



## Appeal Decision

Site visit made on 21 November 2023

**by J Evans BA(Hons) AssocRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 November 2023**

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**Appeal Ref: APP/K1128/D/23/3327410**

**1 Allens Road, Ivybridge, PL21 0PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Jamie Gibbs against the decision of South Hams District Council.
  - The application Ref: 1491/22/HHO, dated 29 April 2022, was refused by notice dated 01 June 2023.
  - The development proposed is described as the construction of a gym in the back garden.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description on the decision notice refers to the appeal proposal as 'retrospective.' Section 73A of the Town and Country Planning Act 1990 (the Act) makes allowance for the submission of a planning application for development which has been carried out before the date of the application.
3. Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use rather than the retention of works or the continuation of a use. As a result, I have not included the word 'retrospective' in the description of the proposal, and I have considered the appeal on that basis. I have also made revisions to the description of the development to better reflect the proposal before me.

### Main Issues

4. The main issues are the effects of the development on the:
  - character and appearance of the area; and
  - the living conditions of neighbouring occupiers.

### Reasons

#### *Character and appearance*

5. The appeal building is situated within the rear garden of No.1 Allens Road and is difficult to view from public vantage points. Where it is possible to view, the building is set behind two storey dwellings in the foreground and is perceived through a narrow gap in the building form.

6. The building itself is a single storey structure and utilises materials that are similar to those found on No. 1 itself. It does not appear odd or out of place in this context and reads as a subservient domestic outbuilding within the garden of No. 1.
7. As a consequence, the proposal would not result in harm to the character and appearance of No.1 or the surrounding area. I therefore find no conflict on this first main issue with Policy DEV20 of the Plymouth & South West Devon Joint Local Plan (2014- 2034) (the JLP), which amongst other matters, requires development proposals to meet good standards of design, contributing positively to both townscape and landscape, having regard to the pattern of local development and the wider development context and surroundings.

#### *Living Conditions*

8. The appeal building is positioned directly on the boundary with the adjacent properties No. 3 Allens Road to the west and No. 4 Wood Park to the south.
9. No. 4 Wood Park has a single storey shed within their rear garden adjacent to the appeal building and has similar ground levels within its garden to No. 1. For these reasons, I am therefore satisfied that the proposal would not harm the living conditions of this property.
10. However, No. 3 Allens Road and its rear garden are positioned to a lower ground level to No. 1, and as I observed during my site visit, the position of the appeal building directly upon the boundary with No. 3, in association with its overall scale, massing and elevated levels, results in a visually oppressive and uncomfortably dominant feature when perceived from the rear garden of No. 3 and from the rear windows of this property. This has resulted in a negative impact upon the enjoyment of the living space of No. 3 and therefore the appeal building is to the detriment of the living conditions of the occupiers of this property.
11. Whilst I acknowledge the points made by the appellant that it maybe possible to construct an alternative structure under permitted development rights. I have no substantive evidence as to whether this would genuinely be the case, and what maybe possible as an alternative. Nonetheless, as the appellant has highlighted, any alternative structure would be of a lower height than the proposal before me. For these reasons, I do not attribute any significant weight to possible alternatives in my assessment of the proposal.
12. Ultimately, the proposal before me is harmful to the living conditions of No. 3 in that it represents an oppressive and overbearing feature. On this issue, the proposal conflicts with Policy DEV1 of the JLP, which amongst other matters, explains that development proposals are required to safeguard the health and the amenity of local communities, and requires that development provides for satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance for both new and existing residents.

#### **Conclusions**

13. For all the above reasons, having regard to all matters raised, I conclude that the appeal should be dismissed.

*J Evans* INSPECTOR