



6<sup>th</sup> April 2025

**PLANNING REF:** 3958/24/FUL

**DESCRIPTION:** Construction of 3 bedroom dwelling.

**ADDRESS:** Land Rear of 59 Yealm Road, Newton Ferrers

The South Hams Society interest

For the last 60 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment.

The South Hams Society wishes to **OBJECT** to this application.

It is important to begin with the planning history of this site.

Application **37/1256/12/F** for the construction of a replacement house was registered on the 29/05/2012. The LPA refused the application stating that ***'The existing dwelling, by virtue of its architectural style, position within the village is considered a Heritage Asset and therefore, due to the lack of any other overriding reason for its demolition the existing dwelling is considered worthy of protection'***.

The LPA's second reason for that refusal was stated as ***'By virtue of the proposed dwellings scale, massing & architectural treatment the development is considered to have a detrimental impact upon the character and appearance of the adjoining Conservation Area, Area of Outstanding Natural Beauty and the village as a whole'***.

The applicant appealed the decision, but their appeal was dismissed.

In the decision letter the Inspector made the following important points (**APP/K1128/A/13/2192805**).

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8. I note that Westerly was suggested for listing in 2008, and on review by English-Heritage was found to be of unremarkable design and of modest architectural styling and detailing. Although finding that it lacked the special architectural or historic interest required within a national context to qualify for listing, the report concluded that it was a handsome building of strong local interest.
9. At my site visit, I was able to observe that Westerly, while not particularly visible from within the CA, or indeed from Yealm Road, nonetheless is clearly open to views from the creek and Noss Mayo. The building retains much of its original character and appearance, with windows and roof appearing to be original. It has a strong, symmetrical form with well-defined bays and gables. Sitting centrally but to the northern edge of its plot, the large garden is an important element of the character and appearance of the area.
19. The existing dwelling is a substantial family property, but clearly not of the scale sought in this proposal. Although I accept that bringing the property up to a high standard and retrofitting energy efficiency measures would be costly, the principle issue would appear to be the ability of the existing structure to provide the scale of accommodation sought by the appellant. I do not consider that this is a sufficient reason to justify the loss of this existing dwelling and replacement with a property unsympathetic to the character and appearance of the area.

The next application was registered just over 2 ½ years later with application **2682/15/FUL**, this time for the replacement of the existing dwelling with two new dwellings.

Again this application was refused with the decision notice stating ***'The proposed development, by virtue of its design, materials and increased massing, including the reduction in the ratio of garden area to built form, would have an adverse impact on the character and appearance of the area. The proposal development would erode the green space that surrounds the Conservation Area, failing to preserve the setting of the designated heritage asset and the setting of other heritage assets'***.

The second reason given on this occasion for refusal was stated as ***'The proposed development, by virtue of its design, materials and increased massing, including the reduction in the ratio of garden area to built form, would have an adverse impact on the character and appearance of the Area of Outstanding Natural Beauty'***.

Again, the applicant appealed this decision and the Planning Inspector dismissed the appeal (**APP/K1128/W/16/3158491**) in May 2017.

To quote the Inspector:

### **Main Issue**

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular reference to the Newton Ferrers Conservation Area (CA) and the South Devon Area of Outstanding Natural Beauty (AONB).

In addition the Inspector made the following important comments.

