



Appeal Decision

Site visit made on 16 August 2022

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/K1128/W/22/3298629

Summerleaze, Drake Road, Salcombe TQ8 8EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Lucinda Davies against South Hams District Council.
 - The application Ref 1704/21/HHO, is dated 5 May 2021.
 - The development proposed is roof extension and alterations to front, side and rear.
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Decision

1. The appeal is allowed and planning permission is granted for roof extension and alterations to front, side and rear at Summerleaze, Drake Road, Salcombe TQ8 8EG in accordance with the terms of the application, Ref 1704/21/HHO, dated 5 May 2021, and subject to the conditions in the attached schedule.

Application for costs

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

Preliminary Matters

3. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has advised that had it been in a position to determine the application they would have refused the application for the following reason:

The proposal would result in the unacceptable loss of daylight and sunlight to existing residents of Myrana, contrary to the provisions of policy DEV1(1) of the Plymouth and South West Devon Joint Local Plan 2014-2034.

4. The appeal proposal is very similar to previous schemes that were considered at appeal in 2019¹ and 2020². The latter 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. The proposal before me seeks to address this matter by way of the submission of a revised Daylight and Sunlight Impact Assessment.

¹ APP/K1128/D/18/3213974

² APP/K1128/D/20/3244334

Main Issue

5. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to loss of daylight and sunlight.

Reasons

6. The appeal property is located in an elevated position above the level of Drake Road in a residential area. The topography steeply slopes down from south to north and from west to east. As well as the topography, dwellings of differing designs result in a variation of floor and ridge levels of properties along Drake Road. As a consequence, the neighbouring property Myrana has a lower ground floor level than that of the appeal property, although a higher ridge height.
7. As noted by the previous appeal Inspector, the proposed alterations would result in a substantial increase to the height and overall bulk of the appeal property. Given the location of the appeal site to the south of Myrana, this will not impact on light levels to the eastern (front) elevation of Myrana, however, there will be an effect on the south facing windows.
8. A Daylight Impact Assessment(DIA) submitted in support of the proposal has been modelled on an accurate representation of the proposed development and considers both daylight and sunlight levels on windows within the east, south and west elevation of Myrana. I note that whilst there may have been some discussion between the appellant and Council in relation to an independent review of the DIA, this was not carried out, and the Council have not provided any substantive evidence to challenge the technical conclusions of the submitted DIA.
9. The DIA has been carried out in accordance with Building Research Establishment (BRE) guidance³. I am aware that since the DIA was completed, the BRE has issued a new edition of the guidance⁴. Both parties have been given the opportunity to comment on the implications of the revisions and I am satisfied the recent amendments have not impacted on the final conclusions of the DIA and therefore, utilising accurate modelling, and without any evidence to the contrary, appears to me as a robust daylight and sunlight impact assessment.
10. The windows to the south elevation of Myrana that would be most impacted by the proposal are labelled within the DIA as W1, W2, W7 and W8. Out of these, W1 and W2, found on the ground floor of Myrana, serve a study and hallway, and from my site visit, I noted currently receive reduced levels of light due to proximity to mature boundary planting. W7, while being on the first floor serves a landing, with W8 serving a living area. I therefore find that the effect on W8 to be of most importance.
11. In terms of daylight impact, the DIA concludes that 84% of available daylight would still be obtainable from W8 following development of the proposal, and in terms of sunlight, 90% of the annual probable sunlight hours would be obtainable, with 73% predicted winter probable sunlight hours. Importantly, I acknowledge that W8 is one of three windows within this room of Myrana, with the average reduction for the room being 5% in terms of daylight, and 3% annual sunlight hours and 9% winter sunlight hours.

³ BR209 – Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011)

⁴ BR209 – Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022)

12. In terms of the impact on the living conditions of the occupiers of Pengwern, as is common with properties to the west of Drake Road, the main outlook from Pengwern is through large windows and a balcony in the front elevation looking east. As Pengwern lies to the south of the appeal site, it would not suffer any significant loss of light from the proposals. The design of the proposed development incorporates an angled alignment of the forward projection which I find would limit and therefore avoid significant impact on outlook for the occupants of Pengwern. In terms of overlooking, a condition could be imposed to ensure proposed new windows facing toward Pengwern would be obscure glazed.
13. From my observation of the relationship of the appeal site and Myrana, the context of the rooms that would be directly affected, and the conclusions of the DIA, I find that whilst a reduction in light would be clearly noticeable, particularly from W8, the proposal would not result in losses of either daylight or sunlight that would result in significant harm to the living conditions of the occupants of Myrana. The proposal would therefore accord with Policy DEV1 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (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.

Other Matters

14. I have taken into account representations about the accuracy of submitted information, character and appearance, effect on living conditions, geological concerns, highway, access and boundary disputes. I have not been provided with any substantive evidence that any submitted information is inaccurate and have dealt with living conditions above associated with loss of daylight and sunlight.
15. I understand that the development plan including the Salcombe Neighbourhood Development Plan 2018 – 2034 include policies requiring developments to demonstrate high quality design and integrate into the local surroundings. Both the previous Inspector and Council have found that a modern design solution would be acceptable in this location and have identified no conflict with the development plan in this regard. I have no compelling reason to find differently given the mix of building scales and designs prevalent in the surrounding area.
16. In terms of the effect of the proposal on highways, I note from my visit the current poor access arrangements to the dwelling and find that the proposed access arrangements would not result in an adverse effect on highway safety given the proposed access width and garage parking arrangements. Furthermore, a condition requiring a construction management plan would be reasonable in order to limit the effect of the proposal on neighbouring occupiers and highway safety during the construction period.
17. I note the concerns raised in terms of land stability and that the proposed development would involve substantial construction works on a challenging topography in close proximity to neighbouring properties. However, a planning condition could be imposed requiring a geotechnical survey be submitted prior to commencement of excavation works to ensure the proposal does not unacceptably impact on the land stability of the site.

