

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart

Parish: Ashprington **Ward:** West Dart

Application No: 2198/19/FUL

Agent/Applicant:

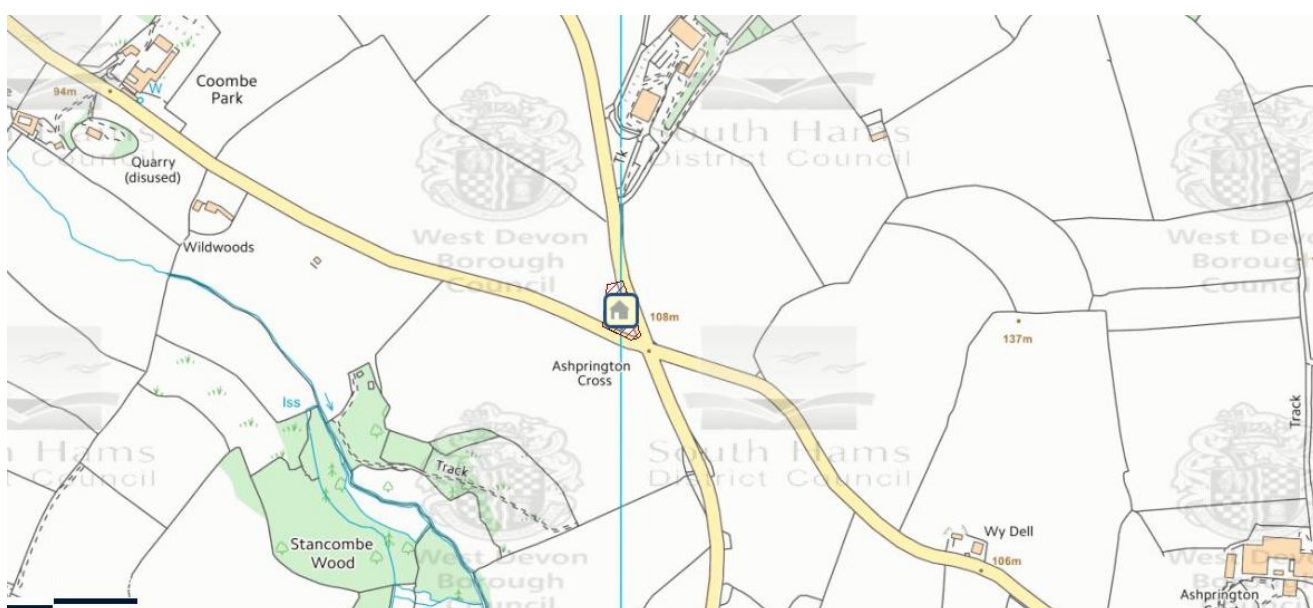
Mrs Amanda Burden Luscombe Maye
59 Fore Street
Totnes
Devon
TQ9 5NJ

Applicant:

Dr Philip Johnston & Dr Cathryn Edwards
c/o agent

Site Address: Post Barn, Ashprington Cross, Ashprington, Totnes, TQ9 7EA

Development: Cladding of existing gate and topping off of stone wall. (Retrospective)



Reason item is being put before Committee

Called by Ward Member Cllr McKay on grounds of highways safety concerns – *“In summary, in my view this junction is dangerous, and needlessly so. There are many blind junctions around the area but this one now stands out as being particularly unsafe and, given the simple remedy required to change this, I feel I would be failing in my duty not to call this in for consideration by the Development Management Committee.”*

Recommendation: Conditional approval

Conditions

1. Accord with plans
2. Maintain stone wall in natural state

Key issues for consideration:

Principle, design/visual impact, highways safety.

Site Description:

The site is situated in open countryside between Totnes and Ashprington, immediately to the north west of Ashprington Cross. The site comprises what was a disused barn accessed directly from the lane to the east through an existing field gate. Planning permission has previously been granted and renewed for conversion to A2, B1 and B2 use, most recently in 2011. Planning permission was then granted for conversion to a residential dwelling in 2015 (LPA ref. 01/0108/15/F), and works to implement this consent are now well progressed on site.