4. The site lies just outside of the Newton Ferrers CA. In determining this appeal, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA and my statutory duties<sup>1</sup> in this regard. Whilst the appeal site itself is not within the CA boundary, paragraph 129 of the National Planning Policy Framework (the Framework) requires consideration of the effects of development on the setting of heritage assets, which includes conservation areas. The Council's reasons for refusal also refer to harm to the setting of other heritage assets but I do not have specific evidence in this regard.
6. The property turns its back on Yealm Road, with its principal elevation facing south toward Noss Mayo. From Noss Mayo, the development history of Newton Ferrers is easily discernible, with the built form arranged over three main horizontal bands of development moving up the hill away from the water. Tight-knit, modest cottages along the shoreline give way to large, early 20<sup>th</sup> century houses set in generous grounds, with late 20<sup>th</sup> century residential development in perceptibly higher plot densities above. Westerly sits within the second of these bands. The house is set centrally at the northern end of a wide plot, with extensive mature gardens to its sides and front.
7. Due to its scale, siting and position, the existing property is prominent in views from Noss Mayo. From this perspective, its gardens form part of a strip of green and undeveloped land running immediately to the rear of the CA below that is intrinsic to its special interest. As such, I consider that the site's open and spacious nature makes an important contribution to the overall setting of the CA. Whilst acknowledging that the house is not in itself a designated heritage asset, it is a good example of the late-Victorian residential aesthetic, and plays a significant role in the locally distinctive character of the village more generally.
8. The proposed development would replace the existing house and garage with two substantial four bedroom dwellings, together with integral garages and landscaped gardens. Both dwellings would be of a modern appearance, with flat roofs and accommodation arranged over three storeys, utilising the slope of the site. The appeal proposal seeks to address the issues raised by the decision<sup>2</sup> of a previous Inspector to dismiss an appeal for a replacement dwelling on the site in 2013.
10. I saw during my site visit some successful examples of modern design responses in the vicinity, including the property known as Cherry Trees nearby on Yealm Road and The Anchorage at 80A Court Road. However, I consider that the position of those properties to the north of Yealm Road marks an important distinction between them and the location of the appeal site, which, being to the south of Yealm Road, is closer to the CA. Whilst views of the proposed houses from Yealm Road and the CA below would be limited by the sloping topography of the area, the dwellings would be clearly visible in wide-ranging views of Newton Ferrers from across the creek.



11. It has been put to me that the proposal would lead to an increase in the area of green visible around the buildings on the site, partly due to the flat roofs allowing more of the backdrop trees above the site to be seen from the direction of Noss Mayo and by the incorporation of a green roof on part of the plot 2 property. However, I am mindful that the combined footprint of the two proposed houses would be approximately 311.8 m<sup>2</sup> whereas the existing footprint of Westerly, even including its modest garage which is sited tight into the north of the site, is approximately 178m<sup>2</sup>. It is clear therefore that the proposal would result in a significant increase in the overall quantum of developed land within the site.
12. Moreover, the property at plot 1 would span an appreciably greater proportion of the width of the site, considerably reducing the generous spacing that currently exists either side of the house and that is characteristic of the established built form. By introducing a second substantial house in the southern part of the site, together with new access driveway and car parking, the proposal would materially erode the green and undeveloped space that is important in framing the CA below.

And the Inspector's conclusion that follows should be noted as a reminder that the presumption in favour of development is removed by the footnote that still exists to provide protection afforded to the South Devon AONB, now the South Devon National Landscape.

21. Paragraph 49 of the Framework is clear that where the local planning authority is unable to demonstrate a five-year supply of housing land, relevant policies for the supply of housing should not be considered up-to-date and proposals fall to be considered under paragraph 14. Paragraph 14 advises that where relevant policies of the development plan are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when considered against the policies in the Framework taken as a whole, or specific policies of the Framework indicate development should be restricted.
22. Footnote 9 of the Framework gives examples of specific policies that indicate development should be restricted, including those relating to designated heritage assets. I have found above that the appeal proposal would lead to less than substantial harm to the setting of the CA and that this harm would not be outweighed by the public benefits of the proposal. Therefore it is clear that in this case the proposal would not comply with the restrictive policy set out at paragraph 134 of the Framework. Consequently, the proposal would not represent sustainable development in the sense of paragraph 14 and the appeal must fail.

After that a further application 3117/17/FUL was registered on the 14/09/2017, this time for a single dwelling.

With this application the Case Officer noticeably failed to record the previous history of the application **37/1256/12/F refused** and planning appeal **APP/K1128/A/13/2192805 dismissed**, an omission the Society considers to be a serious.

The application was given Conditional Approval for the whole site boundary on the 11/01/2018.

Two section 73 applications have since been submitted, 1501/20/VAR and 3831/23/VAR, both approved along with application 3117/17/FUL, and could be implemented were it not for the fact that the development currently stands in breach of any of these approvals.

