

## PLANNING APPLICATION REPORT – Householder Developments

**Case Officer:** Bryony Hanlon

**Parish:** Kingsbridge

**Application No:** 0900/21/HHO

**Agent:**

Mr Nigel Dalton  
Nigel Dalton Architectural Design  
Unit 4h  
South Hams Business Park  
Churchstow, Kingsbridge  
TQ7 1NY

**Applicant:**

Mr & Mrs White  
12 Linhey Close  
Kingsbridge  
Devon  
TQ7 1LL

**Site Address:** 12 Linhey Close, Kingsbridge, TQ7 1LL



**Development:** READVERTISEMENT (Revised plans received) Householder application for proposed internal and external alterations

**Reason item is being put before Committee:** The applicant is an employee of South Hams District Council.

**Recommendation:** Conditional approval

**Conditions:**

1. Standard time limit
2. Adherence to plans

**Key issues for consideration:**

Scale, massing and design, impact on neighbour amenity, drainage, impact on South Devon Area of Outstanding Natural Beauty.

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**Site Description:**

The site is located within the built form of Kingsbridge on a well-established residential estate, c. 0.7km south east of the town centre. The property comprises a detached dwelling with rendered walls, UPVC

windows and concrete roof tiles. The dwelling is a split level property with living areas at first floor and garage and bedrooms below.

The site is located within South Devon Area of Outstanding Natural Beauty.

### **The Proposal:**

The proposal originally comprised the construction of sunken garden store with extended terrace area above; external steps provided access from the terrace down into the garden. The terrace would be built with composite decking, paved steps, the garden room would be faced with composite cladding and a frameless glass balustrade above. The proposal also included the repurposing of the garage to create a store area at the front of the dwelling, accessed by the existing garage door and the construction of a new bathroom behind. A number of changes to fenestration were also included within the scheme.

The original proposal was recommended for approval by Officers and was prepared for the Development Management Committee meeting on 23 June 2021. However, the proposal was withdrawn from the agenda and deferred, in order that the applicant could review concerns raised by one set of neighbours following the site visit. The plans were subsequently revised and readvertised. The main revisions comprise; a reduction in the terrace area and a retraction of the south west corner of the terrace by c. 1.2m, minor alterations to fenestration (including the loss of the garage door and its replacement with a window/blockwork), the loss of the chimney, the continued use of render, rather than the introduction of timber cladding to the rear extension element and changes to the internal layout.

### **Consultations:**

- County Highways Authority (original plans) No highways implications
- Town Council (original plans) Objection  
Recommend Refusal on the following grounds: overlooking and loss of privacy for neighbouring residential properties to the detriment of their amenity and over development of the site
- Town Council (revised plans) Objection  
Recommend Refusal on the following grounds: overlooking and loss of privacy for neighbouring residential properties to the detriment of their amenity and over development of the site

## **PUBLIC CONSULTATIONS**

### **Representations:**

#### **Representations from Residents**

Four letters of objection have been received in response to the revised plans and include the following points:

- Objection – Direct Contravention of planning policy DEV1, over dominance and overlooking, loss of privacy and amenity, noise disturbance. We strongly object to the elevated height, scale and position of the proposed extension of the terraced area.
- The proposed height of the terrace, at a substantial increased elevation of 2m, with full glazing towards our garden, means we will no longer have a private area in our garden as we currently do and will have full loss of amenity. In addition, the revised proposal will still enable direct visual line of sight into the rear windows, including children's bedrooms all of which are currently private. Approving the terrace would mean we would need to close our rear curtains when the terrace was in use, meaning loss of light and further loss of amenity in our house!
- There are some relevant existing restrictive covenants on the property. One states the maximum boundary wall height is 6ft (1.8m). This means the glazed area is higher than our boundary wall and we have no way to create a barrier in between our garden and the proposed overbearing terrace. As previously stated, this will have a considerable adverse impact to our privacy and rightful amenity of our garden.

- The applicants have informed us they would like a large expansive space for family dinners – imagine how it would feel for us to attempt to peacefully enjoy our garden and have full and overbearing dominance at a considerable height with no visual or noise barrier, even from a seated level on their terrace. The proposed terrace will also create significant noise disturbance and offers no satisfactory protection from noise. The current patio level is unobtrusive and it's not noticeable if both us and the applicants are utilising our respective current areas, as it is fully screened by a wall and planting, whereas the proposed terrace would dramatically alter this and anyone on the terrace would effectively have full presence in our garden, and all conversation would be clearly legible.
- A further restrictive covenant on the property stipulates that no alterations can be made to the property elevations and no other building may be erected apart from a temporary shed. These covenants were applied because the estate of Waterside Park, where the property is located, was designed with a specific homogeneous character. Houses are nestled low in to the hill side, balancing both access to views and privacy for all residents, and balconies are kept narrow and along side the house. The structure of the balconies allows quiet enjoyment of views, without excessive overlooking, and the narrow design limit their use for entertainment purposes, thus limiting noise disturbance. The proposed terrace is firstly, incompatible with the restrictive covenant, secondly out of character with the design of the Waterside Park area. Approving this terrace would set a precedent for considerable loss of privacy and amenity across Waterside Park as higher and higher elevations to capture estuary views are sought after. There is no planning policy which gives weight to views, but ample which are designed to protect privacy, amenity and noise impacts.
- A further consideration should be made to the impact on the flats at Crabshell Heights. Having tested the plan proposal with the applicants present, the proposed terrace would have new full and direct sight into all the windows in the flat behind the existing boundary wall. I am not sure if the residents are aware of the application or just how obtrusive this would be to these flats and the impact it would have on their day to day life.
- In addition, the wording in the officers report 'document-8413117' relating to the application regarding the scale of the proposal is incorrect: Under the section 'Neighbour Amenity' it states "The proposed extension to the existing terraced area would result in the existing patio area within the garden being increasing in height of 1m and reduced in its projection into the garden by some 2m." this is not true when you view the datum points and scale on the site plan, it increases the height by 2m and the projection of the terrace by 4m. This fundamental error in the Officer's report underestimates the huge scale of impact on privacy and the proposed terrace is in direct conflict with DEV1 "ensuring the development provides satisfactory privacy and protection from noise disturbance." For these reasons, and those above, the application for the terrace extension as it stands should be rejected.

### Relevant Planning History

Planning Application Reference	Proposal	Site Address	Decision
28/0715/74/2: ARM	Erection of dwellinghouse with garage under	Plot 13 Linhey Close Waterside Park Estate Embankment Road Kingsbridge	Conditional approval: 01 Oct 74

### ANALYSIS

#### Principle of Development/Sustainability

The proposed alterations and extensions to this dwelling house are acceptable in principle as the property is located within the town of Kingsbridge.

#### Scale, Design and Massing

The proposed garden store with extended terrace above are considered modest interventions in the context of the host dwelling. The majority of the development is located at the rear of the dwelling and

will not be widely visible within the public realm. In this context, the proposal is considered to accord with the provisions of DEV20 and DEV23.

#### South Devon AONB

Policy DEV25 requires that proposals “conserve and enhance the natural beauty of the protected landscape with particular reference to their special qualities and distinctive characteristics or valued attributes”. The proposal meets the first policy test, in that the design and palette of materials have a neutral impact on the AONB itself, as the proposal is located well within the built form of Kingsbridge and changes to character and appearance of the residential area will be localised only, thereby conserving the natural beauty of the AONB. While it does not offer enhancement, given the small scale of the proposal and having regard to the current condition of the site, including the presence of an existing residential dwelling, the proposal is considered acceptable with regard to the provisions of DEV25.

#### Neighbour Amenity:

The revised plans have generated a number of letters of objection from neighbouring residents, in addition to the Town Council’s renewed objection to the scheme citing concerns regarding neighbour privacy and amenity, noise disturbance and over dominance.

Policy DEV1 sets out the criteria in order to protect health and amenity. The policy states that; “unacceptable impacts will be judged against the level of amenity generally in the locality”. A number of neighbouring occupants, as well as the Town Council have objected on the basis that the proposed terrace extension would overlook the neighbouring properties and gardens. The existing terrace and patio already overlooks the neighbouring properties and gardens; many of the neighbouring properties have their own rear balconies and terraces and when combined with the local topography, there is a degree of mutual overlooking between many of the dwellings and gardens surrounding the application site. In this context, Officers do not consider that the proposed terrace area would result in such a significant increase in overlooking to warrant refusing the application.

In a similar context, Officers note the objections regarding the potential for the scheme to appear over dominant when viewed from within neighbouring gardens and properties. The main bulk of the development is confined to the rear elevation at ground floor only and on the northern boundary, the furthest side from the adjacent neighbour (no. 14) set at a lower level to the south. Views to neighbouring properties are likely to be limited, with oblique views available. To the north, the neighbouring dwelling also benefits from an elevated external deck; a boundary hedge offers some screening but some mutual overlooking exists between no. 10 and the application site. In this context, it is not considered that the increased overlooking from the proposal would result in such a significant harmful impact on neighbour amenity so as to warrant a refusal solely on this basis.

Objectors have also noted that the area will be more intensively used and by larger groups of people than at present and that this will result in an increase in noise and disturbance. Officers do acknowledge that there is likely to be an increased use of this part of the garden, however, this is associated with the continued residential occupancy of the site, rather than as a result of any material change in circumstances. Furthermore, the grant of planning permission does not exempt the occupants from complying with other legislative obligations; separate statutory controls exist to control anti-social behaviour, including noise.

The Town Council have also objected that the proposal would represent overdevelopment of the site but Officers do not agree that this is the case, as there is sufficient amenity space available within the site to accommodate the additional built form. Furthermore, the use of the extension roof as a new terrace will ensure that there is no meaningful loss of external amenity space for the occupants.

Officers acknowledge that the decision is finely balanced, however, in this instance Officers consider that while there would be some increase in overlooking and noise associated with the intensified use of the terrace, in the context of existing levels of amenity, that this increase would not result in such a significant detrimental impact on neighbour amenity so as to warrant a refusal solely on this basis. In this context, the proposal is considered to accord with the provisions of DEV1 and DEV2.

#### Highways/Access

The proposal would result in the loss of garage to the property however, there is sufficient room on the driveway for the parking of two vehicles. The Devon County Council Highways Engineer has not raised any objection to the scheme on the ground of highways safety. On this basis, it is unlikely that the proposal will result in a significant increased risk to highways safety and accords with the provisions of DEV29.

#### Surface Water Drainage

It is noted that the proposal will replace an area of existing patio within the rear garden; surface water from the new terrace will drain into existing drains on the site and within the garden. On this basis the proposal is considered to accord with the provisions of DEV35. Any consultee comment?

#### Other Matters

Objectors have noted that there are restrictive covenants in place on the application site which would prevent the development from taking place; such covenants are considered a civil matter and are not considered within the scope of this report.

Objectors have also cited concerns that there were errors in the original Planning Officer report but does not clarify what the errors were. Officers have subsequently revised the report based on an assessment of the revised plans, in combination with the letters of representation received during the public consultation period.

Further concern has been raised in light of the fact that the applicant works for South Hams District Council and a request has been received to ensure that due process is followed. Officers can confirm that this has taken place, with the revised plans made available for public consultation. The final decision will ultimately be made by the Council's Development Management Committee to ensure that staff applications are debated in public and that the process is transparent.

Officers also note that some objectors are concerned that this application could create a precedent for further similar schemes; this is not the case, as each application must be considered on its own merits.

### Conclusion

Officers acknowledge that the decision is finely balanced, however, in this instance Officers consider that while there would be some increase in overlooking and noise associated with the intensified use of the terrace, in the context of existing levels of amenity, that this increase would not result in such a significant detrimental impact on neighbour amenity so as to warrant a refusal solely on this basis. In this context, the proposal is considered to accord with the provisions of DEV1 and DEV2. As such, it is recommended that the application be granted conditional approval.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.***

### **Planning Policy**

#### Relevant policy framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of 26 March 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

The relevant development plan policies are set out below:

**The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on 21 March 2019 and West Devon Borough Council on 26 March 2019.**

SPT1 Delivering sustainable development  
SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
SPT9 Strategic principles for transport planning and strategy  
SPT10 Balanced transport strategy for growth and healthy and sustainable communities  
SPT12 Strategic approach to the natural environment  
TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV20 Place shaping and the quality of the built environment  
DEV23 Landscape character  
DEV25 Nationally protected landscapes  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport

DEV31 Waste management  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts

### **Neighbourhood Plan**

A Neighbourhood Plan is currently under preparation for the Parishes of Kingsbridge, Churchstow and West Alvington. The emerging draft is at Stage 14 under The Neighbourhood Planning (General) Regulations 2012 (as amended). Very little weight can be attributed to the draft policies at this stage but it is not considered that the proposal conflicts with the policies below;

Policy KWAC Env1 Settlement Boundaries and the avoidance of coalescence  
Policy KWAC Env3 Impact on the South Devon Area of Outstanding Natural Beauty (AONB), green corridors and green infrastructure.  
Policy KWAC Env 5 Prevention of light pollution  
Policy KWAC Env 6 Prevention of Flooding  
Policy KWAC Env 7 Carbon Reduction  
Policy KWAC BE3 Design Quality  
Policy KWAC T3 Car Parking

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance within the Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application: South Devon AONB Management Plan (2019-2024), Plymouth and South West Devon Joint Local Plan Supplementary Planning Document 2020.

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

### **Conditions**

*1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.*

*Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

*2. The development hereby approved shall in all respects accord strictly with drawing numbers;*

*Site Location Plan 1082.20.02 Rev A*

*Proposed Block Plan 1082.20.08 Rev A*

*Proposed Site Plan 1082.20.04 Rev A*

*Proposed Ground Floor Plan 1082.20.06 Rev B*

*Proposed Lower Ground Floor Plan 1082.20.05 Rev B*

*Proposed Elevations 1082.21.07 Rev B*

*Received by the Local Planning Authority on 15 October 2021*

*Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.*