without its removal it would not be possible to provide a layout which enabled the delivery of the two dwellings, which were necessary for viability reasons to enable the provision of a replacement scout hut. The council sought advice from

an independent tree consultant regarding the removal of the oak. The following is an extract from the previous officer report: -

A subsequent report and associated tree protection and planting plan produced by Devon Tree Services which sought to address the concerns was submitted. Within this report it is noted that the woodland is dominated by sycamore, much of which forms thin regenerated growth, in addition to beech, ash, hawthorn and oak. The age of the trees vary from early mature to mature and physiological. Structural condition is rated as poor to good. Collectively it is considered the woodland represents a significant landscape value. A number of category 'U' trees are proposed for removal. The majority of these of sycamore, many of which are noted to have regenerated into low quality stems in poor condition and are not considered a material constraint to the development. Notable removals are limited to 3 mature B2 category trees. It is noted T17 (Oak) falls within the likely footprint of the dwelling so retention would not be possible, and to provide a reasonable garden T27 (sycamore) and T28 (ash) are recommended for removal. The Council's independent tree consultant has not raised any objections to the removal on the basis 'the level of replanting proposed is high and will mitigate for the loss of centralised tree cover in the long-term'. However, additional information is requested with regards to additional proposed planting and the overall management of the woodland.

The matter was debated at length by committee members who ultimately decided to consent the proposal on the basis of the benefits to the community with the replacement the scout hut.

In accordance with the outline consent the proposal relies on the removal of T17. The current RM application has been considered by the Council's Tree Specialist who has raised objection on the basis the proposal would conflict with JLP Policy DEV28. The following is an extract from the response which sets out the main issue: -

'The dominant tree within the woodland is a large mature English oak tree (T17 within the report) described in the supporting report as having substantial dieback in the upper crown. During the site visit dated 22/05/2019 only moderate dieback to one upper crown limb was noted and the remainder of the tree was observed to be in good health and structural condition. External assessment of the woodland noted T17 to be readily visible above the lower storey ash and sycamore layer. The supporting report is outside of its 1 year indemnity period (lapsed Feb 2018) and therefore reduced weigh is apportioned to its description of the dominant tree classification. My assessment of T17 Oak using the criteria within BS5837:2012 would be to ascribe an A1 category, given it is the dominant tree within the woodland as an essential contributory element of the varied amenity attributes as presently contributed by the woodland.'

He goes onto say while 'further trees within this discrete area of the woodland are of lesser constraint given their canopies do not dominate individually and targeted removal, with suitable mitigation planting, would be of lesser visual harm to the wider landscape. Overview study of the layout within the proposed unit layout plan indicates a requirement to fell T17. Given the fixed unit numbers of 2 against the space available and the poorer quality adjacent trees it is considered that T17 could be retained as an enhancing feature within the development. This would ensure retention of the long term visual contributions to the local and importantly wider landscape whilst enhancing the internal sylvan setting of the development as a high quality single stemmed tree of significant life expectancy. Options to retain T17 as part of a circular driveway with no dig surface treatment below would allow

further space to be available for the amenities of any new occupant and assist in further layout options.'

The case officer and the Tree Specialist met with the applicant to see if there was a way to address the issues and notwithstanding the outline permission find an alternative scheme which allows T17 to be retained. Unfortunately the parties were not able to agree a way forward and the applicant advised that the application should be determined in accordance with the details submitted.

Notwithstanding the concerns raised by the Council's Tree Specialist, on the basis that the outline consent allows for the removal of the tree, it would be unreasonable for the Council to now refuse the reserved matters on the basis of this revised information.

If the proposal is to be permitted, the tree specialist recommends an updated tree protection plan is provided to ensure informed retention of constraining tree features and an appropriate condition is recommended to deal with this.

Neighbour Amenity:

The proposed does not raise any concerns regarding neighbour amenity between the dwellings or with existing dwellings which are sited at a reasonable distance from the site and screened by existing planting on the boundaries.

Highways/Access:

In accordance with the outline consent, vehicular access to the site would be via an existing tree lined track which leads off the A379 past Brixton Lodge. Emerging NP Policy Dev5 requires that residential development should provide at least one parking space for each bedroom with further additional parking spaces for properties with 3 or more bedrooms. The proposal provides 4 spaces for plot 1 and 3 spaces for plot 2. While plot 2 arguably falls short of the policy requirement, the hardstanding to the front of the property offers scope for additional parking if required, and on this basis it is not considered that it would be reasonable to withhold permission for this reason alone. The Highways Authority have not raised any comments on this matter.

The proposal also includes two gates to the rear of the plots to enable pedestrian access to Venn Drive. The Highway Authority has not raised any objections on this basis noting that conditions are imposed at outline to deal with the detail of these links. However the outline permission only requires details of pedestrian links to be provided as a reserved matter. Therefore officers consider that it is appropriate to impose a further condition requiring the access point to be provided and thereafter retained.

The Parish Council have requested that the proposal includes a footpath to enable safe access through the site to the residential areas and beyond. The comments suggest that this should be for the benefit of the wider community with the site currently being used as an access point into Brixton regularly by walkers. However, as confirmed by the applicants at outline stage the existing access is not formal right of way and therefore while it would be desirable to retain an access it would be unreasonable for officers to request it is provided and refuse permission on this basis. This application does not include a footpath link through the site for pedestrians.

Other Matters:

Ecology – The Council's Ecologist has does not consider that there is a need for future comments at this stage, noting the findings of the ecology report, woodland management plan and conditions applied at outline.

Since the granting of the Outline application, as part of the evidence base gathering and Duty to Cooperate relating to the Joint Local Plan, a study was undertaken with respect the recreational pressure of residents from new development upon the Tamar European Marine Site (EMS Recreation Study Document 04. Survey of recreational use within the Plymouth Sound and Estuaries European Marine Site: Scoping report and survey results, MBA, March 2017). One result of this being that the Zone of Influence around the Tamar EMS has been clarified and confirmed.

The proposed development site now falls within this ZOI for the Tamar EMS – comprising both the SAC (Special Area of Conservation) and SPA (Special Protection Area) components of the Tamar EMS, and accordingly the recreational pressure of new residents associated with the development will require mitigating to ensure they do not have a significant effect on the Tamar EMS (put another way, without mitigation the new residents in combination with other development could have a likely significant effect on the Tamar EMS, and without mitigation it would not be able to positively conclude a Habitats Regulations Assessment - HRA). As such a condition securing appropriate mitigation is proposed to be attached to any consent as may be issued and its principle has been agreed with the applicant/agent.

The HRA has been undertaken and the conclusions are that the proposal in conjunction with that adjacent will not have an adverse effect on the integrity of the Tamar EMS subject to the mitigation measures being secured by condition.

Drainage – The Council's drainage specialist original objected to the proposal on the grounds of insufficient information. However, pre commencement drainage conditions were imposed at outline stage and therefore it would be unreasonable to withhold permission on the basis that the information has not been provided as part of the current application. The case officer has discussed this matter with the drainage specialist who has subsequently removed the objection.

The parish council have questioned why the application has been submitted while the existing scout hut remains. Condition number 2 of the outline consent requires the new scout hut to be erected and operational for scouting purposes prior to demolition of the existing scout hut and the commencement of works in relation to any dwelling. The condition does not prevent the submission of a reserved matters application and because of this it would unreasonable for the LPA to withhold permission for this reason. The applicant has confirmed in a discussion with the case officer that he is fully aware of the requirements of the condition and will comply but he would like to obtain a permission for the dwellings before undertaking any works.

Conclusions

The principle of a residential development on the site with a layout that sees the removal of T17 has already been established with the outline consent. The loss of T17 is unfortunate but the principle has already been established and it would be unreasonable to refuse consent on the basis of its loss. In this context the design and form of the proposal scheme is considered to be acceptable. Conditions are proposed to address matters of highways, appearance and biodiversity.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

SPT9 Strategic principles for transport planning and strategy

SPT10 Balanced transport strategy for growth and healthy and sustainable communities

SPT12 Strategic approach to the natural environment

SPT14 European Protected Sites – mitigation of recreational impacts from development

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV27 Meeting local housing needs in rural areas

DEV1 Protecting health and amenity

DEV2 Air, water, soil, noise, land and light

DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV23 Landscape character

DEV25 Nationally protected landscapes

DEV26 Protecting and enhancing biodiversity and geological conservation

DEV28 Trees, woodlands and hedgerows

DEV29 Specific provisions relating to transport

DEV30 Meeting the community infrastructure needs of new homes

DEV31 Waste management

DEV32 Delivering low carbon development

DEV33 Renewable and low carbon energy (including heat)

DEV35 Managing flood risk and Water Quality Impacts

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application: South Devon AONB Management Plan.

Neighbourhood Plan

The Neighbourhood Plan for Brixton is at an advanced stage and is currently at Regulation 17 where it is being assessed by an appointed independent examiner.

Env1 (AONB)

Env3 (biodiversity)

Tpt1 (transport)

Dev1 (design)

Dev2 (design)

Dev4 (low carbon)

Dev5 (parking)

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Conditions

Accord with Plans

The development hereby approved shall in all respects accord strictly with drawing number(s) P780-100 Rev B (existing and proposed site plans), P780-102 (proposed block site plan), P780-02 (proposed floor plans plot 1), P780-101 Rev B (proposed site layout plan), P780-03 (proposed elevations plot 1), P780-05 (proposed elevations plot 2), P780-04 (proposed floor plans plot 2) received by the Local Planning Authority on 29.03.19.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

Natural Slate

The roofs of the buildings shall be clad in natural slates. Any hips shall be finished with a close mitre or narrow cement fillet rather than hip tiles. Prior to installation roofing specification including the types and sizes of natural slates to be used, together with the type, colour and profile of the ridge tiles shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development displays good design practice in respect of the age and character of the development.

Natural Stone

All areas of new stone walls shall be constructed of natural random stone laid traditionally on its quarry bedding and pointed in a brown mortar finish recessed from the outer face of the walls. A sample panel or not less than two square metres shall be provided for inspection and written agreement by the Local Planning Authority prior to the construction of any of the new walls. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting this Order), all new stone walls, constructed in accordance with the approved drawings and the terms of this

condition shall be retained in their natural stone finish and shall not be rendered, colourwashed or otherwise treated in a manner which would obscure the natural stone finish, nor shall they be demolished either in whole or in part.

Reason: To enable the Local Planning Authority to consider the details of all stonework to be constructed as part of the development hereby permitted in order to ensure that the development displays good design and is of a locally distinctive style, and to ensure that all stonework is retained in its natural stone finish.

Weatherboarding

Prior to installation details of the timber cladding shall have been submitted to and agreed in writing with the Local Planning Authority. Notwithstanding the information submitted the cladding shall be retained in its natural state and shall not be painted stained or otherwise treated.

Reason: To ensure that the development displays good design practice in respect of the age and character of the development and to allow the Local Planning Authority to assess the details of the scheme to ensure that their character is maintained.

Joinery

Prior to installation full details of all new joinery have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour in respect of new windows, doors and other glazed or panels. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area.

Ducts, Flues, Vents, etc

Prior to installation full details of all ducts, flues, rainwater goods, vents and other external attachments shall have been first submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and shall thereafter be retained in that form unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area.

Render

Prior to installation details of the proposed render type and colour(s) shall be agreed in writing with the Local Planning Authority and shall be applied without the use of metal beads or stops. Movement joints, where required, shall be positioned at changes of direction or directly behind rainwater downpipes.

Reason: To ensure that the finishes and colours are appropriate to the locality.

Boundary Treatment

Notwithstanding the information shown on the submitted drawings, which shows fencing around the site and between the properties, prior to occupation of the dwellings full details of an alternative boundary treatment which includes pedestrian access from the rear of the gardens east towards Court View shall have been submitted to an approved in writing by the Local Planning Authority.

The boundary treatment shall be implemented in accordance with the approved details prior to occupation of the dwellings or in accordance with a timetable previously agreed, and shall thereafter be retained/maintained as such for the lifetime of the development.

Reason: The Local Planning Authority do not consider that the fencing reflects the rural character of the site and are seeking an alternative boundary treatment which achieves this. A pedestrian access from the rear of the gardens is required to ensure there is safe and

convenient access into Brixton.

Tamar ZOI Mitigation

Prior to first occupation of any residential unit, a scheme to secure mitigation of the additional recreational pressures upon the Tamar European Marine Site, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to first occupation.

Informative: This condition can be satisfactorily addressed by means of a pre-occupation contribution towards improved management within the Tamar European Marine Site (informed by the SAMMS list). The applicant should contact the Council for details of the contribution and to arrange payment.

Reason: The development lies in the Zone Of Influence of the Tamar European Marine Site (comprising the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA) where it is considered there would be a likely significant effect from this development, when taken in combination with other plans and projects, upon these European designated sites. To ensure that the proposal may proceed as sustainable development, there is a duty upon the Local Planning Authority to provide sufficient mitigation for any recreational impacts which might arise upon the European designated sites. In coming to this decision, the Council has had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017 and the requirements of adopted JLP Policies SPT12 and DEV26.

Tree Protection Plan and Arboricultural Method Statement

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a Tree Protection Plan (TPP) and an Arboricultural Method Statement(AMS) for the protection of all retained trees, hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority.

The development shall be carried out in accordance with the approved details. The TPP and AMS shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the development process.

Provision shall be made for the supervision of the tree protection by a suitably qualified and experienced arboriculturalist and details shall be included within the AMS.

The AMS shall provide for the keeping of a monitoring log to record site visits and inspections along with: the reasons for such visits; the findings of the inspection and any necessary actions; all variations or departures from the approved details and any resultant remedial action or mitigation measures. On completion of the development, the completed site monitoring log shall be signed off by the supervising arboriculturalist and submitted to the Planning Authority for approval and final discharge of the condition.

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