
Appeal Decision

Site visit made on 9 July 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 08 August 2025

Appeal Ref: APP/U1105/D/25/3359940

Tadpoles, Longmeadow Road, Lymptstone, Devon EX8 5LF

- 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 Mr and Mrs Jones against the decision of East Devon District Council.
 - The application Ref is 24/0802/FUL.
 - The development proposed is a new storage building to front of property (not retrospective) and retrospective permission for a small section of garden terrace.
-

Decision

1. The appeal is dismissed insofar as it relates to the new storage building and alteration to the boundary treatment to the front of the property. The appeal is allowed insofar as it relates to the small section of garden terrace to the rear of the property at Tadpoles, Longmeadow Road, Lymptstone, Devon EX8 5LF in accordance with the terms of the application, Ref 24/0802/FUL, dated 10 April 2024, so far as relevant to that part of the development hereby permitted and subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the proposal is situated near to a Grade II listed building, I have had special regard to the statutory requirements placed upon decision-makers by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
3. For the purposes of the header, I have amended the description of the applicants to Mr and Mrs Jones, which was not included in full on the application form.
4. The Council's conservation officer refers to the appeal site as being adjacent to the Lymptstone Conservation Area (CA), whilst the Council's planning officer has referred to it as being adjacent to the proposed conservation area. I have established that, as part of the Conservation Area Appraisal 2012, properties along parts of Longmeadow Road, were proposed to be included in an extended boundary (Area B). It has been confirmed by the Council that this proposal has not been adopted in the intervening 13 years. I have therefore determined the appeal on the basis that the area adjacent to the appeal site is not within a CA, nor does the appeal site appear to form part of the setting of the existing CA.
5. It was apparent at my site visit that the section of garden terrace to the rear of the property, referred to in the banner heading above had already been installed. I have therefore considered this portion of the appeal on the basis that the development has already taken place, as did the Council.

Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the area, on the setting of the Grade II Listed Building 'Rogues Roost' and on the living conditions of the occupiers of The Wood House with regard to overlooking.

Reasons

Character and Appearance

7. The appeal property is one of a pair of relatively modern, suburban, semi-detached bungalows together with other modern dwellings situated on the southern side of the road. Immediately adjacent to the appeal site is a new property known as 'The Wood House', whilst development reverts to more traditional between-the-wars semi-detached two-storey dwellings and older terrace properties as you travel further east along the road. To the opposite side of the road, development consists of more traditional properties, with Victorian terraces, older, small cottages and the Grade II listed building 'Rogue's Roost'.
8. Development to the northern side of Longmeadow Road is generally elevated from the highway, and set back a few metres behind landscaped, forecourt gardens and masonry boundary walls. However, to the appeal property's side of the road, development is at the level of the highway with primary elevations set well back from the road, maintaining a strong building line for some distance. Low level masonry walls are present and are a strong feature to front boundaries, with planted gardens and forecourt parking behind. The character of this immediate area is of a small pocket of more modern residential development, within the more traditional and historic rural village backdrop which surrounds it.
9. To the front of the property, the appellant proposes replacing the front boundary wall with a higher slatted timber fence to the side of, but in line with, the vehicular access position, where a timber sliding automated gate would be located. A further slatted timber fence would be erected between the retained central brick gate post, which would be raised in height to match the fence, and the front elevation of the property for security. The area to the front of the timber fence alongside the vehicular access would be landscaped.
10. The new fence is indicated as being almost at the same height as that of an existing close boarded boundary fence which separates the appeal property from the adjacent 'The Wood House' property. This fence is significantly higher than the previous brick boundary wall, which would result in significantly more enclosure to the property, and a more urban aesthetic. I find this would be unduly prominent in the street scene and would be at odds with the prevailing form of development, it would therefore harm the character and appearance of the surrounding area.
11. A flat-roofed timber storage building, which would be significantly higher than the slatted timber fence, would be situated behind the new boundary fence and gate in front of the principal elevation of the existing dwelling. The timber storage building would introduce significant development in front of the existing building line within this section of the road, which I find would not be characteristic with the pattern of development and the generally open frontages that I have described and would therefore be incongruous within the street scene.

12. The appellant's have referred to a planning permission for the adjacent 'The Wood House'¹, citing approval of a car port in front of the principal elevation of that property as part of that permission, as precedent for their proposal. That car port has not been constructed, but as it was part of the implemented permission, this element could be enacted at any point in the future. It is therefore material.
13. The appellant's have also referred to a previous application at the appeal property², where the Council had considered that the approved car port at 'The Wood House' provided precedent when considering the car port element of their own application, the officer's assessment noting that as the adjacent property had approval for similar development, that it would be inconsistent in planning terms, not to allow the same form of development on the appeal site. However, that application was refused for other reasons.
14. Having examined the evidence in relation to these cases, I find that they appear to be for largely open-sided car ports with narrow columns supporting their roofs. As such, they would be visually lightweight structures and have a minimal visual impact within the street scene. However, by contrast, the appeal proposal would introduce a solid form of development, which whilst being smaller in footprint than the car ports, would have a greater visual effect on the street scene. I therefore find that the car ports do not provide precedent for this element of the appeal proposal, which I find by virtue of its scale, mass and position, in front of the principal elevation of the property, would be at odds with the prevailing form of development, and would therefore harm the character and appearance of the surrounding area.
15. It follows therefore, that I find this element of the appeal proposal, to the front of the property, is contrary to Strategy 48 and policy D1 of the East Devon Local Plan (2016) (the Local Plan), policy 7 of the Lymington Neighbourhood Plan and policies with the National Planning Policy Framework (the Framework). These require, among other things, high standards of design that reinforce local distinctiveness, respect the key characteristics and special qualities of the historical or architectural character of the area, which do not interrupt the existing street line, and which define boundaries adjoining roads or footpaths using stone or brick walls or native hedging rather than close boarded timber fences.