The site is located just outside the South Devon AONB.

The Proposal:

Retrospective application for cladding of existing gateway and topping off of stone wall around the south eastern end of the site, adjacent to the highway junction at Ashprington Cross. The height of the existing wall has increased by approximately 10-15cm.

Consultations:

- County Highways Authority – No objection (see analysis section below)
- Ashprington Parish Council – Objection – *“1. Description of works to the wall completed are exceptionally misleading and the drawings submitted are on such a small scale as to be of little use. 2. The PC has concerns over the planning procedures leading to inaccuracies in the Design and Access Statement. Page 5 states that DCC Highways raised no objections but Highways Consultation Response dated 16th of July from Richard Jackson states that Highways can find no record of consultation with the Local Planning Authority. 3. Failure by the Local Planning Authority to carry out procedures {point 2 above}. 4. The Highways report received in July 2019 states "visibility is woefully substandard and the situation is contrary to paragraph 108 of the National Planning Policy Framework" which suggests inadequate visibility. 5. Erroneous assurances from a Planning Officer from SHDC in 2016 stating that a visibility splay would be enforced as per planning application 01/0108/15 {drawing 9973/14/5}. 6. Safety at the Crossroads - No "recorded" accidents but there have been many collisions and even more near misses. If there is a fatality, SHDC will have missed an opportunity to have prevented it.”*

Representations:

28 letters of objection have been received with issues raised summarised as follows:

- Height of wall is causing serious problems for drivers on very busy road
- Wall was previously low enough to see over when pulling out onto crossroads, now vehicles can't be seen until one is in the middle of the road
- Junction can no longer be used safely
- Several near misses
- Traffic comes along road too fast and wall is too high

- School bus is now stopping on wrong side of the road as driver considers it is too dangerous for the parents and children to cross the road
- Wall should be curved and put back
- Opportunity missed to improve road safety
- Difference between the before and after is significantly greater than indicated
- Wall has increased in height by at least 50cm
- Council must take responsibility if there is an accident
- Original decision should be upheld, permission was specific regarding wall height and splays and has not been adhered
- Original developer planted a hedge well within the curtilage but was grubbed out by present owners
- Volume of traffic using road has increased in recent years
- Surprised Devon Highways have not taken control of this matter

16 letters of support have also been received, with comments summarised as follows:

- Wall has been restored to its former glory
- Wood used for cladding will blend well with stone as it seasons with weather
- Stone topping is traditional to walls in this area and workmanship is excellent
- Junction has always been awkward
- A mirror would assist or make it a four way junction so traffic from all directions has to stop and give way
- Wall has been restored to its original position as was a requirement of the planning permission, provides attractive and appropriate boundary to the property
- Provides privacy for occupiers
- Development has been carried out to very high standard
- Boundary wall makes drivers conscientious of the junction
- Wall not been an issue when negotiating junction
- Biggest problem is people who are familiar with road driving without due awareness and attention
- Blind bends and junctions with limited visibility are numerous on rural lanes. If every potential safety hazard had to be removed miles of hedges and entire houses would have to be removed and the countryside would be destroyed
- Inaccurate and misleading comments about the junction from objectors

Relevant Planning History

- 0530/16/FUL Single storey detached outbuilding for use as a garage/store/plant room. Post Barn, Ashprington. Conditional Approval
- 01/0108/15/F, Change of use of barn to residential (C3), Post Barn, Conditional Approval
- 01/1647/14/DIS, Application for approval of details reserved by conditions of planning approval 01/2475/11/F, Post Barn, Discharge of condition approval
- 01/2475/11/F, Renewal of extant permission 01/1493/08/F for change use and conversion of barns to A2, B1 and B2 use, Post Barn, Ashprington, Conditional Approval

- 01/1493/08/F Resubmission of planning application 01/0635/08/F for change of use and conversion of stone barns to A2, B1 & B2 use, Post Barn, Ashprington. Conditional Approval
- 01/0635/08/F Conversion to B1 and B2 use, Post Barn, Ashprington. Withdrawn

ANALYSIS

Principle of Development/Sustainability:

The site has permission for a residential barn conversion which has been implemented. There is no in principle objection to additional development works which relate to the permitted residential use. The main planning issues to be considered in this case are highways safety and design/visual impact.

