
Appeal Decision

Site visit made on 22 June 2020

by Andrew Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 06 July 2020

Appeal Ref: APP/K1128/D/20/3244334

Summerleaze, Drake Road, Salcombe TQ8 8EG

- 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 Ms Lucinda Davies against the decision of South Hams District Council.
 - The application Ref 1676/19/HHO, dated 24 May 2019, was refused by notice dated 14 November 2019.
 - The development proposed is roof extension and alterations to front, side and rear (resubmission of application ref – 2098/18/HHO).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Lucinda Davies against South Hams District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - a) the living conditions of neighbouring occupiers, with particular regard to overlooking and loss of light,
 - b) the character and appearance of the area, including the South Devon Area of Outstanding Natural Beauty (AONB), and
 - c) solar gain and solar panels at the neighbouring property.

Preliminary Matter

4. This appeal proposal is very similar to a previous scheme that was considered at appeal last year¹. The appeal was dismissed due to the harm to the living conditions of the occupiers of Myrana, the neighbouring property to the north of the appeal site, due to loss of light and privacy. The proposal before me seeks to address these matters by modest changes to the scheme to address privacy and the submission of a Daylight Impact Assessment in response to concerns over loss of light.

¹ APP/K1128/D/18/3213974

Reasons

Living conditions

5. The proposed alterations would result in a substantial increase to the height and overall bulk of the appeal property. The modern roof form proposed and the significant bulk across the depth of the site would be very apparent to the occupiers of the neighbouring property, Myrana, as this property stands to the north of the appeal property. Light levels related to windows at the front of Myrana would not be significantly affected by the proposal, and this is the principal outward orientation of the property. However, the level of light reaching the south facing windows of Myrana would be less as a result of the proposal.
6. The appeal proposal is supported by a Daylight Impact Assessment (DIA). The assessment considers the impact to Myrana's south, east and west facing windows. The DIA suggests that while the proposal would result in the loss of daylight to the south facing windows of Myrana, at least 80% of available daylight would still be achieved. From the information before me the impact of the proposal on window 8, which provides south facing daylight to the rear of the Living Room of Myrana, would appear to be most important. Evidence provided indicates that 81% of available daylight would still be obtainable if the proposal was carried out.
7. Although the BRE guidance² suggests that this figure would be acceptable, such a change of almost 20% is significant, and would be felt by the occupants of this dwelling. Furthermore, The DIA figures rely on modelling that does not appear to accurately represent the external form of the proposal. This is most noticeable in relation to the butterfly roof form which is not represented by the modelling shown in figures 5.3 and 5.4. Therefore, I am not satisfied that the submitted DIA is robust and I attach limited weight to its conclusions. The actual change to the level of daylight reaching Myrana's windows could be greater than that suggested in the assessment.
8. The DIA considers daylight levels only. Based on a sunpath analysis that was submitted with the previous appeal, the Inspector noted that the loss of sunlight to Myrana's south facing windows during the winter would start in the morning and carry on into the afternoon, concluding that there would be harm to the living conditions of its occupants. Although this document is not before me as part of this appeal, based on my assessment of the proposal and my observations on site, I see no reason to disagree with the findings of the previous Inspector in this regard. The tall flank wall of the proposal would be close to Myrana's south facing windows, and most critically the south facing window serving its Living Room. It would be quite different to the existing arrangement, where the shallow pitched roof of the appeal property is set down low into the plot and has only a modest effect on light levels reaching Myrana.
9. There are several references in the submissions to a previous permission³ for an extension to the appeal property, which would also raise the height of the building. I have limited details of this scheme; however, it appears to be a more modest scheme than the appeal proposal and is set away from the

² Site Layout Planning for Daylight and Sunlight: A guide to good practice BR 209 2011

³ 41/0190/10/F

northerly neighbour. Furthermore, the permission has lapsed. I therefore give this matter little weight.

10. Therefore, for the reasons above, the proposal would result in the loss of sunlight and daylight to the occupants of Myrana to the extent that their living conditions would be harmed.
11. In terms of overlooking, modest changes have been proposed to specifically address those matters that were considered unacceptable by the previous Inspector. The bridge and elevated terrace have been removed. Overlooking from the upper balcony would be restricted by the addition of an obscured screen and the realignment of the balustrade. I am satisfied that opportunities to overlook Myrana from the proposal would be limited and would not result in harm.
12. In summary, the proposal would cause harm to the living conditions of the occupants of Myrana due to loss of light, contrary to Policy DEV1 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034 adopted 2019 (LP), which seeks to ensure that development proposals safeguard the health and amenity of local communities by ensuring that new development provides for satisfactory daylight and sunlight to existing residents.

Character and appearance

13. The area is dominated by its steep topography, which rises up to the west away from the coast and the older parts of the town. Neighbouring properties to the east of the appeal property are at a much lower level, whereas neighbouring properties behind the appeal site to the west are much higher and look over the roof level of the appeal property. Properties in the area generally date from the 20th century and are arranged in fragmented rows facing east to look out over the town and towards the Estuary. They are mainly detached and are not particularly consistent in terms of form, scale or materials.
14. The proposal would raise the height of the existing dwelling substantially and would bring it closer to Drake Road, which is the modest access road to the east. Buildings fronting Drake Road are at a much higher level, above various steep banks, retaining walls, driveways and garages. As a result, front elevations of existing properties are set high up into the plots and do not therefore form a strong road facing building line. The proposal would be staggered back at each floor level in a manner that responds to the site slope and would serve to reduce its bulk when viewed from Drake Road, as would the use of natural stone to the lower part of the front elevation. The proposed planting scheme includes plants that would grow vertically over front walls, which would serve to soften the appearance of the building from the road. On this basis the proposal would not be harmful to the character or appearance of the streetscene.
15. The proposal would have a contemporary form with large openings, front facing balconies and a modern butterfly roof. This would be somewhat different to the more modest forms of some properties in the area, however at my visit I saw many nearby examples of large front facing windows and balconies. Furthermore, there are several vantage points to the east where it is possible to view the appeal site in the context of the large properties to the west. These stand at a much higher level and have substantial east facing elevations that

look over the level of the appeal site. The proposal would not be harmful in this well-developed hillside setting, where it would be viewed in the context of significant built form above and below as well as to either side.

16. Modest changes between the previous scheme and the proposal before me have been made to avoid overlooking towards the neighbour. The cut back section of terrace at first floor level would align with the terrace fronting the master bedroom. The full height screen would be seen as part of the balustrade at this level. I am satisfied that these small changes would not look contrived or harm the overall design.
17. The site is within the AONB. Owing to the small scale of the proposal in the context of the built up area of Salcombe I am satisfied that the proposal would not harm the wider landscape character of the AONB.
18. In summary, the proposal would not be incongruent, overbearing or harmful to the character or appearance of the AONB. It would accord with Policies DEV10, DEV20 and DEV25 of the LP, Policies SALCENV1 and SALCB1 of the Salcombe Neighbourhood Development Plan 2018 to 2034 and the National Planning Policy Framework, which together seek to ensure that development proposals should be designed to integrate with adjacent development and local context and conserve the landscape and scenic beauty of protected landscapes.

Solar gain and solar panels at Myrana

19. The parties agree that the proposed extensions would overshadow Myrana to a certain degree, and I have found that this would cause harm to the living conditions of its occupants. However, in relation to a reduction of solar gain, there is no evidence before me to suggest that the existing level of sunlight to Myrana's south facing windows is essential for the purposes of heating the property.
20. With reference to a recent court decision⁴, although Myrana's solar panel (PV) array is a typical domestic installation it nevertheless makes a small contribution to the wider public benefit of climate change mitigation, which accords with the objectives of Policy DEV32 of the LP. However, the benefits to the occupiers of Myrana arising from financial payment for energy generated is a private interest to those occupants, unrelated to the wider public benefit of climate change mitigation, and therefore carries little weight.
21. With regard to the loss of light to Myrana's PV panels, evidence before me demonstrates that the estimated loss in energy generation as a result of lower light levels would be offset by the inclusion of PV panels on the new roof of the appeal property. The estimated energy generated by the proposed panels significantly exceeds the estimated reduction of energy produced by the PV panels at Myrana as a result of the proposed development. This is sufficient to address any concern raised over the accuracy of the submitted figures.
22. In summary, the effect of the proposal on solar gain and solar panels at Myrana would be acceptable, in accordance with Policy DEV32 of the LP, which seeks to ensure the delivery of low carbon development.

⁴ Mclennan, R (on the application of) v Medway Council & Anor [2019] EWHC 1738

Conclusion

23. Although I have found the proposal to be acceptable in terms of its impact on the second and third main issues, these are neutral matters which do not outweigh my findings on the first main issue. As such, the appeal should be dismissed.

Andrew Tucker

INSPECTOR