



Appeal Decision

Site visit made on 27 July 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Appeal Ref: APP/Y1110/D/22/3311178

18 Tappers Close, Topsham, Devon EX3 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 Mr Rob Cahill against the decision of Exeter City Council.
 - The application Ref 22/0848/FUL, dated 13 June 2022, was refused by notice dated 24 August 2022.
 - The development proposed is retention of garden room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development has been taken from the application form.
3. I saw that the garden room outbuilding had already been constructed on its raised platform by the time of my site visit. I have taken account of the retrospective nature of the scheme.

Main Issues

4. The main issues are (a) the effects of the proposal on the character and appearance of the area, and (b) the effects on the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

Character and appearance

5. The host dwelling is a mid-terrace two storey dwelling within a modern housing estate of similar dwellings in Topsham. The terrace of dwellings has some small defensible spaces to the front and the main gardens are situated to the rear, largely separated by close board fencing of around 1.5 metres – 1.8 metres in height. There is a degree of variation, but the gardens along Tappers Close are relatively modest in scale, and, for the most part, are relatively flat. Some dwellings have rear conservatories, others have small garden sheds, but where such features exist, they appeared to be of around the same height or only modestly higher than the top of the intervening fence boundaries.
6. The garden building is a modest rectangular plan building with a low, monopitch roof with overhang on the front elevation. It is finished in a light grey wood-like cladding, with a triple window and separate single glazed door in the front elevation. There are steps up to the building and the terrace onto which it has been built has been secured at the front by gabion baskets.

7. Despite that it uses up a sizeable amount of the modest rear garden, in my view, the scale of the building itself is at a tolerable upper limit relative to the size of the host dwelling and garden. The form and external appearance of the building are not specifically out of character with the relatively modern estate context either. For me, the key issue is the siting of the building, insofar as it is elevated in the order of 0.85 metres from the typical level of the garden. Whilst this may seem modest in numerical terms, this elevation raises the building materially higher than the intervening fence line and makes it unnecessarily prominent in views from surrounding gardens and dwellings. Therefore, by virtue of this degree of elevation and heightened prominence, its siting results in the building appearing incongruous and ill-considered relative to the surrounding context, to a degree which is not mitigated by the overhanging vegetation from the nearby tree or the limited views from the public realm.
8. In summary, the appeal scheme is harmful to the character and appearance of the area, contrary to, in particular, Objective 9 and Policy CP17 of the Exeter City Council Core Strategy (adopted 2012) (Core Strategy) and Policy DG1 of the Exeter Local Plan First Review (2005). Collectively these Policies require that new development creates and reinforces local distinctiveness and raises the quality of urban living.

Living conditions of neighbours

9. Whilst it is suggested that the garden terrace was already in existence, the construction of a garden building on top of it has provided an enclosed room from which clear views towards the rear of neighbouring dwellings are obtainable. Given the modest size of the gardens in Tappers Close, the elevation of the building and the large degree of glazing in the window and door, the use of the building would affect the privacy of the neighbouring occupiers. The reliance on limited vegetation on the intervening boundaries would not adequately ensure their privacy. Similarly, whilst I understand that integrated window blinds have been installed, these do not remove the potential for overlooking, as was apparent from my site visit, and a condition could not enforce that they remained fixed closed in order to do so.
10. Though the terrace may have previously provided opportunities for sitting out, which in such an urban situation would have meant a degree of incidental overlooking when in use, the garden building would inevitably be used much more frequently than an external terrace would, and thus, the instances of overlooking or perceived overlooking would be materially increased.
11. I noted during my site visit that there were some conservatories and sheds elsewhere along Tappers Close, but I did not see any garden buildings of a similar elevated position, orientation or scale to the appeal building such that it suggests effects of this nature are commonplace in the surroundings. Though the Appellant refers more generally to there being such examples, none have been drawn to my attention.
12. For the above reason, the proposal would harm the living conditions of neighbouring occupiers in terms of privacy effects, contrary to, in particular, Objective 9 of the Core Strategy which requires that development raises the quality of urban living through excellence in design. Whilst the Council have cited Policy DG4 of the Local Plan First Review in relation to this issue, it appears to relate to residential development, rather than residential alterations which would be more relevant to the appeal proposal.

Other Matters

13. I note that the Council has refused permission the creation of a precedent. As the appeal is failing for other reasons, this issue is not determinative.
14. Whilst the Appellant has expressed concerns that full permission has been refused though the application was for a householder development, no error has occurred. A householder application still seeks full planning permission, but the application and appeal processes are streamlined and progressed more quickly than for typically larger or more complicated development types.
15. Though the Appellant has raised concern with the way in which objections have been received and their number relative to the modest scale of the scheme, I have determined the appeal specifically on the basis of its merits and primarily with consideration to the issues in dispute between the main parties and most affected neighbouring occupiers.

Planning balance and conclusion

16. The identified harms bring the appeal scheme into conflict with the development plan, when taken as a whole. Whilst there may be some benefits from the scheme by it providing another habitable room for use by the Appellant, these benefits are largely private, not public benefits. Consequently, I do not find there to be any considerations of such materiality that outweigh the conflict with the development plan or indicate that the decision should be made other than in accordance therewith.
17. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR