



Appeal Decision

Site visit made on 6 January 2026

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 January 2026

Appeal Ref: APP/K1128/D/25/3358876

34 Mewstone Avenue, Wembury PL9 0JZ

- 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 Steven Foley against the decision of South Hams District Council.
 - The application Ref is 3196/24/HHO.
 - The development proposed is removal of rear conservatory and side garage. Construction of two storey side extension and single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers at 32 Mewstone Avenue in terms of privacy effects.

Reasons

3. The appeal dwelling is a two storey detached house situated in a linear arrangement on a hill, between a similar dwelling on the lower side, No 32, and a bungalow on the higher side (No 36). Dwellings front onto the street behind modest front gardens and parking areas and have enclosed, more private gardens to the rear.
4. The appeal proposal is to demolish the existing conservatory at the rear of the house and construct a two storey side extension and single storey rear extension. The two storey element would also extend into the rear. When taken together, the extensions would represent a sizeable addition, but through design techniques and use of materials, they would be largely appropriate in form, mass and appearance when considered in context with the host dwelling.
5. An issue would arise from the insertion of a first floor window in the first floor side elevation of the proposed extension which would look towards No 32 and its garden. The appeal dwelling and its garden are elevated by around 1.5 metres above the level of No 32. The middle sections of the gardens benefit from the greatest degree of privacy due to the existence of around three trees which are situated at a lower level in the garden of No 32. However, there are some gaps in the intervening boundary vegetation which allow some incidental views between the two gardens at either ends. The first floor and site plan, Plan no 348/10, appears to show the boundary screening as extending further along the garden boundary than it does in reality.

6. An extension to the rear of No 32 has been approved which will result in the more useable area of garden being pushed towards the middle and far end. In my view, the proposed window would allow views from an elevated position over these areas of garden, and whilst vegetation would partially filter these views, it would still be possible for viewers to stand in the window and look down over the garden, resulting in actual overlooking and the increased sense of being overlooked. The previously mentioned trees may also come under pressure during the construction works at No 32.
7. The design of the window has not sufficiently eliminated the potential for overlooking without a reliance on the three or so trees which screen the boundary between the two dwellings. Whilst I understand that the window in question was intended to look to the sea views beyond the rear of No, and that the current neighbouring occupiers at No 32 may not have objected to the proposal, the outcome would still be unavoidable and the planning system exists to protect both current and future occupiers.
8. For the above reasons, the proposal conflicts with, in particular, Policy DEV1.1 of the Plymouth and South West Devon Joint Local Plan (adopted 2019). This policy seeks to ensure that new development provides for satisfactory daylight, sunlight, outlook, privacy, and protection from noise disturbance for both new and existing residents, workers, and visitors.
9. My attention has been drawn to another example where first floor windows were approved in close proximity to the neighbouring dwelling and garden. However, I have been provided with limited details of that particular case to enable a comparison to be made with the proposal before me. As such, I attribute little weight to this matter.

Conclusion

10. The proposal would result in harm to the living conditions of neighbouring occupiers through overlooking and, as a result, is contrary to the development plan when taken as a whole.
11. The benefits that would be generated through the enhancement of the living conditions of the appellant are largely private, rather than beneficial to the wider public. In any event, I am not persuaded that the beneficial outcomes could not be achieved in a manner less harmful.
12. On the basis of the above and taking all other matters into account, there are no considerations of such materiality that indicate that a decision should be made other than in accordance with the development plan.
13. For the foregoing reasons, the appeal should be dismissed.

H Nicholls

INSPECTOR