



Appeal Decision

Site visit made on 12 August 2025

by **SE Hughes BA (Hons) PGDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 September 2025

Appeal Ref: APP/U1105/W/25/3366940

4 Peek Mead, Lane from Combe View to Shrubbery Bungalow, Rousdon, Lyme Regis, Devon DT7 3XW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Jane D'Arcy Evans against the decision of East Devon District Council.
 - The application Ref 25/0459/FUL was approved on 9 May 2025 and planning permission was granted subject to conditions.
 - The development permitted is: "Retrospective planning permission for construction of shed, log store and raised beds constructed from timber sleepers to front (south) of property, and installation of timber sleeper retaining structures from to the rear (north) of property".
 - The condition in dispute is No 2 which states that: "Within 6 months of the issuing of this decision, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme will show the introduction of a hard or soft screen along the East boundary of the rear garden. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), the screening erected or planted shall thereafter be retained without alteration unless any variation is agreed in writing by the Local Planning Authority".
 - The reason given for the condition is: "In the interests of preserving and enhancing the character and appearance of the area and/or protecting the privacy of local residents in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031".
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Decision

1. The appeal is allowed and the planning permission Ref 25/0459/FUL for retrospective planning permission for construction of shed, log store and raised beds constructed from timber sleepers to front (south) of property, and installation of timber sleeper retaining structures to the rear (north) of property at 4 Peek Mead, Lane from Combe View to Shrubbery Bungalow, Lyme Regis, Devon DT7 3XW granted on 9 May 2025 by East Devon District Council, is varied by deleting condition 2.

Preliminary Matter

2. During my site visit, the neighbour at Fern Cottage allowed me to view the appeal site from his garden.

Main Issues

3. Planning permission has been granted for various garden structures to the front of the appeal property along with two terraces retained by timber sleepers in the rear garden. The appeal seeks permission to remove condition 2 which requires a hard or soft screen to be installed and retained thereafter in the rear garden, along the shared boundary with Fern Cottage. Furthermore, the condition removes permitted development rights concerning such development.

4. The Council indicates that the terracing has increased the height of the ground level of the site in areas close to the neighbouring dwelling and in the absence of existing screening, a condition is necessary to secure planting or a hard screen along the boundary to avoid harm to the privacy of the residents of Fern Cottage. This view is shared by the neighbour at Fern Cottage who explains that the works have replaced the previously sloping garden with a levelled platform at its highest northwest point which allows unrestricted views of Fern Cottage's back garden. The Council's reason for the condition also indicates that the condition is necessary to preserve and enhance the character and appearance of the area.
5. The appellant objects to the condition indicating that it is unnecessary and unreasonable because the garden levels are effectively the same and have not changed as a result of the development and recent and existing planting along the boundary when fully grown will provide an effective boundary screen which will preserve the character and appearance of the area.
6. Accordingly, the main issues in this case are whether the disputed condition is relevant to the development and whether it is reasonable and necessary in the interests of protecting the living conditions of local residents and preserving and enhancing the character and appearance of the area.

Reasons

7. On my site visit I saw that the rear terraces were already in place. I was also able to see that Fern Cottage's rear garden was lower lying than the appeal property and the adjoining field to the north.
8. Based on the previous photographs of the site and comparing the current adjoining topography with that to the north and to the west, there has been negligible change to the appeal garden's original profile.
9. Whilst I note the neighbour's point that the garden is flatter at a higher level than it was previously, thus it is now potentially more useable, I do not consider that the original rise of the garden was so steep to mean that the highest part of the garden could not have been used before if so desired. Indeed, what strikes me from looking at the photographs I have before me of the original garden, is that the intervisibility between the two gardens has arisen due to the removal of a Leylandii tree and a greenhouse rather than the creation of the terracing itself.
10. On this basis a condition to require boundary screening is not necessary as it is not the terracing development itself that has caused harm to the privacy of the neighbouring residents, there being only a negligible change to the previous situation.
11. Accordingly, the condition is not necessary for the purposes of preserving and enhancing the character and appearance of the locality.
12. Also, given that the Planning Practice Guidance indicates that conditions restricting permitted development rights should only be imposed in exceptional circumstances, the second part of the condition which removes permitted development rights is not justified. Since there is no need to protect the outdoor living conditions of the occupants of Fern Cottage as a direct consequence of the development, it follows that there are no exceptional circumstances.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

SE Hughes

INSPECTOR