Setting of Listed Building

16. The appeal site is located almost opposite the 16th Century Grade II Listed Building known as 'Rogue's Roost', which sits in an elevated position to the north side of Longmeadow Road. The property is a two-storey detached former farmhouse, constructed from roughcast cob on stone footings under a steeply pitched gabled roof finished in red pantile. Its principal elevation includes an asymmetrical four window range, which has horizontal timber sliding sash windows with timber guide pegs. Its end gables are characterised by significant external stepped brickwork chimneys.
17. The listed building is set back from the highway by several metres within a frontage enclosed by waist level masonry boundary walls, with a timber slat and lattice work fence above. A timber gate provides access to the canopied front entrance door, via the front garden which has mature shrubs and landscaping. The significance of the listed building, for the purposes of this appeal, is derived partly from the quality

¹ 14/2517/FUL

² 19/1135/FUL

and singularity of its architectural detail and partly from its historic rural use and form of development within the area.

18. The setting of the heritage asset is characterised by more aged and historic properties on the north side of Longmeadow Road, to its east and west, which help reinforce the historic setting and significance of the building. The more recent properties on the opposite side of the road, including the appeal property, are part of the environment in which the listed building is experienced and appreciated. Their consistency of building line and generous frontages, mostly enclosed by low level boundary walls, maintain views of the listed building and have no features which dominate or detract from these views.
19. The appeal development would remove the consistency in the boundary treatment of development opposite the listed building. It would introduce a taller slatted timber boundary treatment, and the storage building would be a significant mass in front of the principal elevation of the appeal property, which would be highly visible within the street scene. As a result, I find the proposal would harm the setting of the Listed Building.
20. Whilst I have found harm to the setting of the listed building, I would assess this as being less than substantial harm for the purposes of the National Planning Policy Framework (the Framework), with the level of harm being at the lower end of this category. Paragraph 215 of the Framework requires this harm to be weighed against any public benefits of the development. I have not been provided with any compelling evidence of any public benefits that would accrue from the proposal, that would outweigh the harm I have found to the setting of the listed building.
21. Having regard to my duties under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) to pay special attention to preserving listed buildings or their settings, I conclude that the appeal development would cause less than substantial harm to the setting of 'Rogue's Roost' as a designated heritage asset.
22. It follows therefore, that I find the appeal development is contrary to Policies D1 and EN9 of the Local Plan, and Chapter 16 of the Framework. These require, among other things, high standards of design that respect the key characteristics and special qualities of the distinctive historical or architectural character of the area, to conserve and enhance the significance and setting of heritage assets, and for great weight to be given to the conservation of heritage assets.

Living Conditions

23. The rear terrace was permitted under a previous planning application at the property³. However, the patio terrace has been constructed with a deviation from the approved scheme, such that a section extends past the rear elevation of the adjacent property 'The Wood House'. As the height of the boundary fence between the properties, coupled with the raised level of the extended patio terrace area is not sufficiently high to preclude views directly into the rear of the adjacent property, the enlarged patio terrace development, as currently constructed, is detrimental to the privacy of adjoining neighbours.

³ 20/1262/FUL

24. However, the proposal would raise the height of the timber boundary fence between the neighbouring properties for the length of the enlarged patio terrace. This would preclude views into the neighbouring property and would therefore maintain the privacy of its occupants. I therefore find that with the implementation of the increase in the height of the boundary fence, for the length of the enlarged patio terrace, that the enlarged patio terrace development would be acceptable.
25. The enlarged patio terrace and section of boundary fence to be increased in height are to the rear of the property. Therefore, there are no issues in relation to the impact of this element of the proposal on the street scene or the setting of the listed building.
26. For the above reasons I conclude that the development for the enlargement of the patio terrace, together with the increase in height of a section of the boundary fence, would not harm the living conditions of the occupiers of The Wood House with regard to overlooking. It therefore follows that I do not find this part of the appeal development to conflict with Policy D1 of the Local Plan, which requires, among other things, that development does not adversely affect the amenity of occupiers of adjoining residential properties.

Conclusion

27. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed boundary fence, gate and storage building to the front of the property, would result in harm to the character and appearance of the area and to the setting of a designated heritage asset and would therefore, conflict with the development plan on this basis. Therefore, this element of the proposal should be dismissed.
28. However, I have found that the development to the rear terrace and its associated increase in the height of the boundary fence would not result in such harm and is acceptable. This could be clearly severable from the remainder of the proposals in physical and functional terms. Taken in isolation it would comply with the relevant policies of the development plan. Under section 79(1)(b) of the Town and Country Planning Act 1990 I have discretion to split the decision by allowing one part of a scheme and dismissing the rest. It would be appropriate to use the power in these circumstances to allow the terrace development but to dismiss the remainder of the proposal.
29. In relation to the terrace, I have imposed a retrospective works condition and have specified the relevant approved plans such that the increase in fence height shall be undertaken in accordance with these, as this provides certainty.
30. Therefore, for the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

D R Kay

INSPECTOR

Schedule of Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed West Sectional Elevation A-A of drawing number 24-01.
- 2 Unless within 2 months of the date of this decision a scheme for the increasing in height of the boundary fence alongside the enlarged rear patio terrace, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the enlarged patio terrace shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 4 months of the date of this decision, the use of the enlarged patio terrace shall cease, and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved increase in boundary fence specified in this condition, that fence shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

***** End of Schedule*****