



Appeal Decision

Site visit made on 11 November 2024

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/Q1153/D/24/3343944

11 Watts Drive, Okehampton, Devon EX20 1XT

- 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 & Mrs Richards against the decision of West Devon Borough Council.
 - The application Ref 2508/23/HHO, dated 21 July 2023, was refused by notice dated 15 February 2024.
 - The development proposed is for a proposed garden/art room.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the application is retrospective and that the garden/art room has already been constructed and is partially in use. For the avoidance of doubt, I have determined this appeal on the plans as submitted.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the living conditions of existing and future occupants of the appeal site; and
 - the living conditions of neighbouring residents, with particular regard to overbearing and loss of privacy.

Reasons

Living conditions of existing and future residents

4. The appeal property comprises a two storey, recently constructed mid-terrace dwelling, set within a narrow, but relatively long plot. The rear garden has been designed to respond to the topography of the site. Immediately to the rear of the dwelling is an area accessed directly from the rear patio doors, beyond this, the remainder of the garden is set above this area, accessed via a flight of steps. The proposed development is located on the area of garden immediately at the top of the steps and occupies the majority of this space. Beyond the garden/art room is another area of garden which comprises a small, sloped area that extends behind No. 15 Watts Drive. Neighbouring dwellings have similar terraced gardens.
5. The garden/art room is of a considerable size and covers the majority of the upper area of the garden. It is positioned in such a way as to ensure access to

the garden area beyond is still possible. The area immediately to the rear of the dwelling is unaffected and can still be fully utilised.

6. The Council have expressed concern that the proposed development occupies more than 50% of the site's usable garden area. In identifying the usable garden area, the Council have suggested that the sloping area beyond the garden/art room should be excluded. Whilst I agree that as currently laid out it may not be readily usable, I see no reason as to why this area should not be classed as useable garden. To my mind, the area could easily be adapted to provide a series of planting areas, or small tiers that would accommodate planting beds. Such areas are typical features within a garden. In this respect, I therefore consider that the whole of the garden comprises usable garden area and that it is available and accessible to the occupiers of the appeal property. As such, even given the substantial size of the garden/art room, I consider that a sufficient amount of useable garden area remains.
7. For the above reasons, I therefore conclude that the proposed development does not harm the living conditions of existing and future residents and in this respect, accords with Policies DEV1, DEV10 and DEV20 of the adopted Plymouth and South West Devon Joint Local Plan 2014-2034 (JLP); the Supplementary Planning Document 2020 (SPD) and the National Planning Policy Framework (the Framework).

Living conditions of neighbouring residents

8. Due to the tiered nature of the rear garden area, the upper tier is set well above both the appeal and neighbouring properties. As such, there are already views into the rear windows of the adjoining dwellings, along with partial views onto their lower rear garden areas from this position. The presence of fencing along the boundary does not ameliorate this. Therefore, due to the topography, there is already a degree of overlooking between the appeal site and the neighbouring properties.
9. The garden/art room contains two windows in the elevation facing towards the neighbouring dwellings. Both windows have been fitted with film to make them obscure. As a consequence, it is not possible to obtain views into the neighbouring dwellings from inside the garden/art room. A planning condition would ensure that the film obscuring the windows is retained. Furthermore, whilst there is potential for overlooking from residents accessing the garden/art room via the existing steps, I do not consider that, due to the existing garden layout, this would be any different to the overlooking that would occur should the garden/art room not be in place. As such, I conclude that the proposed development does not result in the loss of privacy to adjoining residents to such a degree as to warrant refusing planning permission on this ground alone.
10. The garden/art room is of a substantial size and is of such a height that, due to the design of the roof, it protrudes well above the close boarded fence which runs between the appeal site and No.15 Watts Drive. This protrusion extends along the majority of the boundary between the upper garden areas. As a result, due to its height and its position on the boundary, the garden/art room is visible from both the existing rear windows and the lower rear patio area of No.15, as well as the upper garden area. Due to its height, when seen from the rear of No.15, the proposed development represents a visually intrusive and dominant form of development, that has an overbearing effect upon the rear garden of No.15. As such, I conclude that the proposed development, due

to its overbearing nature, is harmful to the living conditions of residents of No.15 Watts Drive.

11. Whilst I have found no harm from loss of privacy as a result of the proposed development, I have found that due to its height, roof design and position in relation to the boundary, it harms the living conditions of No.15 Watts Drive, due to being a visually intrusive, dominant and overbearing form of development.
12. For the above reasons, I therefore conclude that, due to its visually intrusive, dominant and overbearing nature, the proposed development harms the living conditions of neighbouring residents and, in this respect, is contrary to Policies DEV1, DEV10 and DEV20 of the adopted JLP, the SPD and the Framework.

Other Matters

13. The appellant has provided justification in terms of the proposed use of the garden/art room and the need for additional space to accommodate the appellant's hobbies and activities. Whilst I can appreciate the need for such additional space, I do not consider that such a need outweighs the harm that I have found.
14. I have also been referred to other similar developments within the estate, however I am unaware of the circumstances surrounding the erection of these. In any event, I am required to consider the appeal on its merits.
15. In relation to the Council's second reason for refusal concerning the management of surface water, I note the Council proposed a condition to address this. However, given my conclusions in relation to the main issues, I have not considered this matter any further.

Conclusion

16. I have found that the proposed development would not harm the living conditions of existing and future occupants of the appeal site. However, this is outweighed by the harm to the living conditions of residents of No.15 Watts Close due to the visually intrusive, dominant and overbearing nature of the proposed development.
17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR