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# Appeal Decision

Site visit made on 1 October 2019

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 October 2019**

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**Appeal Ref: APP/K1128/W/19/3231239**

**Land opposite Lyndale, Onslow Road, Salcombe TQ8 8AH**

- 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 King, Cooper, Payne against the decision of South Hams District Council.
  - The application Ref 3262/18/FUL, dated 1 October 2018, was refused by notice dated 25 March 2019.
  - The development proposed is residential development of two detached dwellings.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The Council's reasons for refusal refer to policies from the Development Policies DPD and the emerging Joint Local Plan. Since the Council's decision, these policies have been superseded by those in the Plymouth & South West Devon Joint Local Plan 2014-2034 (the Local Plan), which was formally adopted on 21 March 2019 and now forms part of the Development Plan. The Council has drawn my attention, in particular, to policies DEV1 – Protecting health and amenity; and DEV10 - Delivering high quality housing. The appellant has had the opportunity to comment on the implications of the change in status of the emerging Joint Local Plan since the Council's decision.
3. The Salcombe Neighbourhood Development Plan 2018 to 2034 (the Neighbourhood Plan) was made on 19 September 2019, after the determination of the application by the Council. The Neighbourhood Plan is therefore now part of the Development Plan for the area. The referendum on the Neighbourhood Plan was held on 25 July 2019, so both parties have had the opportunity to comment on its change in status in their appeal submissions.

## Main Issues

4. The main issues are:
  - a) The effect of the development on the living conditions of the occupants of 9 and 10 Knowle Road, with regard to daylight, privacy and outlook; and,
  - b) The effect of the development on the character and appearance of the area.

## Reasons

### *Living conditions*

5. The appeal site lies in a built-up part of Salcombe, and it is surrounded by established residential properties. In common with most of the town, the terrain in the area is steeply sloping. The site itself falls sharply away from Onslow Road, whilst the houses on the opposite side of the road are set well above street level, with steps up to their front doors. The land continues to fall to the north of the site, so that the bungalows at 9 and 10 Knowle Road are at a much lower level than the appeal site. As a result of this topography, the two proposed houses would be a mixture of one and two storeys to the Onslow Road frontage, but they would have three storey elements facing the rear garden boundaries of 9 and 10 Knowle Road.
6. The proposed houses would lie to the south of 9 and 10 Knowle Road, and they would be at a significantly higher level. However, both bungalows have long rear gardens. Consequently, there would be no significant loss of light to the windows in their rear elevations as a result of the development. The proposed houses would cast shadows on some areas of the rear gardens of both bungalows for parts of the day. However, the upper parts of the garden of No 9 are already partially shaded by a high conifer hedge. In both cases, despite the loss of sunlight to some parts of them at certain times of the day, the gardens are large enough that ample sunlit outdoor amenity space would always remain. The development would not, therefore, result in unacceptable living conditions for the occupants due to loss of daylight.
7. Both proposed houses would have windows and terraces looking towards the rear elevations of 9 and 10 Knowle Road. There is existing boundary screening between the bungalow gardens and the appeal site, but its effectiveness varies across the width of the site. However, the window to window distance from proposed Unit 1 to 10 Knowle Road would be in the region of 30 metres. Even if the boundary screening was to be entirely discounted, this distance between opposing windows would be sufficient to maintain privacy within the respective dwellings.
8. The windows in the rear elevation of the original part of 9 Knowle Road would, similarly, be at such a distance from those proposed in Unit 2 that there would be no loss of privacy within the buildings. The distance between the roof terrace of Unit 2, and the window in the rear gable of the extension to No 9, would be somewhat shorter. However, the extension is cut into the slope, such that the topography, and the existing conifer hedge, would prevent any overlooking. The proposals would not therefore result in unacceptable living conditions for the occupants of either of the bungalows due to a loss of privacy within the dwellings.
9. The separation distances between the buildings results largely from the length of the rear gardens of the bungalows in Knowle Road. In contrast, the proposed houses would have rear gardens which, at their shortest, would only be about 4 metres (Unit 2) and 6 metres (Unit 1). Consequently, the proposed houses would be close to the rear gardens of 9 and 10 Knowle Road. Both of these neighbouring gardens have terraced amenity areas near to the appeal site boundary. Although the appellant contends that these gardens are already overlooked, I saw that the terraces provide a high level of privacy for the occupants. They are on the higher parts of the gardens, allowing expansive

views. Being level, they allow for the siting of garden furniture, and appear to be regularly used.

10. At its highest point, the roof of Unit 1 would be more than 12 metres above the ground level at the base of the boundary fence. At this point it would be only about 6 metres from the boundary with 10 Knowle Road. Whilst the roof slopes down from this high point, there would still be three levels of accommodation, on higher ground, close to the rear boundary. The proposals would therefore have a very imposing impact when viewed from the rear garden of No 10, which is at a lower level. The resultant dominance of the building would be harmful to the feeling of seclusion currently enjoyed by users of the terrace.
11. The rear elevation of Unit 1 would include three windows and a roof terrace. Any overlooking from the windows could reasonably be overcome by the imposition of a planning condition requiring obscure glazing, as the respective rooms are served by larger windows in other elevations. However, the terrace would allow views down into the rear garden of No 10 from close proximity, which would be harmful to the privacy of occupants. The sectional drawings show that boundary screening would have to be at a very considerable height to prevent this overlooking. Any proposed new planting would take a significant time to reach the necessary height, and it would then need to be maintained at that height, which would be an onerous undertaking. The overlooking impact could not therefore be overcome by a reasonable planning condition.
12. Unit 2 would have a similarly imposing impact when viewed from the rear garden of 9 Knowle Road. Its wide rear elevation would be between about 9 and 10 metres above the level of the land at the base of the boundary fence, and only about 4 – 6 metres from it. Whilst a high evergreen hedge divides the appeal site from the rear garden of No 9, this only extends about halfway along the boundary. The height and bulk of the proposed dwelling close to the boundary would have an overbearing impact on users of the terrace in the rear garden of No 9, which would be harmful to their living conditions.
13. Unit 2 would have first floor windows and a large roof terrace in the elevation facing the rear boundary of No 9. The existing evergreen hedge would only provide a partial screen, there would still be a significant level of overlooking from the roof terrace and the first-floor windows across the remainder of the rear boundary. Due to the height and proximity of this overlooking, there would be a harmful loss of privacy for the occupants of No 9 in their rear garden and terrace. For the same reasons as explained above, regarding Unit 1, the overlooking impact could not be reasonably overcome by a planning condition requiring boundary screening.
14. This is a hilly environment, where it is common for houses on higher ground to look over those on the lower parts of the slope, therefore complete privacy in gardens cannot be expected. Nevertheless, in this case, close views into the rear gardens would be possible, and the current privacy of occupants would be significantly affected. I accept that occupants of the proposed houses would generally look over the bungalows, to the more distant viewpoints beyond, rather than down into the neighbouring gardens. However, in combination with the dominant presence of the buildings close to the rear garden boundaries, the occupants of the gardens would be likely to experience a significant loss of privacy.

15. The development would therefore harm the living conditions of the occupants of 9 and 10 Knowle Road, through a loss of privacy and a dominant impact on the outlook from their gardens. Consequently, the proposals would be contrary to Policy DEV1 of the Local Plan, which seeks to ensure, amongst other things, that new development provides satisfactory outlook and privacy for both new and existing residents, judged against the level of amenity generally in the locality. Furthermore, the proposals would not meet the aims of section 12 of the National Planning Policy Framework (the Framework), which include the provision of a high standard of amenity for existing users.

*Character and appearance*

16. Near the appeal site, the character of Onslow Road is markedly different on either side of the road, partly as a result of the topography. On the upper side of the road the houses are set back, at a higher level, behind roadside retaining walls that abut the pavement. Some have car-parking areas that have been excavated into the slope. Consequently, this side of the road has a hard, urban appearance, with planting limited to the small front gardens above the retaining walls.
17. The lower side of the road, however, has a much softer appearance. The houses are largely below road level and screened by hedges. There is a prominent roadside boundary fence near the junction with Drake Road, but from there eastwards, there is a largely unbroken length of green frontage that extends beyond the junction with Bonaventure Close. Although there is a fence behind the parking spaces on the appeal site, it is set back into the site and is not therefore prominent in oblique views up and down Onslow Road. The appeal site therefore forms part of this continuous green frontage. When approaching from the west, a backdrop of distant green hills is visible across the site. This view is listed as a Locally Important View in Policy SALC Env6 of the Neighbourhood Plan.
18. Both proposed houses would be built within a metre of the back edge of the pavement. Unit 2 would have a two-storey wing extending to a height of about 7 metres on the frontage. The forwardmost part of Unit 1 would be single storey but, as it would have a roof terrace, the parapet wall would be approximately 4.5 metres above road level across its whole width. The height and bulk of these structures, in such close proximity to the pavement, would be entirely out of character with the prevailing pattern of development on this side of the road. As a result, the buildings would intrude into the green frontage and appear overly prominent in views through the site to the landscape beyond. The narrow strip between the buildings and the pavement would afford little opportunity for planting to soften this harmful impact.
19. Paragraph 172 of the Framework requires great weight to be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONBs). Viewed from the north, the appeal site forms part of a belt of green landscape that divides development on the upper part of the slope from that at the bottom. However, the site has a different character to Bonaventure Wood to the east, as it contains smaller scale plants, and retains the appearance of a domestic garden. It does not, therefore, make a significant contribution to the landscape character of the AONB. The proposed development would be surrounded by existing housing of diverse character.

Consequently, it would not have a harmful impact on the landscape character of the wider AONB.

20. Although I have found no harm to the landscape character of the AONB, the intrusion of built development into the green frontage on the southern side of Onslow Road would be harmful to the character and appearance of this part of the town. The proposals would therefore be contrary to Policy DEV10 of the Local Plan which seeks to ensure, amongst other things, that new housing is designed to be integrated with adjacent development and does not adversely affect the character of the area. The proposal would also be contrary to Policies SALC B1 and SALC Env6 of the Neighbourhood Plan. These policies seek to ensure, respectively, that building setbacks follow and match adjoining buildings, and that development is not overly intrusive in locally important views. Furthermore, as the proposals would not be sympathetic to the surrounding built development, they would not achieve the aims set out in Section 12 of the Framework to achieve well-designed places.

### **Conclusion**

21. For the reasons given above, I conclude that the appeal should be dismissed.

*Nick Davies*

INSPECTOR