



Appeal Decision

Site visit made on 4 November 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2025

Appeal Ref: APP/X1118/W/25/3372054

The Nook, Mortehoe Station Road, Mortehoe, Devon EX34 7HD

- 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 Justin Agouzoul against the decision of North Devon District Council.
 - The application Ref 79960 was approved on 6 June 2025 and planning permission was granted subject to conditions.
 - The development permitted is retrospective application for erection of a hydrotherapy pool building, alterations to external boundary wall and associated works (amended plans).
 - The condition in dispute is No8 which states that: *Within 1 month of the decision date for the application hereby approved, the height of the front boundary wall, as shown and labelled on the approved plans, shall be reduced to a height not exceeding 0.75 metres and retained as such thereafter.*
 - The reason given for the condition is: *To maintain safe and adequate highways visibility and in the interests of maintaining the open residential character in accordance with policies DM05, DM25, ST04, DM04, DM08A and ST09 of the North Devon and Torridge Local Plan.*
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Decision

1. The appeal is allowed and the planning permission Ref 79960 for erection of a hydrotherapy pool building, alterations to external boundary wall and associated works (amended plans) at The Nook, Mortehoe Station Road, Mortehoe, Devon EX34 7HD granted on 6 June 2025 by North Devon District Council, is varied by deleting condition 8 and substituting it for the following condition:
2. *Notwithstanding the approved plans, the front boundary wall shall not exceed 1m in height.*

Background and Main Issues

3. Retrospective planning permission was granted for a hydrotherapy pool, together with alterations to the external boundary wall at a roadside property. The appellant considers that the height restriction imposed on the boundary wall in condition 8 is unreasonable. It is advanced that the recently reduced height of the wall to about 1m would not generate visibility issues for drivers of vehicles emerging onto the highway. Additionally, it is said this height would be a current standard planning height for front walls adjoining a road that does not normally need planning permission.
4. Within its officer report, the Council raised concerns over the wall that was previously about 1.5m in height. In particular, it claims that visibility for highway users was impaired by it, and that its appearance was out of place in the context of the open and low walled frontages found nearby. For these reasons, the condition was imposed to reduce the height of the wall to 0.75m to match its former boundary wall.

5. I therefore consider the main issues to be the effect of varying condition 8 on (i) the character and appearance of the area; and (ii) highway safety.

Reasons

Character and appearance

6. Property frontages in the immediate and surrounding area are characterised by low wall heights and general openness. There are however some walls that are of a similar height to the roadside wall at the appeal site. It is also of note that a nearby property has a well-established, tall, vegetated frontage. Given the urban context, the front boundary walling does not have any meaningful effect on the landscape character of the National Landscape (NL) and coastal zone. Therefore, there is little to show the duty to further the purposes of the NL would be unmet, or that it conflicts with policies DM08A or ST09 of the North Devon and Torridge Local Plan (LP).
7. The proposal is taller than that its adjoining stone wall and its current appearance is a little untidy. However, it would probably be finished off with matching render in the event the appeal were to be allowed. Furthermore, it has been substantially lowered since the time the Council made its decision. Given the now marginal increase in height above the adjoining wall, it is no stark or unusual feature in the street. Consequently, the open fronted characteristics of the area are maintained.
8. I therefore conclude on this main issue that varying condition 8 would not have a harmful effect on the character and appearance of the area. As such, there would be no conflict with LP policies ST04, DM25, and DM04 which, amongst other things, seek to ensure developments are sympathetic to local character in terms of their scale, massing, and height.

Highway Safety

9. The front wall has been reduced to a height which is said to be 1m and I find no reason to disagree. When stood at the appeal site entrance and at that of the immediate neighbour, even with the brow in the hill, I was able to gain clear views of oncoming traffic in both directions. The set back angle of the appeal wall from the pavement certainly helps in this respect. My observations are consistent with the comments made by the county highways authority where they state they have no concerns regarding visibility.
10. I have paid careful regard to the submissions by neighbours on this issue. In that context, within one submitted photograph, an oncoming vehicle can be seen above the appeal wall, suggesting visibility is not excessively impaired here. Therefore, for the reasons given, and in the absence of any convincing evidence to the contrary, I conclude on this main issue that the reduced height of the front wall to about 1m is unlikely to have a harmful effect on highway safety. Consequently, there would be no conflict with LP Policy DM05 which requires development to provide a safe vehicular access and egress, considering the needs of all highway users.

Other Matters

11. There are concerns raised in respect of matters relating to living conditions with regard to noise, smell, privacy; the scale of the pool building, possible future uses and the retrospective nature of the works. While acknowledged, the appeal is

primarily concerned with the road fronted wall height set out in condition 8 and I have assessed it on this basis. Furthermore, the Council has found the development to be acceptable in all other respects, and I have no substantive evidence before me to disagree. Additionally, if the pool is not used for its intended purposes, then a separate grant of planning permission could be necessary.

Other Considerations

12. Drawing on the passing comments made by the appellant to standard planning wall heights, there is little to suggest that certain permitted development rights for minor operations could not be exercised. In arriving at this view, I have paid regard to the planning history and officer report where other walls and enclosures have been brought forward in a similar manner. The fallback position is a material consideration that can be afforded significant weight. This means that even in the event the appeal were to be dismissed, a similar outcome could result.

Conclusion

13. I have found that the proposal accords with the development plan and that material considerations weigh in its favour. For the reasons given above I therefore conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substitute it for a new one.

J Hills

INSPECTOR