The three approvals for the whole site.

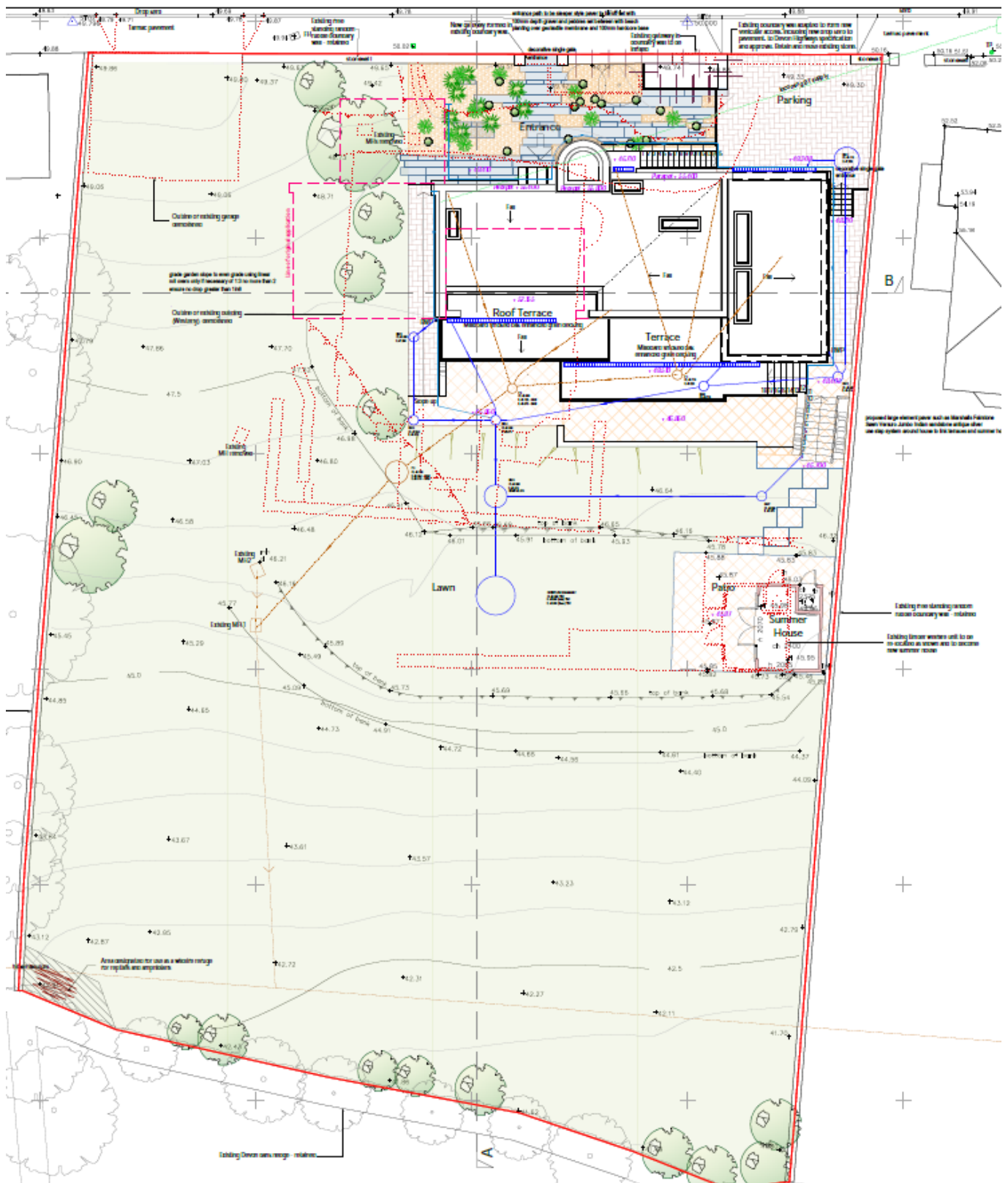
**3117/17/FUL**



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The existing house was declared to be demolished during 2020 after the submission of application 1501/20/VAR. However the development has not been completed in accordance with the planning approval. Instead a static caravan has been installed since either the second half of 2022 or very early 2023, but without approval.

