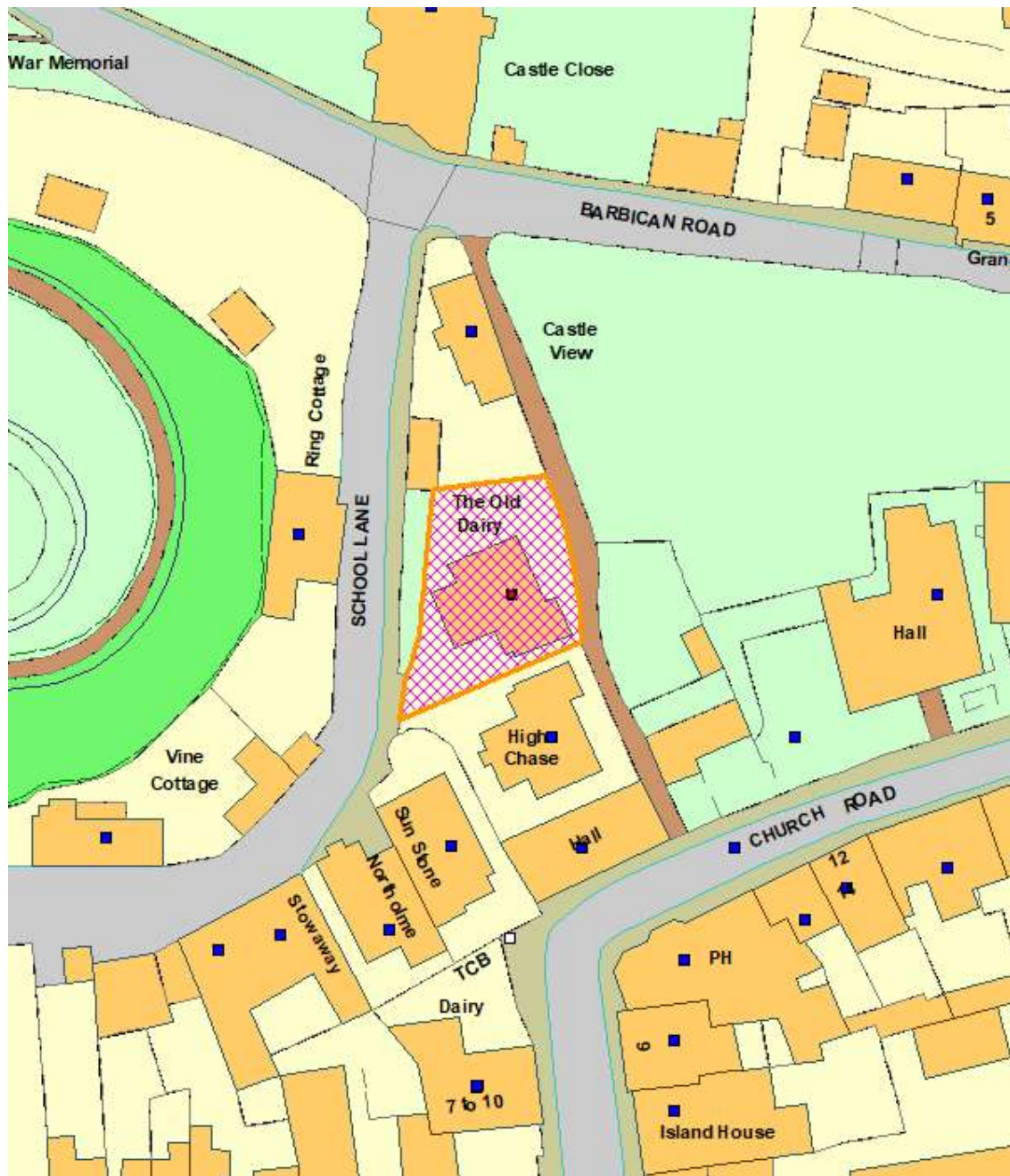


PLANNING APPLICATION OFFICERS REPORT



Application Number	24/01479/FUL	Item	05
Date Valid	13.11.2024	Ward	PLYMPTON ERLE
Site Address	The Old Dairy School Lane Plymouth PL7 INQ		
Proposal	Partial reduction of western boundary wall		
Applicant	Mr Nathan Stonecliffe		
Application Type	Full Application		
Target Date	08.01.2025	Committee Date	24.04.2025
Extended Target Date	30.04.2025		
Decision Category	Councillor Referral		
Case Officer	Luke Valentine		
Recommendation	Grant Conditionally		



This application has been referred to the Planning Committee by Cllr. Terri Beer.

1. Description of Site

The Old Dairy is a two-storey, detached dwelling located in the Plympton Erle ward of the city.

The site is situated within the Plympton St Maurice Conservation Area.

The dwelling is late 20th Century, however the limestone and rough-coursed rubble boundary wall dates to the late 18th to early 19th Century and is typical of the walled gardens of the period.

2. Proposal Description

Partial reduction of western boundary wall.

The application asserts that the south section of the western boundary wall proposed to be removed is unstable and represents a danger to both the applicant and the public.

3. Pre-application Enquiry

No pre-application enquiry associated with this application.

4. Relevant Planning History

87/01819/FUL - Erection of two detached and two link detached houses with integral garages -
Granted conditionally

23/01097/FUL - Removal of first floor box dormer / bay window and replacement with small balcony, x1 new first floor front window, alterations to existing window openings, relocation of steps and installation of wooden cladding at first floor level. - Grant Conditionally

5. Consultation Responses

Urban Design Officer - No Comment

Historic Environment Officer - No Objection

6. Representations

The Local Authority have received 8 letters of representation opposing the application on the following grounds:

- o Unacceptable impact on the character of the conservation area
- o Unconvincing justification for the works
- o Unacceptable impact on neighbouring amenity and outlook
- o Unacceptable impact on previously agreed planning consents

7. 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 South Hams and West Devon within Dartmoor National Park).

Other material considerations include the policies of the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG), National Design Guidance, the Plymouth and South West Devon Climate Emergency Planning Statement (CEPS) 2022, and the Joint Local Plan Five Year Review Report, 2024. Additionally, the following planning documents are also material considerations in the determination of the application:

- o The Plymouth and South West Devon Supplementary Planning Document (SPD) (2020).
- o Plympton St Maurice Conservation Area Appraisal and Management Plan (CAAMP) (2008)

8. Key Issues/Material Considerations

1. This application has been considered in the context of the development plan, the Framework and other material policy documents as set out in Section 7.

2. This application turns upon policies: DEV1 (Protecting health and amenity), DEV20 (Place shaping and quality of the built environment), and DEV21 (Development affecting the historic environment) of the adopted Joint Local Plan.

3. The material planning considerations for this application are:
- o Visual Impact and Impact on Conservation Area
 - o Residential amenity

Negotiations Undertaken

4. The original plans submitted were considered acceptable in-principle and the assessment is based on the initial submission.

Visual Impact and Impact on the Character of the Conservation Area

5. DEV 21 of the JLP requires development to sustain local character and distinctiveness of the area and conserve or enhance its historic environment, heritage assets and their settings according to their national or local significance.

6. The NPPF states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.

7. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

8. Paragraph 210 states:

In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

9. Paragraph 212 states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

10. Paragraph 213 states:

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

11. The Town Planning (Listed Buildings and Conservation Areas) Act 1990 requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

12. This is a requirement of the act itself meaning that when considering these proposals, great weight must be given to the impact of the proposals on the character and appearance of the Conservation Area.
13. The proposal is to partially demolish a section of the boundary wall measuring approximately 7.7 metres in width from the south end and 1.5 metres height.
14. The newly created wall end would be capped with blockwork to match the existing and retain the 45-degree angle of the existing wall. The wall coping will be finished in lime putty to match the existing.
15. The application is supported by a Structural Engineering Report. The report found that the section of the wall the applicant proposes to remove currently leans inward, with a typical measurement of 60mm over 1800mm. In contrast, the rest of the wall measures between 10 to 20mm over 1800mm.
16. The report asserts that this movement likely results from the combination of traffic vibrations, plant growth, and the sites topography.
17. It concludes that the wall, as a whole, is vulnerable, if theoretically stable, and that the identified section should be removed as a safety measure.
18. The boundary wall is a surviving remnant of a garden wall dating back to the late 18th to 19th century. The wall is typical to high walled gardens of the period.
19. The wall is limestone with rough-course rubble bonded with a lime mortar and is typical to the vernacular of the area.
20. Whilst the wall is not listed, the CAAMP identifies the survival of the historic local limestone walls as a key characteristic of the Conservation Area.
21. Furthermore, whilst the Old Dairy site is not specifically identified in the CAAMP as making a positive contribution to the conservation area, it should be noted that the omission of any building, feature, or space from the CAAMP should not be taken to mean it has no value to the Conservation Area.
22. Officers acknowledge that the wall in question adds to the tight and enclosed streetscape and provides a vertical street surface which provides character to both School Lane and the Conservation Area.
23. Officers have consulted the Historic Environment Officer (HEO) who has raised no objection to the application nor recommended any conditions.
24. It is the view of HEO that the proposed works would be at the very lowest end of less than substantial harm and result in only minimal loss of character to the Conservations Area.
25. Officers concur with this view, noting that the majority of the wall will remain in situ, retaining the sense of enclosure along School Lane.
26. The reduced section of wall will still measure between 2.2 and 2.7 metres in height on the street side. This height would be in line with, or exceed, other historic limestone walls throughout the Conservation Area and, consequently, would not represent a significant degradation of the Conservation Area's character.

27. As per the paragraph 215 of the NPPF (2024), where a development proposal will lead to less than substantial harm, it must be weighed against the public benefit.

28. As noted by the HEO, the loss of the section of wall would be balanced by the works to make good the remaining south and west facing walls of the historic garden as part of the wider scope of the works.

29. These works have been undertaken and serve to better preserve the remaining elements of the boundary wall against further degradation, protecting its presence within the existing streetscape. The works will also remove a potential danger to members of the public.

30. Furthermore, officers have established that it is the intention that the recovered stone will be retained and utilised for further projects within the historic garden.

31. It should be noted that while officers have no reason to believe this will not occur, due to the unknown nature of such works, this has not been secured by condition and therefore may not take place.

32. Finally, officers have queried with the applicant whether repair would be an alternative to the proposed partial demolition. The applicant has advised that whilst remedial repair works have been undertaken, including the clearing of vegetation and repair of loose stonework, it is their view that the wall is too dangerous and further repair works are not a valid path forwards and that they feel that this is supported by the submitted Structural Engineering Report.

33. Whilst officers may not agree that the submitted report fully precludes potential repair, on balance, officers consider that the benefits of the scheme outweigh the harm.

34. The public good achieved through the removal of a potentially dangerous element of the wall, together with the work to make good the remaining north and west facing walls of the historic garden would be proportionate to outweigh the less than substantial harm caused to the character of the character of the Conservation Area.

35. Consequently, officers conclude that the proposal complies with policy DEV20 and DEV21 of the JLP.

Amenity

36. Officers have considered the impact of the development on neighbouring amenity against the guidance in the SPD and consider it acceptable.

37. Officers do not consider that the proposal would create a breach of the 45-degree guideline, nor would it create a materially greater level of overlooking.

38. It is noted that a letter of representation raised concerns about potential overlooking into the east facing window and rear garden of Ring Cottage.

39. Officers consider that the removal of the wall would not create a level of overlooking that would be materially greater than that which would be expected for two facing properties, or for a window facing onto a principal highway.

40. Furthermore, the letter of representation raised concerns regarding a historic planning consent and the proposal's potential impact on said consent should it be revisited. Officers have reviewed

the relevant planning consent, 18/01431/PRDE, and do not consider that the removal of the wall section would have any impact on its viability.

41. The proposed works have therefore been considered against the development guidance in terms of natural light levels, privacy and outlook and concluded to be acceptable and in accordance with policy DEVI of the JLP.

Climate Emergency Considerations

42. Officers have assessed the submitted Climate Emergency Compliance Form. Given the scale of the works under this household planning application, mitigation measures should be proportionate to the scale of the development proposed.

43. Officer merit the potential retention and reuse of the recovered stone and have conditioned this.

44. Therefore, by virtue of the scale of the works, the details as submitted are acceptable in this instance.

Response to Deferral Reasons

45. The reason for deferral is set out below with commentary.

A detailed account from a professional confirming what repair options have been explored with regards to the section of wall the applicant proposes to remove, along with a justification for why each option has been considered unviable.

46. The applicant has submitted further comments by a qualified structural engineer confirming that they have considered strengthening the wall either through buttresses or by thickening it.

47. However, both considered options would necessitate excavating the foundations of the vulnerable wall. It is the view of the structural engineer that neither of these options could be safely undertaken due to the risk of collapse.

48. Once the wall has been lowered, work will be undertaken to repair, cap, and make good the remaining section of the wall.

9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

10. Local Finance Considerations

N/A.

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has therefore had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004, and The Town Planning (Listed Buildings and Conservation Areas) Act 1990 and, for the reasons given in this report, have concluded that the proposal accords with policy and national guidance (specifically JLP Policies DEV1, DEV20, and DEV21). The proposal is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 13.11.2024 it is recommended to Grant Conditionally.

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

1 CONDITION: APPROVED PLANS

Location Plan 11112024 received 11/11/24

Block/Site Plan and Photographs 312/GA/01 received 11/11/24

Existing and Proposed Elevation 312/GA/03 received 11/11/24

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

2 CONDITION: COMMENCE WITHIN 3 YEARS

The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

INFORMATIVES

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: PROPERTY RIGHTS

Applicants are advised that this grant of planning permission does not over-ride private property rights or their obligations under the Party Wall etc. Act 1996.

3 INFORMATIVE: COUNCIL CODE OF PRACTICE

The applicant is directed to the Council's Code of Practice by the Public Protection Service (Control of Pollution and Noise from Demolition and Construction Sites):

<https://www.plymouth.gov.uk/sites/default/files/ConstructionCodeOfPractice.pdf>

4 INFORMATIVE: SUPPORTING DOCUMENTS

The following supporting documents have been considered in relation to this application:

- Heritage Statement
- Design and Access Statement
- Structural Engineering Report / Brody Forbes (21/01/2025)

5 INFORMATIVE: HEO RECOMMENDATION

The Historic Environment Officer has recommended the use of NHL lime mortar as an alternative lime putty mortar. Whilst lime putty mortar is acceptable, NHL lime mortar is harder wearing and less likely to wash out.

6 INFORMATIVE: UNCONDITIONAL APPROVAL (APART FROM TIME LIMIT AND APPROVED PLANS)

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework, the Council has worked in a positive and pro-active way and has granted planning permission.