



Appeal Decision

Site visit made on 22 July 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/U1105/W/24/3336804

1A Jarvis Close, Exmouth, Devon EX8 2PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Gill Parry against the decision of East Devon District Council.
 - The application Ref is 23/2209/FUL.
 - The development proposed is described in the application as “revised proposals for the construction of a two storey dwelling with associated car parking and amenity space”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant agreed to revise the application description at the request of the Council. However, that revision included superfluous wording that is not an act of development.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupants of 1A Jarvis Close, with particular regard to privacy.

Reasons

4. The appeal site comprises a detached two storey property known as 1A Jarvis Close (1A). It has a proportionate rear garden that can be accessed by a centrally positioned doorway. Generous fenestration detail on ground and first floors allow private views into its rear garden. It is understood that a two storey property has been approved under application ref 21/1853/FUL. This would be added to the side and rear of 1A with its own rear garden.
5. In respect of this appeal, it is acknowledged that the upper floor windows would be positioned to look directly out over the proposed garden. Additionally, given separation distances, the privacy of properties to the north would not be harmfully compromised. However, one of the bedroom windows would be tight up against the boundary line separating the proposed property’s garden and that of 1A’s. This, together with the 6-pane fenestration width detail would mean that most of 1A’s garden would be overlooked from close range. This would provide existing occupants of 1A with very little space within their garden to sit out and enjoy privately. In fact, the only truly private spaces would be by the gated entrance or next to the proposed recycling and refuse area, which would be uninviting.

6. The development would cover most of the rear elevation of 1A, with ground floor access to the side and rear garden. The designed layout would mean that garden space for 1A would be set behind the rear elevation of the proposed property. The only access to it would be via a shared side walkway and gate. Unlike typical terraced arrangements, where private enjoyment of rear gardens could normally be accessed at ground floor, 1A would essentially be severed from its garden by this unusual configuration. As such, my observations are that the quality of the existing outdoor space would be permanently and harmfully eroded by a contrived garden layout.
7. For these reasons, significant harm would be caused to the living conditions of the occupants of 1A Jarvis Close, with particular regard to privacy. As such, there would be conflict with Policy D1 of the East Devon Local Plan (LP) which says, amongst other things, that proposals will only be permitted where they do not adversely affect the amenity of occupiers of adjoining residential properties. There would also be conflict with paragraph 135 of the National Planning Policy Framework (the Framework) which says, in part, that decisions should ensure developments create places with a high standard of amenity for existing and future users.

Other Matters

8. I have paid regard to the appellant's comments in respect of the planning history and processing of the application. However, these have no bearing on my decision which is based on the planning merits of the proposal.
9. The appellant highlights that the scheme would be acceptable in terms of parking provision, noise during and after construction, and that surface water run-off could be mitigated against. Additionally, it is submitted that the proposed design, landscaping, and use of materials would be appropriate. However, these are not matters disputed by the Council. Had I been minded to allow the appeal, some of these matters could have been addressed using appropriately worded conditions. In any case, these are neutral factors that do not affect the outcome of the appeal.

Planning Balance and Conclusion

10. In the context of the development plan, I have found that the proposal would be in conflict with Policy D1 of the LP. This policy is consistent with the Framework and can be given full weight.
11. The Council says it cannot demonstrate a 5 year supply of deliverable housing sites. Paragraph 11 (d) of the Framework indicates that in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. The site is within an area where the evidence shows that adverse impacts of residential development on the Pebbled Heaths and Exe Estuary Special Protection Area can be satisfactorily addressed through a financial contribution towards South-east Devon European Site Mitigation Strategy. The appellant has submitted a signed unilateral undertaking which secures this. Therefore, any such impacts from the development do not form a clear reason for refusal.
13. The housing shortfall is not provided and therefore, for the purposes of my assessment, I shall assume that it is substantial. The social benefits of housing

delivery carry significant weight. However, a single dwelling would make a very modest contribution to addressing the housing shortfall. It would, by implication, also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. Moreover, the property would be in a sustainable location and constructed to exceed minimum space standards.

14. Against these benefits, I need to balance the adverse impacts. The creation of places with a high standard of amenity is an important consideration and one which is embedded in the Framework. The harm arising to the living conditions of existing occupants would run contrary to the social objectives of sustainable development. This harm would significantly and demonstrably outweigh the benefits. As such, the proposal would not benefit from the presumption in favour of sustainable development set out within Framework paragraph 11.
15. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR