
Appeal Decision

Site visit made on 31 January 2017

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 March 2017

Appeal Ref: APP/U1105/D/16/3166036

19 King Alfred Way, Newton Poppleford, Sidmouth, Devon EX10 0DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Helen Marks against the decision of East Devon District Council.
 - The application Ref 16/2011/FUL, dated 19 August 2016, was refused by notice dated 28 October 2016.
 - The development proposed is two-storey extension, new kitchen and dining area, new bedroom extra storage.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The description of development in the heading above has been taken from Section E of the appeal form as it more concisely describes the development proposed.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to outlook.

Reasons

4. The appeal property is located in a residential estate alongside other residential properties. To the rear of the property there is currently a small single storey conservatory which runs in close proximity to the boundary of neighbouring No 15. The proposal would involve the removal of this conservatory and the construction of a two storey side extension to provide a combined kitchen and dining area of the ground floor with a larger second bedroom above. It would extend into the side/rear garden by around 4 metres and would be set in from the boundary with No 15 by around 2.4 metres.
 5. The Council accepts that its visual impact would be acceptable and there would be no material loss of light levels to the neighbouring properties. Similarly, it accepts that its form, scale, design and appearance would be in keeping with the host dwelling and it would be subservient in height and depth. However, it raises concerns regarding the proposed extension's impact on the outlook from the rear windows of No 15 as well as from that property's outdoor amenity space.
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6. Those concerns are well founded. No 15 has a small, narrow and elongated rear concrete yard. At present, although close to the boundary, the conservatory, being single storey, has a limited impact on the rear elevation and external garden area. However, the proposal would introduce a large two storey structure which would extend a considerable depth in close proximity to the shared boundary. With an eaves height of around 5m and a ridge height of around 6.2m, the proposed extension would result in a sense of enclosure when viewed from the rear of No 15 and would appear both dominant and overbearing when viewed from its garden. In view of the small area of outside space available to the occupiers of No 15, this would materially alter their enjoyment of that space and would be harmful to their living conditions.
7. The appellant has suggested that, as the Council's concerns centre of the impact on the rear garden area, the actual use of that area must be considered. However, while I note that the appellant suggests that the area experiences little or no human activity, I observed during my site visit that the area was well kept and contained plants and other garden paraphernalia, indicating that the area was in active use. I do not therefore consider that its use would be so limited that it would provide sufficient grounds to overcome the harm identified above.
8. Consequently, I find that the proposal would be harmful to the outlook of the occupiers of No 15 and would negatively affect their living conditions. As such, it would be contrary to Policy D1 of the East Devon Local Plan 2013-2031¹ which, amongst other things, restricts proposals which adversely affect the amenity of occupiers of adjoining residential properties.

Other matters

9. In view of the site's location within the built up area of the village, the Council is satisfied that the proposal would not impact on the rural landscape and character of the AONB. I agree with that assessment. However, a lack of harm in this respect does not weigh positively in favour of the proposal.
10. In reaching my decision, I have noted both the impact of nearby No 21 on the rear garden area of No 15 as well as the extensions referred to at nearby No 23. However, neither of these sites is sufficiently similar to provide a justifiable precedent for the loss of outlook to the occupiers of No 15. Similarly, I do not consider the benefits to the appellant in improving the space available for the occupiers of No 19 would overcome the harm identified above or would provide sufficient justification for the development proposed.

Conclusion

11. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

¹ Adopted January 2016