Highways Safety:

The principle issue raised by third party objectors is that the increased height of the wall has exacerbated road safety at the Ashprington Cross junction, as it impedes visibility for drivers.

The consultation response from the Highway Authority with respect to application 01/0108/15/F referred to their Standing Advice. This requires to the Case Officer to assess the application against the Standing Advice and if they consider there are no concerns they are not required to consult the Highway Authority again. In the case of this site there was an existing planning permission for conversion of the barn to A2, B1 and B2 use which showed the same access to be used as was proposed under 01/0108/15/F (01/2475/11/F). The approved plans for 01/2475/11/F showed a 'hedge line' around the site boundary at Ashprington Cross being set back from the junction. Condition 13 of planning permission 01/2475/11/F states:

“Prior to any occupation or use of the agricultural building for the purposes hereby permitted, a visibility splay shall have been provided at the junction of Ashprington Cross in accordance with details previously submitted to and agreed in writing by the Local Planning Authority.

Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 1995 (and any Order revoking and re-enacting this Order), no structure, erection or other obstruction, including trees or shrubs, to vision over 0.75 metres above nearest edge of the carriageway shall be constructed, placed, planted or allowed to grow on any part of the visibility splay created as required by this condition.

Reason: In the interest of highway safety and visual amenities of the area.”

With respect to application 01/2475/11/F the proposal contained a car park comprised of 12 parking spaces together with a cycle rack. This permission was a renewal of 01/1493/08/F, which was itself a resubmission of 01/0635/08/F. In providing detailed comments on this first application, the Highways Officer raised the issue of increase in traffic movements and supported junction improvement. The potential increase in vehicle movement associated with the site from agricultural use to the commercial use approved provided justification for this approach at the time. The residential use of the site would generate less vehicle movements than the approved commercial use or historic agricultural use, and the justification for requiring visibility improvement to make the residential use of the site acceptable is diminished as a result.

Notwithstanding the above, a condition requiring a visibility splay was not imposed as part of the approval of 01/0108/15/F, although it was shown on the approved plans. There is no provision within the planning system to require part-built minor developments to be completed within a prescribed timeframe; the only power being a Completion Notice which is really only beneficial on larger development sites. Section 94 of the Town and Country Planning Act, relating to completion notices, is not to be an appropriate mechanism to achieve the completion in accordance with the approved plans – in this case the “development” (i.e. the barn conversion) has already been completed.

In commenting on the current application DCC Highways initially advised the following:

“Since planning application 01/0108/15/F was approved the barn use has been changed to a dwelling and subsequently sold to the new owner. The southern boundary wall has not been relocated as per the proposed site plan but has been cleared of vegetation and built up to a height of 1.65m. The result of this is that only 18m 'y' distance x 2.4m 'x' distance x 1.05m height visibility is available for the northern arm of Ashprington Cross.

Since these works have been undertaken numerous complaints have been received by both the Planning Authority and Highway Authority that Ashprington Cross is now blind and that the proposals will worsen road safety. Having gauged the 85th percentile speed of the C44 road the Highway Authority would agree the available visibility is woefully substandard and it is recommended a visibility splay to the following dimensions is made available - 50m 'y' distance (to the nearside of the road) x 2.4m 'x' distance x 750mm height...