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In addition a gravel drive has been created that fails to conform to any of the drawings recorded in the decision notices.



And the obvious issue with this new application is that the proposed drive to the second property requires the removal of the tree planting in the three plans already approved.

Groundworks have also already been commenced for the proposed second property.

### **The Proposed Development**

As the Society has demonstrated, the proposal for two properties on the site that had previously been submitted (2682/15/FUL) was refused and subsequently dismissed at appeal. Consequently the LPA should demonstrate consistency and refuse this application.

The demolished building Westerly was illustrated on the front page of the Newton Ferrers Conservation Appraisal 2008.



# Newton Ferrers Conservation Area Appraisal



**Conservation Areas are usually located in the older parts of our towns and villages. They are places whose surviving historic, architectural and locally distinctive features make them special. Conservation area designation highlights the need to preserve and reinforce these qualities.**

The policies followed by the District Council when assessing proposals affecting conservation areas are set out in the South Hams Local Plan, while the Supplementary planning document 'New Work in Conservation Areas' explains how to achieve compliance with them. This is essential because the Council has a statutory duty to approve proposals only if they "preserve or enhance the character or appearance" of the conservation area.

The purpose of this appraisal is to set out what makes the Newton Ferrers Conservation Area special, what needs to be conserved and what needs to be improved.



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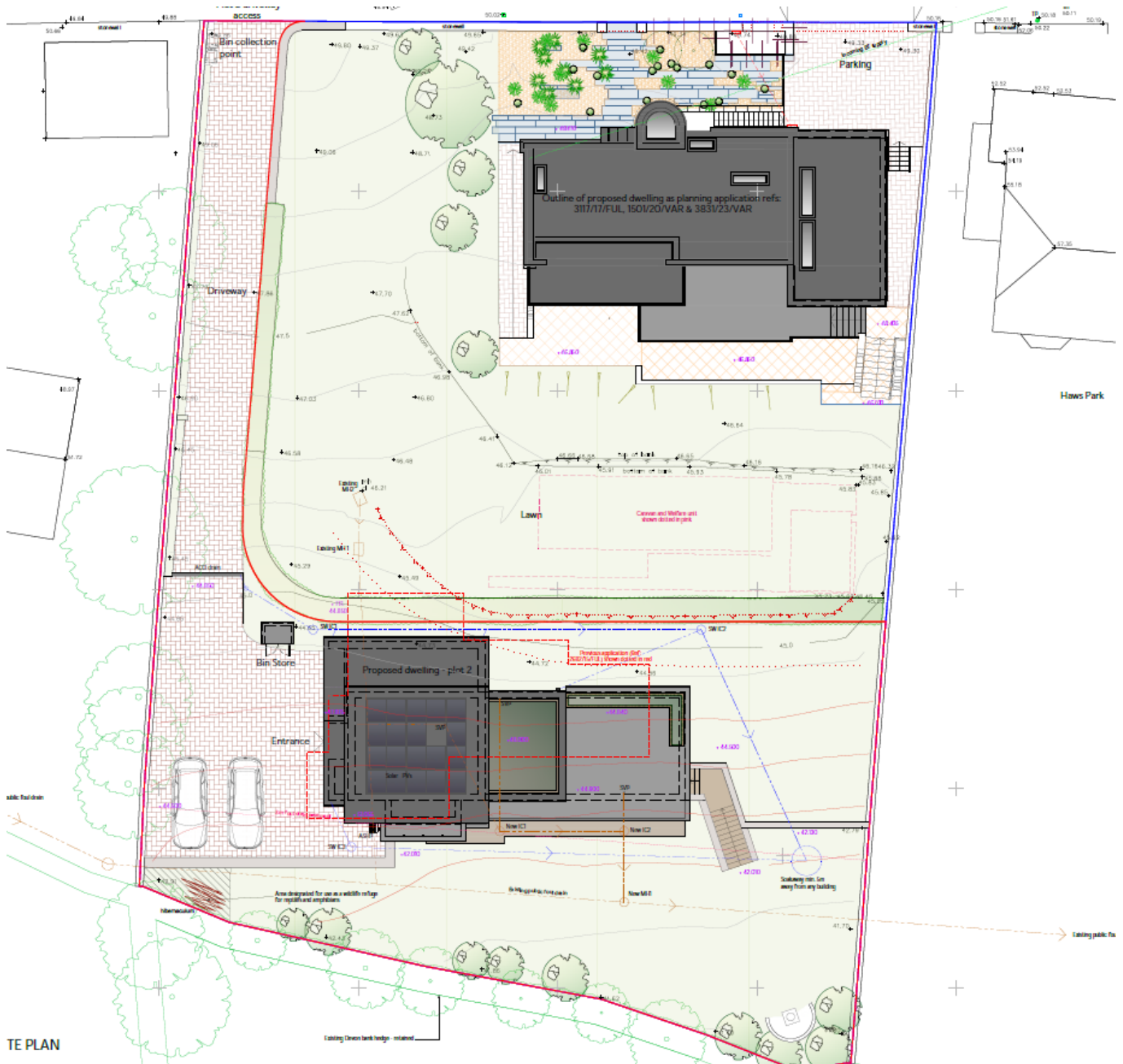
Adopted March 2008

Newton Ferrers

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The proposed position and driveway being put forward in this application.



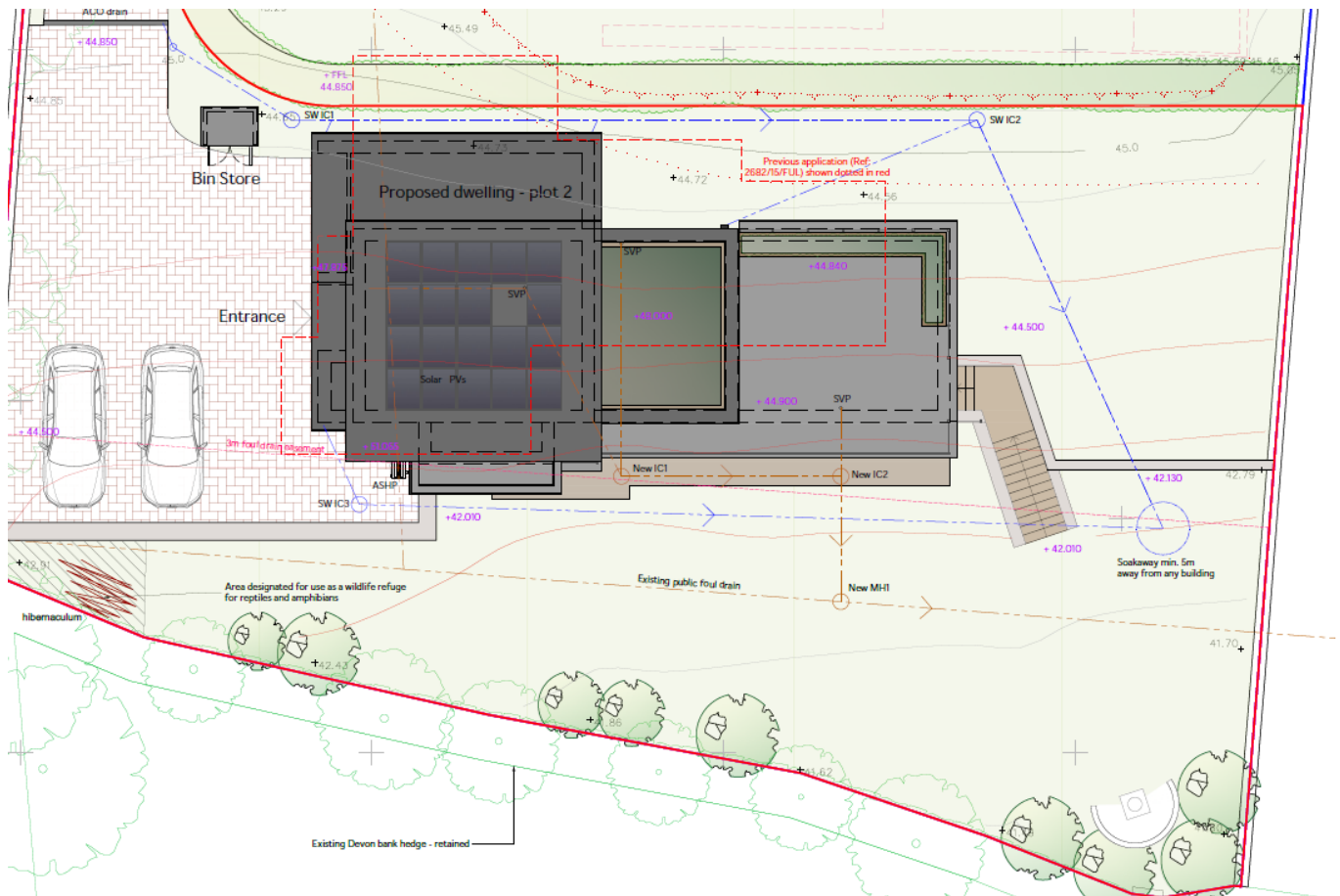
It should also be obvious that placing a driveway down a hillside abutting the boundary of 61 Yealm Road is inconsiderate to that neighbour.

