



Appeal Decision

Site visit made on 12 September 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/U1105/W/23/3316374

29 Winters Lane, Ottery St Mary, Devon EX11 1AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr and Mrs Thomas against the decision of East Devon District Council.
- The application Ref 22/2031/RES, dated 12 September 2022, sought approval of details pursuant to condition No 1 of a planning permission Ref 21/1692/OUT, granted on 7 October 2021.
- The application was refused by notice dated 23 November 2022.
- The development proposed is a new dwelling.
- The details for which approval is sought are the layout, scale, and appearance pursuant to outline application 21/1692/OUT.

Decision

1. The appeal is dismissed and approval of the reserved matters is refused, namely the layout, scale, and appearance details submitted in pursuance of condition No 1 attached to planning permission Ref 21/1692/OUT dated 7 October 2021.

Main Issue

2. The main issue is the effect on the living conditions of occupiers at Rosy Corner, with particular regard to outlook.

Reasons

3. Rosy Corner is a bungalow located to the south-east of the appeal site. Its rear elevation faces the shared boundary across a small but well-used rear garden. During my site visit I noted that the ground level of the bungalow is lower than that of the appeal site, and that a number of ground floor windows look out onto the rear garden, including from the kitchen, dining/living room, and study. Despite its lower ground level, the occupiers currently enjoy a relatively open outlook from the garden and rear windows of the property. Roofs and elevations of neighbouring properties are visible to varying degrees, and the gable end of No 29 is clearly visible beyond the shared boundary fence.
4. The principle of residential development in this location has been established by the outline planning permission. The submitted Daylight and Sunlight Assessment and its subsequent addendum seek to demonstrate that a two-storey development here would maintain an adequate level of outlook for occupiers of Rosy Corner. The Council have not disputed the light calculations of the assessment, and I also see no reason to disagree with them. Daylight and sunlight are aspects of outlook that can be objectively measured against

established guidelines and best practice. However, more subjective matters of outlook are equally as important to the consideration of the effects of a development on neighbouring living conditions.

5. In this case, given the existing views of No 29 from Rosy Corner, it is evident that the new gable end of the proposals would form a significant and highly visible feature. The comparatively large two-storey elevation close to and on higher ground than the neighbouring bungalow would result in an overbearing effect. Whilst the proposed gable end would be blank and would not introduce issues of overlooking, its massing would be dominant from the garden area and would substantially intrude into the outlook from the ground floor windows.
6. Whilst the outlook from Rosy Cottage would be unchanged in all other directions, the position and layout of the rear garden and the internal configuration of habitable rooms mean that the outlook towards the appeal site has a considerable overall effect on the living conditions experienced at the property. I therefore conclude that the proposed development would result in undue harm to the living conditions of neighbouring occupiers at Rosy Corner. This harm would conflict with Policy D1 of the East Devon Local Plan and Policy NP2 of the Ottery St Mary and West Hill Neighbourhood Plan. Together, amongst other criteria, these policies seek to protect the amenity of occupiers of neighbouring properties.

Other Matters

7. Whilst the proposed development would provide a family home for the appellants, any benefit from the size of the property would be predominantly personal to them. I therefore afford this limited weight.
8. The Council consider that the proposed scale, form, and appearance of the proposals would be sympathetic to Winters Lane. They also raise no concerns in respect of the development's impact on the retained garden tree. I see no reason to disagree with these conclusions, however, the lack of harm in these matters is neutral in the planning balance and does not outweigh the harm I have identified above.

Conclusion

9. For the reasons given I find that the proposals would conflict with the development plan when read as a whole. There are no material considerations that have been shown to carry sufficient weight to indicate a decision otherwise than in accordance with it. Accordingly, I conclude that the appeal should be dismissed.

K Jones

INSPECTOR