

Appeal Decision

Site visit made on 13 June 2017

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 27 June 2017

Appeal Ref: APP/U1105/W/17/3169890

36 Marlpit Lane, Seaton, Devon EX12 2HL

- 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 Mr & Mrs R Tedbury against the decision of East Devon District Council.
 - The application Ref 16/2294/FUL, dated 21 September 2016, was refused by notice dated 24 November 2016.
 - The development proposed is demolition of previously constructed single storey extension and erection of detached two storey dwelling together with formation of new vehicular access and car parking.
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Decision

1. The appeal is dismissed.

Procedural matter

2. During the consideration of the application the appellants submitted amended plans and the Council based its decision on those plans. I have therefore also considered the appeal on this basis.

Main Issues

3. The main issues are the effect of the development on the living conditions of the occupiers of 1 Marlpit Close with regard to whether it would be overbearing and the character and appearance of the area.

Reasons

Living conditions

4. 36 Marlpit Lane is a semi-detached dwelling; it has a single storey side extension which incorporates a double garage. This extension is located close to the common boundary with 1 Marlpit Close. The rear of no. 1 has 3 windows at first floor level and a conservatory and large ground floor window all with an outlook towards the appeal site. Its rear garden has a relatively short length, below that of many of the neighbouring dwellings. This results in the common boundary with no. 36 being close to the rear of the property.
 5. The development would result in the removal of the side extension at no. 36 and the erection of a two storey dwelling. The side of the dwelling would be located close to the common boundary. The dwelling would be significantly taller than the existing extension. It would result in a tall gable wall directly to the front of the large downstairs window and one of the first floor windows in no. 1. Given the short nature of the neighbouring garden it would appear as
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oppressively overbearing from these windows and a significant portion of the rear garden.

6. Number 1 sits partially to the front of the location of the proposed dwelling and at a slight angle. The appeal house would also be set back a little from the front of no. 36. However the north easterly windows in no. 1 would still predominately have an outlook towards the side of the appeal dwelling. It is proposed to use painted render for the walls, the ridge height would be lower than no. 36, and the roof would be designed so that it hips away from the neighbouring house. Even taken together this would not mitigate the harmful effect that would result from the height of the building and its proximity to the common boundary and rear of no. 1. Although the dwelling would not extend closer to the front or side boundary than the existing single storey extension, this also would not minimise the harm that would arise from its height.
7. I note that there were no concerns from neighbouring residents in respect of the effect of the development on their living conditions. Neither the Council's Policies nor the National Planning Policy Framework specifically define what should be considered as an adverse effect on living conditions. However I must reach a judgment on these matters and, for the reasons given above, the development would result in harm. There would be no loss of privacy to the occupiers of no. 1, but this does not minimise the overbearing effect that would occur.
8. I conclude that the development would be overbearing to the occupiers of no. 1 resulting in unacceptable harm to their living conditions. The development would therefore conflict with Policy D1 of the East Devon Local Plan 2013-2031 (the LP) which seeks to only permit development that does not adversely affect the living conditions of the occupiers of adjoining residential properties.

Character and appearance

9. The appeal site is located in an area of residential character. There are several pairs of semi-detached dwellings of a similar age and design along one side of Marlpit Lane. Several of these properties have significant two storey side extensions. Elsewhere there is a variety of designs of dwellings including a number of detached houses.
10. The proposed dwelling would sit adjacent to no. 36, it would have a consistent eaves height and would share some design features with it. The ridge height would be lower than no. 36 but broadly similar to no. 1. The ridge of no. 36 and its attached neighbour aligns with the lane, but the proposed ridge of the appeal dwelling would be perpendicular to the road. This would not appear out of character with the proposed style of the dwelling or the character of the area. However this different roof form would be such that a lower ridge height would not appear discordant. With the eaves height and proportions of the bay windows similar to the nearby semi-detached houses the dwelling would not appear noticeably squat.
11. The development would be located close to the side of no. 36 and the boundary with no. 1. The plot width would be narrower than many of the surrounding plots. However, elsewhere in the locality, particularly where dwellings have been extended to the side, some properties are located close to the neighbouring boundaries. In this context the proposed plot would not appear unduly constrained.

12. Alterations to the front boundary are proposed to allow a new access and visibility splay for the existing dwelling. A front boundary would still be retained and an area of lawn and soft landscaping is proposed to the front of each dwelling. Conditions could be put in place to secure the retention of soft landscaping for the appeal dwelling to prevent the whole frontage being hard landscaped in the future. The access and parking areas would not therefore appear unduly dominant or harmful to the character of the area.
13. Taking the above together the development would not be harmful to the character and appearance of the area. Although this dwelling would result in an increase in the density and the loss of some garden land, as there would not be harm to the character of the area, these factors, in themselves, are not decisive.
14. I therefore conclude that the development would not be harmful to the character and appearance of the area. It would comply with Strategy 6 and Policy D1 of the LP which seeks to only permit development that is compatible with the character of the site and surroundings.

Other matters

15. I am aware that the appellant sought to address some of the concerns of the Council by amending the scheme and that no additional comments from third parties have been made at the appeal stage. However these factors do not alter my conclusions on the main issues.

Conclusion

16. Although I have found no harm to the character and appearance of the area, this does not outweigh the harm that would arise to the living conditions of the occupiers of 1 Marlpit Close. The adverse effects of the development are sufficient to mean that the proposal would conflict with the development plan when taken as a whole. For the above reasons, I conclude that the appeal should be dismissed.

K Taylor

INSPECTOR