
Appeal Decision

Site visit made on 4 October 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2016

Appeal Ref: APP/X1165/W/16/3154427

35 Polsham Park, Roundham With Hyde, Paignton TQ3 2AD.

- 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 Craig Lee against the decision of Torbay Council.
 - The application Ref P/2016/0220/PA, dated 19 February 2016, was refused by notice dated 9 May 2016.
 - The development proposed is a detached house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development on the character and appearance of the area, in particular, the Polsham Conservation Area;
 - The effect of the development on the living conditions of future occupiers, with regard to noise and disturbance;
 - Whether the development would increase the risk of flooding, with reference to the Critical Drainage Area, and;
 - Whether the development would result in loss or harm to protected species.

Reasons

Character and Appearance

3. The Polsham Conservation Area is characterised by its distinctive late 19th Century layout and architecture. Polsham Park is a tree lined avenue of imposing houses which leads to an attractive park, known as Victoria Park. The original houses were built in the Arts and Crafts style, although many have been altered or extended. The houses along the road Polsham Park, including No 35, are identified in the Conservation Area Appraisal¹ as key buildings. They are significant due to their collective value as an example of Victorian townscape.

¹ Torbay Council Polsham Conservation Area Character Appraisal (November 2008)

4. No 35 Polsham Park is a large semi-detached house located at the edge of the Conservation Area. The house has been subdivided and extended and there is a group of four terraced cottages extending in a wing at the rear of the original property. The appeal site comprises part of the large gravel drive and parking area, which serves all the residential units. The site plan shows that eleven car parking spaces would be retained for the use of existing residents.
5. The proposed house would be sited in the southern corner of the existing parking area and would be in line with the front elevation of No 35. It would be highly visible in views from the park and the road. Although the design attempts to incorporate features found in the Polsham Park estate, the house would be of a significantly smaller scale than the other houses in the vicinity. The house would be two storey, but its eaves would be barely level with the lower cill of the first floor windows to No 35. It would therefore appear incongruous and would not reflect the established character of the area.
6. Moreover, the proposed house combined with existing development at No 35, would create a relatively high density which would not reflect the surrounding 19th Century layout. The space between the houses would be dominated by the car parking area with limited room for any landscaping. This would not be in keeping with the Victorian tree lined avenue and would adversely affect the significance of these buildings and their contribution to the wider Conservation Area.
7. To conclude on this issue, the development would not preserve or enhance the character and appearance of the Conservation Area in accordance with Policy SS10 of the Torbay Local Plan 2012-2023, adopted 2015 (the Local Plan). The development would not meet the aims of Policy DE1 of the Local Plan which seeks to ensure development is well-designed, respecting and enhancing the district's special qualities.

Living Conditions

8. The proposed house would be sited adjacent to the parking area which would accommodate up to eleven cars, serving up to six other residential units. Although the site plan shows a wall/fence would be built along the boundary with the car park, it is likely that there would be a significant amount of noise and disturbance arising from the comings and goings of existing residents and visitors. This would include noise from car engines, car radios, doors shutting and from people accessing the neighbouring properties on foot, over the gravel parking area. There would also be disturbance from car headlights.
9. The site lies alongside the railway line which connects Paignton and Torquay. The boundary between the site and the railway is a close boarded timber fence and no other boundary treatment is proposed as a noise attenuation measure. Consequently, it is likely that there would be a level of noise and disturbance from the passing trains that would affect future occupants, particularly, if they were using the garden.
10. I agree that it is not unusual for residential development to be located near railway lines. However, the combined effect of the train noise and the noise and disturbance from the car parking area would be detrimental to the living conditions of future occupiers. Therefore, the development would not accord with Policy DE3 of the Local Plan which aims to secure a good level of amenity for future residents, or the National Planning Policy Framework (the

Framework) insofar as it seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Flood Risk

11. Torbay has been designated by the Environment Agency as a Critical Drainage Area (CDA). As a consequence, all development requires a basic Flood Risk Assessment (FRA) and all new development must deliver a reduction in run-off rates. This requirement applies to brownfield sites. The explanatory text to Policy ER1 of the Local Plan states that all off-site surface water discharges from new development should mimic greenfield performance up to a maximum 1 in 10 year discharge. On site, all surface water should be safely managed in conditions up to the 1 in 100 event plus an allowance for climate change.
12. The FRA submitted with the application shows that surface water would be disposed of by infiltration using a soakaway or other sustainable drainage system. The Council states that trial holes are required to confirm the ground conditions are suitable for a soakaway. Also, infiltration tests are necessary to determine the infiltration rates that would be used to design the soakaway. This information has not been submitted.
13. The appellant advises that he would accept a pre-commencement condition requiring investigations to be undertaken. However, I am not satisfied that this would meet the requirements of the Policy ER1 of the Local Plan. Additional water sensitive urban design is needed, compared to normal Sustainable Drainage Systems, in order to satisfy the requirements arising from the CDA designation. It must be established that these measures can be accommodated prior to permission being granted.
14. I conclude, therefore, that it has not been demonstrated that the surface water drainage design for the development would deliver a reduction in run-off rates in accordance with Policies ER1 and ER2 of the Local Plan. It has not been demonstrated that the development would meet the aims of the Framework insofar as it seeks to ensure flood risk is not increased elsewhere.

Protected Species

15. The site lies close to a public park, containing mature trees and a pond, and the adjoining railway line is designated in the Local Plan as an Other Site of Wildlife Interest (OSWI). The Council is concerned that the proposal fails to demonstrate that it will not result in loss or harm to protected species on or adjacent to the development site.
16. I acknowledge that development adjacent to green space or wildlife corridors has potential to impact biodiversity. However, I saw from my visit that the site itself is a relatively sterile area of gravel parking. There is a timber fence running alongside the railway line, and a stone wall to the boundary with the park. Due to the lack of trees and shrubs, or other suitable places for roosting and refuge, it is unlikely that the site is attractive to species active within the park or using the adjoining railway line as a wildlife corridor. I note that the Council's Green Infrastructure Coordinator has not provided a site specific consultation response and the advice provided is generic. Consequently, it has not been demonstrated from the Council's evidence that there is a risk that protected species may be adversely affected by the proposal.

17. I conclude, therefore, that it is unlikely that the development would result in loss or harm to protected species. It would therefore accord with the aims of Policy NC1, which seeks to conserve and enhance the biodiversity of the district and Policy SS8 which seeks, amongst other things, to ensure sites, species and habitats protected under European, or equivalent, legislation are protected from development.

Conclusion

18. I conclude that the development would lead to harm, as described above, and this includes harm to a designated heritage asset. Whilst, the harm to the significance of the designated heritage asset would be relatively localised, and therefore less than substantial in terms of the national policy, I give great weight to the conservation of the Conservation Area. There are there are no clear public benefits that would outweigh the harm in this instance.
19. For the reasons set out above, the appeal should be dismissed.

Debbie Moore

Inspector