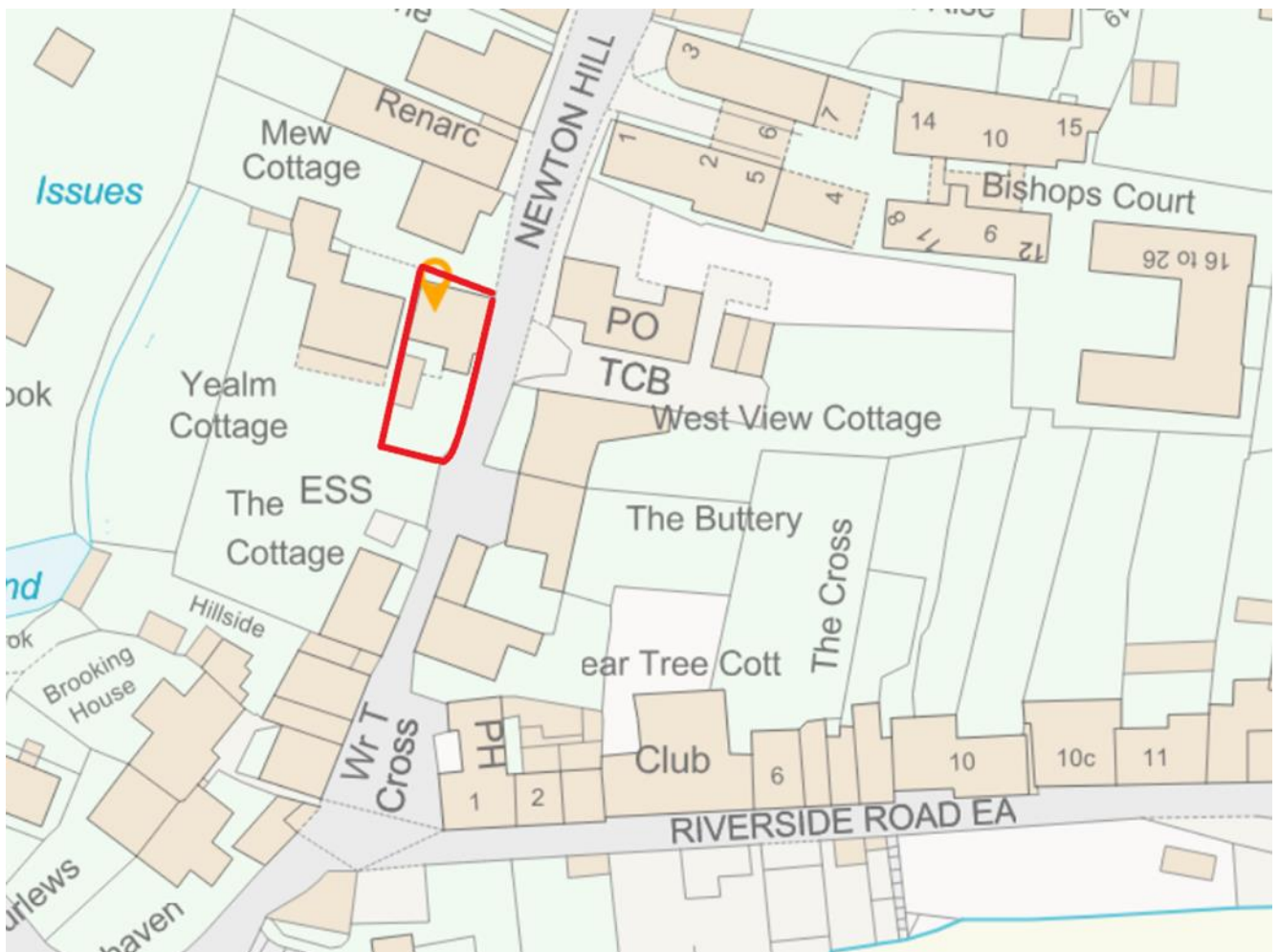


## COMMITTEE REPORT

<b>Case Officer:</b>	David Stewart		
<b>Parish:</b>	Newton and Noss	<b>Ward:</b>	Newton & Yealmpton
<b>Application No:</b>	1668/23/VAR		
<b>Applicant:</b>	Mr B Sherriff The Mooring Newton Hill Newton Ferrers PL8 1BG	<b>Agent:</b>	Mr Justin Sluce - JSD Ltd 48 Yealm Road Newton Ferrers  PL8 1BQ
<b>Site Address:</b>	The Mooring, Newton Hill, Newton Ferrers, PL8 1BG		
<b>Development:</b>	Variation of Condition 1 (approved plans) of planning consent 0068/20/VAR		