Whether the Highway Authority can object to this retrospective application, which attempts to regularise the wall at 1.65m height in it's current location, the Highway Authority feels it should object to the application as it clearly is unsafe from a highway safety perspective, however before making that decision the Planning Authority will need to decide if it is appropriate to refuse the application solely on highway safety grounds if the details on drawing 9973/14/5 submitted with application 01/0108/15/F to relocate the wall are immune from enforcement action.”

As previously stated above the Council is not in a position to require the implementation of the visibility splay as shown on the drawings approved under 01/0108/15/F through enforcement action. Attention therefore needs to be focused on the impact of raising the wall height by approximately 10-15cm. Whilst third party objectors have stated that the height of the wall has been increased more than is stated within the application, Officers have visited the site and consider the application presents an accurate reflection of how much the wall height has actually increased.

Prior to the implementation of the approved barn conversion scheme, visibility at the junction would already have been impeded by the wall. For vehicles where the driver is in a higher seating position (e.g. tractors and lorries) the difference in visibility now compared with before the works to the wall were carried out would be less pronounced.

Paragraph 109 of the NPPF states:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Since clarifying with DCC Highways that the impact of the increase in the height of the wall by 10-15cm on highways safety is what needs to be considered, they have advised that objection on highways grounds is not warranted noting that returning the wall to its original height does not need planning permission.

Having regard to all of the comments made by DCC Highways, Officers consider the increase in height of the wall by 10-15cm cannot be argued to be unacceptable on highways grounds bearing in mind the limited increase in height makes it very difficult to argue it has made a substantive difference to the previous situation. There are many examples of stone walls/buildings restricting visibility at junctions across the South Hams and it is arguably part of the character of the area.

It is acknowledged that the planning history on the site has generated a public expectation that there would be substantive improvement to visibility at Ashprington Cross as part of its redevelopment. However the current application needs to be assessed on its own planning merits and for the above reasons Officers cannot recommend refusal of the application on highways safety grounds.

Design/Visual Impact:

From a purely aesthetic viewpoint the works to the boundary wall have been carried out to a high standard, and have been done so in way which reflects the character/appearance of historic stone walling across the South Hams. Whilst not part of the original approval for the residential barn conversion, the works provide an attractive and appropriate boundary treatment which respects the overall character of the barn conversion. The cladding of the gateway has been carried out in an appropriate material. In design/visual terms the development makes a positive contribution to the appearance of the site and raises no policy objections. A condition is recommended to ensure the stone wall is maintained in its natural state to ensure its character is maintained.

Other Matters:

As the boundary wall is (and was previously) greater than 1m in height adjacent to a highway any future further increase in height would require planning permission. It is not therefore necessary to remove permitted development rights in this regard.

The Planning Balance:

Officers are very mindful of the third party concerns regarding highway safety. Previous planning approvals on the site have generated a public expectation that visibility at the junction would be improved as a result. The planning permission that has been implemented on the site does not carry a condition requiring a visibility splay at the junction to be created. The main issue in this case is the impact of the increase in wall height of 10-15cm on highways safety. It is considered by Officers that the increase in height of the wall of 10-15cm has not resulted in a substantive impact on visibility compared with how the situation would have been previously and refusal on highways safety grounds could not be substantiated at appeal. The development is considered acceptable in terms of its design/visual impact and no other issues are raised. The application is therefore recommended for approval subject to the conditions listed at the beginning of this report.

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.

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
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV26 Development in the Countryside
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV15 Supporting the rural economy
DEV20 Place shaping and the quality of the built environment
DEV23 Landscape character
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV35 Managing flood risk and Water Quality Impacts

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 8, 11 and 109 and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

Neighbourhood Plan

Site is not within an identified NP area.

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.

Recommended conditions in full:

1. The development hereby approved shall in all respects accord strictly with drawing numbers 170519/01, 170519/02, 170519/03, Block Plan and Site Location Plan received by the Local Planning Authority on 5th July 2019.

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.

2. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development)(England)Order 2015(or any Order revoking and re enacting this Order), all existing stone boundary walls 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.

Reason: To ensure that the development displays good design and is of locally distinctive appearance and character.