



Appeal Decision

Site visit made on 4 June 2025

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2025

Appeal Ref: APP/K1128/W/25/3360028

Highfield, 25 Eddystone Road, Thurlestone, Devon TQ7 3NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Nick Teague against the decision of South Hams District Council.
 - The application Ref is 3566/24/VAR.
 - The application sought planning permission for Application for variation of condition 1 (approved drawings), 5 (PV panel installation) & 8 (stonework detail) of planning consent 3632/19/ARM without complying with conditions attached to planning permission Ref 1689/22/VAR, dated 16 August 2022.
 - The conditions in dispute are:
Condition 1: The development hereby approved shall in all respects accord strictly with the following drawing numbers: J-0282 GA-02 Rev D, J-0282 GA-03 Rev D, J-0282 EL-01 Rev D, J-0282 EL-02 Rev E, J-0282 SLP-01, J-0282 GA-01 Rev D, 637-01 Rev E, 0754.100 Rev C (Appendix G of the Drainage Statement, October 2020 by Horizon Consulting Engineers); and
Condition 12: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended (or any Order revoking and re-enacting this Order), there shall be no first floor balconies except those annotated on drawing number: J-0282 GA- 03 Rev D.
 - The reasons given for the conditions are:
Condition 1: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.
Condition 12: In the interests of the protection of residential amenities, and in the interests of the visual amenity of the area and the character of the South Devon Area of Outstanding Natural Beauty.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The addressed used on the application form has been replicated in the banner heading above. However, the decision notice refers to the property as Kinnasea. This is the name given to the new dwelling constructed on the site and I have used this to refer to the property in this decision.

Background and Main Issue

3. There is detailed planning history in relation to the construction of the house on this site starting with outline consent being issued in 2016¹ for two houses. There have been several applications in relation to the reserved matters and the two houses have been developed separately with different designs.

¹ 3203/16/OPA

4. The most recent approval for a variation of condition application² is relevant to this appeal as it is the conditions on this permission that are sought to be varied. At the time of the site visit the construction of the house appeared to be largely complete although the property was not occupied.
5. The relevant conditions relate to the list of approved plans and a condition which restricts the provision of balconies. The reason for the condition is in the interest of residential amenities and the visual amenity of the area and the character of the South Devon Area of Outstanding Natural Beauty (now referred to as the South Devon National Landscape).
6. Taking the above and the reason for refusal into account the main issue is whether the conditions are reasonable and necessary to protect the living conditions of the occupants of 'Goslings' with regards to privacy.

Reasons

7. The Yarner Estate consists of predominately large, detached houses set in generous plots. There is a wide variety of housing styles and designs with balconies and terraces featuring on many of the houses. On Eddystone Road the houses are generally set back from the road with longer front gardens and smaller rear gardens.
8. Kinnasea has been constructed with a raised terrace to the rear of the site. The front of the house facing Eddystone Road has fully glazed doors above the bay windows. First floor windows in the side elevation facing towards the neighbouring property, Goslings, are obscurely glazed.
9. With the current arrangement there are vantage points from the garden towards Goslings, including the terrace and windows in the side elevation. However, from the first floor windows any views sideways are at an oblique angle with only the lower section of garden area being viewed directly.
10. The installation of a balcony of above the bay window closest to Goslings would allow for views from first floor level directly onto the first-floor terrace and the terrace below. This would result in a reduction of privacy, particularly for the lower terrace which currently is not overlooked from this side. The elevated nature of the overlooking would be more intrusive than the existing situation.
11. I accept that the first-floor level terrace at Goslings presents some existing overlooking of Kinnasea. However, this is an existing situation which was in place at the time both houses were granted permission. Policy DEV1 of the Plymouth and South West Devon Joint Local Plan (JLP) requires development to safeguard the privacy of existing residents. Whilst the fact that the first-floor terrace of Goslings facing towards Kinnasea may be a material consideration, in my view, the loss of privacy would still be contrary to policy. Furthermore, the first-floor terrace on Goslings is further from the shared boundary than the proposed balcony. As a result, overlooking into the garden area below would be at a closer range.
12. It is acknowledged that balconies and terraces are not uncommon in the area and in many cases mutual overlooking may result. There may also be examples where similar or worse overlooking exists. However, this appeal is focused on the

² 1689/22/VAR

relationship between these two properties and where there is an existing level of privacy it is reasonable that this is protected.

13. I accept that the balconies may not be large which would limit their use to some degree. The fact that they are accessed off bedrooms does not suggest to me that they would be used any less than from other rooms given the views available. It is not possible to control the frequency of the use of the balconies and they could be used on a daily basis. Even if the use were infrequent there would still be a level of overlooking which would reduce the privacy of the neighbouring property.
14. Reference is made to a recent development at 21 Eddystone Road. Although no plans have been provided the property was visible from the street. In this case whilst there is a terrace across the front of the property it is set in from the boundary and the terrace is angled to limit direct sideways overlooking. Furthermore, without details I cannot be sure that there was no existing overlooking situation.
15. No details have been provided in respect of any previous approvals for a house on the appeal site with a first-floor terrace and therefore it is not possible to compare whether the situation was similar to what is now proposed. In any event given that a house with a different design has been constructed it would not represent a fallback position.
16. In conclusion, whilst there are examples of terraces and balconies in the area, based on the specific circumstances of the properties in this instance, I find that there would be a reduction in privacy for the occupiers of Goslings. Therefore, the proposal would be contrary to Policy DEV1 of the JLP and TP1.1 of the Thurstlestone Parish Plan which, amongst other things, seek to protect the living conditions of neighbouring properties.
17. Accordingly, I find that the changes to the plans proposed in the variation of condition 1 would be unacceptable and that condition 12 is reasonable and necessary to protect the living conditions of the neighbouring property.

Other Matters

18. The house was approved without the proposed balconies. Even if it were accepted that the addition of the balconies improved the appearance of the house this would not outweigh the privacy concerns identified.
19. The site is located within the South Devon National Landscape and Section 245 of the Levelling-Up and Regeneration Act sets out the duty for public bodies to seek to further the purpose of national landscapes. The proposals are minor and would preserve the national landscape and therefore are acceptable within the context.
20. The design of the development on the site may have been previously revised at the request of the Council and the neighbours. However, the appeal is considered based on the existing situation, and even if the previous approved amendments are considered to improve the scheme they do little to alter my findings above.

Conclusion

21. For the reasons set out above condition 12 is reasonable and necessary and should therefore remain. The changes to the approved drawings (condition 1) would result in harm to the living conditions of neighbouring occupiers.

22. The proposal conflicts with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Faulkner

INSPECTOR