The Society also note there is little change from the location, and size of the previously refused application 2682/15/FUL that was dismissed at appeal application APP/K1128/W/16/3158491 to justify a different outcome.

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The previously refused building outline compared to this application.



The Society therefore see the main issue to be the effect of the proposed development on the character and appearance of the area, with particular reference to the Newton Ferrers Conservation Area and the South Devon National Landscape recorded by the Planning Inspectorate in 2016.

Regarding the Design and Access Statement the Society take issue with this statement:

## 6. PRINCIPLE OF DEVELOPMENT & SUSTAINABILITY

6.1 Section 2 'Achieving sustainable development', Paragraph 11 of the National Planning Policy Framework states 'plans and decisions should apply a presumption in favour of sustainable development' whereby development proposals which accord with local development plans should be approved.



What paragraph 11 of the NPPF states is as follows:

11.

*Plans and decisions should apply a presumption in favour of sustainable development.*

***For decision-taking this means:***

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance<sup>7</sup> provides a strong reason for refusing the development proposed; or*
  - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination<sup>9</sup>.*

7. *The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.*

9. *The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12.*

Since the 2015 planning decision, protection of the National Landscapes has been strengthened.

**Section 245 (Protected Landscapes) of the Levelling-up and Regeneration Act (2023)** has amended Section 85 of the Countryside and Rights of Way (CROW) Act, to create a new duty for public bodies to 'seek to further' the statutory purpose of Protected Landscapes, which for National Landscapes is to "conserve and enhance the natural beauty of the area of outstanding natural beauty".



In addition to the Development Plan, the following legislation, policies and guidance should be considered:

- Section 85 of the Countryside and Rights of Way (CROW) Act;
- Sections 12 of the NPPF in particular paragraphs 135, 187, & 189;
- The National Planning Practice Guidance (NPPG) particularly Section 8-036 to 8-043
- on Landscape; and
- South Devon National Landscape Management Plan 2019-2024 and its Annexes.

Plymouth and South West Devon Joint Local Plan:

Adopted JLP policy DEV25 also protects nationally designated landscapes from inappropriate development and activity, supported by policy DEV23, which seeks to ensure that new development conserves and enhances landscape, townscape and seascape character and scenic and visual quality, avoiding significant and adverse landscape or visual impacts. Whilst the site is located adjacent to, and visible from, landscape that falls within the Undeveloped Coast, where JLP policy DEV24 does not permit development which would have a detrimental effect on the undeveloped and unspoilt character, appearance or tranquillity of the Undeveloped Coast, estuaries, and the Heritage Coast except under exceptional circumstances.

South Devon AONB Management Plan:

- Lan/P1 Character
- Lan/P4 Tranquillity
- Lan/P5 Skylines & visual intrusion

After considering the plans submitted and the policies listed, the Society are strongly of opinion that this application should be refused.

For and on behalf of the South Hams Society,

Richard Howell  
Chairman.