**Reason item is before Committee:** Cllr Thomas has called this to committee based on examining the Parish Council objection

**Recommendation:** Conditional grant

**Conditions**

Adherence with approved plans  
Adherence with approved CMP  
Privacy screens to be installed prior to use of balcony  
Landscaping  
Timber to undercroft door  
North western boundary wall to be clad in natural stone (5 months)  
Wall on south eastern elevation to be clad in stone

**Key issues for consideration:**

Whether the proposed changes affect the external appearance of the completed development.  
Whether the changes give rise to loss of amenity for neighbours

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**Site Description:**

The site hosts a detached dwelling with small patio to the south. The dwelling has been extended and altered during its lifetime, most recently under 1543/18/HHO, as varied under 0068/20/VAR. The site is located within the built form of Newton Ferrers, within the settlement boundary, defined within the Neighbourhood Plan, South Devon Area of Outstanding Natural Beauty and the Heritage Coast. The site is adjacent to the Conservation Area boundary on its southern and eastern borders.

**The Proposal:**

The proposal seeks to vary condition 1 of 0068/20/VAR to substitute revised drawings to those approved. Changes are required to the approved drawings because the underlying geomorphology prevented the approved undercroft store finished floor level being set as low as originally intended and this has led to the terrace level being slightly higher than the approved level by about 0.35m – 0.4m. Without alteration, the height of the 2021 approved boundary wall separating the side of the terrace from the neighbour would be about 1.3m in height and topped by a further 0.4m – 0.5m hit and miss or close boarded fence. The current application raises the side wall to 2m. The fence on the southern boundary is shown to be close boarded.

**Consultations:**

- County Highways Authority                      No Highway Implication
- Town/Parish Council                                      Objection based on the following:
  - PC supports the neighbour's objection
  - Proposed fencing on the southern boundary does not provide adequate privacy to the adjoining garden as the terrace has been built at a higher level
  - Drawings are inadequate to show negative effect on the neighbour and on surface water drainage which will cause flooding as it goes to the combined sewer and added CO2 emissions as it will need to be pumped

## **Representations:**

The Council has received comments from 1 objector covering the following points:

- Loss of privacy
- Reduced visibility from the adjoining entrance due to the construction
- Works being undertaken on land not owned by the applicant

It should be noted that the change to the fencing details has resulted in the neighbour not objecting to the variation relating to this matter.

## **Relevant Planning History**

- 3504/21/VAR READVERTISEMENT (Revised plans) Application for variation of conditions 1 (approved plans) and 6 (stone faced boundary wall) of planning consent 0068/20/VAR, refused
- 0068/20/VAR Variation of conditions 2 (approved plans) of householder consent, conditional approval
- 1543/18/HHO: Replacement roof, alterations to fenestration and re-modelling of south elevation. Creation of underground store beneath garden
- 37/1750/02/CU Change of use of shop and dwelling to dwelling, conditional approval
- 37/1417/83/3: Erection of Greenhouse

## **ANALYSIS**

### Principle of Development/Sustainability:

The principle of further alterations to an already approved scheme is established by the earlier permissions, subject to compliance with the other protective designations in this highly sensitive location. The site is located within the built form of Newton Ferrers where adopted policies of the JLP and the Newton and Noss Neighbourhood Plan direct developments of this scale. The proposal accords with SPT1, SPT2, TTV1 and TTV26 of the JLP.

### Design/Landscape/neighbour amenity:

The proposed changes to the approved scheme relate to a revision to the level of the terrace and associated change to the western boundary screen. The terrace level has been raised to the threshold level of the ground floor patio windows. The wall facing west has also been raised to the window head height of these patio windows. This gives a 2m height for the screen wall measured from the terrace level, sufficient to protect the privacy of the occupiers of the adjoining property. Whilst the neighbour has indicated that the wall can be reduced in height for about two thirds of its length and the stone cladding omitted from a section, this change is not shown. Officers regard the cladding of the wall with stone an important feature that protects the character of the area. It is also considered that the maintenance of the wall height at 2m along the whole of its length ensures no overlooking will occur and at the same time will not result in significantly greater overshadowing than if the wall were to be built in accordance with the neighbour's suggestions.

On the southern elevation, the boundary fence has been amended in line with the neighbour's suggestions and officers therefore consider the revised solution acceptable.

In terms of fence design, it is noted that there is a change in material from a high timber trellis to a hit and miss vertical fence made of reclaimed pitch pine. The pitch pine has

already been used on the undercroft door and provides a high quality finish that is sympathetic to the historic village core. These changes are minor in nature and do not adversely affect the quality of the design. It is therefore considered that the proposal accords with DEV1 and DEV20 of the JLP.

The changes are minor and relate to a development within the village confines of Newton Ferrers. The proposal has no adverse impact on the wider AONB and Heritage Coast and accords with DEV24 and DEV25.

The site abuts the conservation area boundary and the acceptability of the impact of the development on its setting has already been concluded that the proposal is acceptable. These changes do not affect the overall appearance of the development and have no impact on the historic environment in accordance with DEV21

The change made to the original submitted proposal does address some of the neighbour's concerns and in doing so some of those of the Parish Council.

#### Highways/Access:

One issue raised by the neighbour relates the rebuilding of a stone wall abutting the north elevation which also borders the neighbour's drive. The rebuilding appears to show the very corner of the wall as a rectangular section rather than a rounded section. However, photographic evidence of before and after shots indicates the wall has been rebuilt in the same profile as the original. The pre development survey suggests that the wall has been rebuilt within the footprint of the original.

This evidence suggests that there is no discernible difference between the original and the new wall as it relates to the profile adjacent to the highway. Further back, within the site, the wall is less wide than the original. It is therefore considered that the visibility when leaving the adjoining drive has not been impaired by the rebuilt wall and that even if it has been it is to such a limited degree as to have no discernible impact and accords with DEV29.

The ownership issue relating to the land is addressed later in the report and is a civil matter.

#### Drainage:

The approved development showed drainage of surface water to the combined sewer. This method of disposal has not altered. Although on site percolation would be the preferred solution it is unlikely to be viable in this location and drainage direct to the ground may affect the downhill properties. It is therefore reasonable to dispose of surface water in the manner shown. This is a matter for South West Water as they are responsible for the foul sewer in the area who are responsible for permitting this form of drainage. As the current variation offers no change to the volume or form of drainage it is considered acceptable.

#### Other Matters:

It is necessary to address the matter of whether the application is valid in relation to the issue of ownership of land that have been raised by the neighbour and the Parish Council. The matter relates to 2 points. The first to the installation of pipes externally to the air source heat pump and the second to the site of the rebuilt stone wall on the north elevation.

Officers have previously been made aware of a land ownership dispute relating to the siting of the heating pipes. In that case the applicant advised that they own the land within the red line site application boundary. Further enquiries have been made of the applicant on the stone wall issue on the north side of the dwelling and the agent has again confirmed his client's ownership of the land and that the footprint of the stone wall has been maintained exactly as it was originally.

On the basis of these submissions, officers consider that the application has been duly made and can proceed to determination. It will be for the adjoining occupier to pursue through the civil courts if they consider their freehold rights have been infringed.

#### Conclusion

The proposal makes only minor changes to the approved development and has no adverse impact on matters previously examined in earlier permissions. It is therefore considered that the variations sought are acceptable and officers recommend approval of the application.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and, with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.***

#### **Planning Policy**

##### Relevant policy framework

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 Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)\* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019 confirming the change.

On 14<sup>th</sup> January 2022 the Department for Levelling Up, Housing and Communities published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% and the consequences are "None".

Therefore a 5% buffer is 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 5.97 years at end of March 2022 (the 2022 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2022 (published 19th December 2022).