18. Whilst there may well be boundary disputes, this is a matter outside the remit of this appeal, and therefore does not affect my findings on the planning merits of the proposal.
19. I have noted the Council's Committee report concludes that the proposal will result in some shading to neighbouring solar panels, although the inclusion of solar panels on the appeal proposal would result in no net loss of low-carbon solar energy generation. I have no evidence contrary to this finding and have no reason to disagree and a planning condition could be imposed ensuring the inclusion of solar panels.

Conditions

20. I have considered the conditions suggest by the Council, having regard to the six tests set out in the National Planning Policy Framework (Framework). For the sake of clarity and enforceability, I have amended the conditions as necessary.
21. A condition would be necessary regarding the approved plan to provide certainty. Given the residential locality and surrounding highway network, a Construction Management Plan would be necessary in the interests of neighbouring occupiers living conditions.
22. Conditions regarding drainage and land stability would be required in the interests of public health and flood prevention.
23. Conditions requiring details of stonework and landscaping are reasonable and would be necessary to ensure the development would integrate satisfactorily into the locality.
24. Conditions requiring obscure glazed window would be required to safeguard the living conditions of neighbouring occupiers.
25. A condition requiring the installation of solar panels would be required in the interests of ensuring no net loss of low-carbon solar energy generation.
26. Finally, I find that a condition would be required to ensure that ecology is safeguarded and enhanced in accordance with LP Policy DEV26. However, the Council's suggested condition requires implementation prior to the commencement of the use as well as requiring additional recommendations within the Ecology Report be carried out. As the proposal relates to alterations to an existing dwelling and not a change of use, implementation would be unenforceable. I have therefore amended the wording of the condition to require that a scheme illustrating the location of, and implementation timetable of the specific enhancement measures are submitted to the Council prior to commencement of the development.
27. I have found that pre-commencement conditions are necessary in order to safeguard the living conditions of neighbouring occupiers, in the interest of public health and ecology.

Conclusion

28. For the reasons given above, I find that the proposal is in accordance with the development plan, considered as a whole. Therefore, I conclude that the appeal should be allowed.

S Harrington

INSPECTOR

Schedule

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
- 2) The development hereby approved shall in all respects accord strictly with drawing numbers;
 - 18-767 T.01
 - 18-767 A.01
 - 18-767 A.02 Rev A
 - 18-767 A.03
 - 18-767 A.04
 - 18-767 A.05
 - 18-767 A.06
 - 18-767 A.07
 - 18-767 A.08
 - 18-767 A.09 Rev A
 - 18-767 A.10 Rev A
 - 18-767 A.11 Rev A
 - 18-767 A.12 Rev A
 - 18-767 A.13 Rev A
 - 18-767 A.14
- 3) Prior to commencement of the development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved details.

The CMP shall include the details below, although this list is not exhaustive.

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure (which must also be agreed with Devon County Council separately);
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.

- 4) Notwithstanding the submitted information, no development shall commence until full details of the most sustainable drainage option has been submitted to and approved in writing by the Local Planning Authority. Design steps as below:

- (a) Attenuation should be designed for a 1:100 year return period plus an allowance for Climate change (currently 40%).
- (b) The offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods. Full details of the flow control device will be required. However, if the calculated Greenfield runoff rate is too small to be practically achievable, then a maximum offsite discharge rate of 1.0l/s can be considered. Which is achievable in most cases with suitable pre-treatment and shallower storage depth.
- (c) A scaled plan showing full drainage scheme, including design dimensions and invert/cover levels, within the private ownership will be required.
- (d) The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

- 5) Prior to commencement of the development hereby permitted, a land instability risk assessment report, including details of measures to ensure no adverse impact on land stability within the site or affecting neighbouring land, prepared by a suitably qualified person (s) for the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then take place in accordance with those approved details.
- 6) The new stone walls shall be constructed of natural random stone laid traditionally on its quarry bedding. A sample panel of not less than two square metres shall be provided for inspection and written agreement by the Local Planning Authority prior to the construction of any of the new walls. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting this Order), all new stone walls, constructed in accordance with

the approved drawings and the terms of this condition, and all existing stone boundary walls shall be retained in their natural stone finish and shall not be rendered, colour-washed or otherwise treated in a manner which would obscure the natural stone finish, nor shall they be demolished either in whole or in part.

- 7) The 1.8m high obscure glazed privacy screen as detailed on drawing 18- 767 A.10 Rev A and on the north elevation of the first floor roof terrace hereby permitted shall be installed prior to the use of the terrace and shall thereafter be retained and maintained as such.
- 8) The vertical slot windows on the north and south elevations shall be obscure glazed, non-opening and permanently retained as such.
- 9) Notwithstanding the details submitted, prior to the development being brought into use, solar panels shall be provided on the roof of the dwellinghouse and shall provide at least the same power output as set out in the Energy Statement Report by the Mach Group, dated 09 September 2019. The solar panels shall be retained and maintained for the lifetime of the development.
- 10) The proposed landscaping shown on drawing number 18-767 A.16 shall be implemented in the first available planting season and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.
- 11) Prior to the commencement of development, a scheme illustrating the location of, and implementation timetable for a bird box, bat box and bee brick (ecology scheme) as detailed within the Ecological Report by Ecologic (dated 12 June 2018 and 15 June 2021) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved ecology scheme, which shall be retained thereafter.