[\*now known as Department for Levelling Up, Housing and Communities]

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  
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  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV20 Place shaping and the quality of the built environment  
DEV21 Development affecting the historic environment  
DEV23 Landscape character  
DEV25 Nationally protected landscapes  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts

#### Neighbourhood Plan

**The Newton & Noss Neighbourhood Plan was adopted at Executive Committee on 19 July 2018.**

Policy N3P-1 The village settlement boundaries  
Policy N3P-4 development and construction  
Policy N3P-5 movement and parking  
Policy N3P-6 drainage and flooding  
Policy N3P-8 heritage and conservation  
Policy N3P-9 protecting the landscape

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 Area of Outstanding Natural Beauty Management Plan (2019-2024)**  
**Plymouth and South West Devon Joint Local Plan Supplementary Planning Document (2020)**  
**Plymouth and South West Devon Climate Emergency Planning Statement (2022)**

#### **Proposed conditions**

1. The development hereby approved shall in all respects accord strictly with drawing numbers 17009/EX01A (site location plan), 17009/SD01 Rev D (balcony support columns), 17009/SD02 Rev E (ground floor plan), 17009/SD03 Rev C (first floor plan), 17009/SD05 Rev J (elevations) received by the Local Planning Authority on 05.06.23 and 17009/SD06 Rev C (sections), , 17009/SD04 Rev B (roof plan) and received by the Local Planning Authority on 26.05.20 (application reference 0068/20/VAR) and 17009/EX01 received by the Local Planning Authority on 04.06.18 (application reference 1543/18/HHO).

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 information submitted, the development shall be carried out in accordance with the Construction Management Plan and additional information agreed by the

Local Planning Authority under application reference 0647/19/ARC.

Reason: To ensure minimal impact on the users of the highway and the neighbouring Properties and to accord with DEV29 of the Plymouth and South West Devon Joint Local Plan

3. Prior to any use of the balcony, the obscure glass side privacy screens will be erected as approved in plans 17009/SD05G and 17009/SD03B and 17009/SD06C approved under 0068/20/VAR and shall be retained and maintained in perpetuity.

Reason: In the interests of the amenities of the occupiers of the neighbouring residential properties and in accordance with DEV1 of the Plymouth and South West Devon Joint Local Plan

4. Notwithstanding the information submitted, the landscaping shall be carried out in accordance with the details approved by the Local Planning Authority approved under application reference 0647/19/ARC. Any trees or plants which within a period of five years from the date of completion of the development dies, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In order to protect the visual amenities of the locality and to assimilate the development into its surroundings in accordance with DEV20 of the Plymouth and South West Devon Joint Local Plan.

5. The door to the underground storage area shall be constructed and fitted in timber and retained and maintained in timber in perpetuity.

Reason: To use a material which will blend well with the stone of the wall and enhance the street scene in accordance with DEV20 of the Plymouth and South West Devon Joint Local Plan.

6. Notwithstanding the information shown on the approved drawings, within 5 months of the date of this permission the north western boundary/garden wall (identified as Yealm Cottage side/north west elevation on drawing number 17009/SD05 Rev G) shall be clad in natural stone, reclaimed from the site or of a natural stone which matches the colour and texture of that occurring locally, a sample of which shall be submitted to and approved in writing prior to construction. The new stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used in the wall or for quoin stones.

Reason: To ensure that the development displays good design practice in respect of the age and character of the development and in the interests of the neighbours amenity. The Local Planning Authority consider 5 months to be an adequate time frame in which to complete the development and remedy the harm caused to the Conservation Area and the neighbours amenity with the existing block wall in accordance with DEV1, DEV20 and DEV21 of the Plymouth and South West Devon Joint Local Plan.

7. Notwithstanding the information shown on the approved drawings, the stone boundary wall

on the south eastern boundary (identified as Newton Hill/front/south east elevation on drawing number 17009/SD056) shall be clad in natural stone reclaimed from the site or of a natural stone which matches the colour and texture of that occurring locally, a sample of which shall be submitted to and approved in writing prior to construction. The new stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used in the wall or for quoin stones.

Reason: To ensure that the development displays good design practice in respect of the age and character of the development in accordance with DEV20 and DEV21 of the Plymouth and South West Devon Joint Local Plan.

**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/ Reasons for Refusal:**

**Informatives:**