
Appeal Decision

Site visit made on 7 November 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 23 November 2016

Appeal Ref: APP/X1165/D/16/3159852
17 Perinville Road, Torquay TQ1 3NZ

- 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 R Moor against the decision of Torbay Council.
 - The application Ref P/2016/0693/HA, dated 12 June 2016, was refused by notice dated 16 August 2016.
 - The development proposed is described on the application form as '*extension to garage to form studio*'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst this proposal follows withdrawn application Ref P/2016/02120, I must determine the proposal before me on its particular merits.
3. I have used the description of development in the banner heading above as was given within the application form. However for the avoidance of doubt I note that it is intended that the studio proposed would be used in connection with No 17 Perinville Road rather than as an independent unit.
4. Within their decision notice the Council cited only that the proposal would conflict with policies of the *Torbay Local Plan* adopted on 10 December 2015 (the 'Local Plan'). There is nothing before me to indicate that these policies are anything other than consistent with relevant elements of *The National Planning Policy Framework* (the 'Framework') and of *The Planning Practice Guidance* (the 'Guidance'). I have approached the appeal on this basis.

Main Issues

5. The main issues are the effects of the proposal on the character and appearance of the area and on the living conditions of the occupants of nearby dwellings.
 6. It appears from the Council's officer report associated with the application that the Council's objection to the proposal in respect living conditions is confined to matters of overbearing, and I have addressed this main issue in this light.
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Reasons

7. No 17 is a semi-detached property of traditional design set in a modest rectilinear plot within a comparatively dense residential area of Torquay. Nearby properties are of similar form, design and plot size. The rear garden of No 17 slopes down steeply in level broadly from south to north towards St Anne's Road, as do those of other properties facing Perinville Road. These gardens are as a consequence notably enclosed by virtue of being modest and given the presence of properties facing Perinville Road set on a significantly higher ground level.
8. The garage of No 17 is located at the far northern end of the garden and is accessed via an unadopted service lane. This lane serves a number of outbuildings along its length which are associated with both properties facing Perinville Road and St Anne's Road. Although these outbuildings are typically modest in bulk, subservient in scale to their host dwellings and utilitarian in appearance, they add to the density of the built environment.
9. Whilst there are examples of larger garages within the wider area, there appeared to be one noteworthy exception to the prevailing modest form of outbuildings nearby the garage of No 17, that which is signed as No 11A. Set to the rear of No 11 this building is taller than those around it and hosts a pyramid hipped roof, where the prevailing roof form of such outbuildings is typically flat or pitched.
10. It appears from the domestic appearance of No 11A and its individually demarcated plot that it is occupied as an independent unit. Nevertheless it appeared to me that No 11A is likely an historic feature of the area being composed in part of traditional brickwork and render. There is moreover no information before me as to the planning considerations, if any, that applied either to its creation or to the establishment of the bungalow at the end of the service lane to which the appellant also refers in his appeal statement.
11. Of utilitarian blockwork construction with a large profiled metal door and flat roof, the garage of No 17 appeared to me at present to be one of the largest of the outbuildings along the service lane. It extends to almost the full width of the plot and reaches a maximum height such that it is broadly level with the fencing and planting demarcating the common boundaries with neighbouring Nos 19 and 15.¹

Character and appearance

12. Policy DE1 '*Design*' of the Local Plan sets out the Council's approach to ensuring that development is well designed and reflects the character of the area. Criterion 14 thereof is of particular relevance to this appeal in requiring that proposals should '*relate to the surrounding built environment in terms of scale, height and massing*'.

¹ As indicated by a photograph of the existing garage taken from within the garden of No 17 supporting the appellant's appeal statement.

13. The development proposed is to increase the height of the elevations of the existing garage by approximately 1.5 metres and to add a pyramid hipped roof which would at its apex reach a height of approximately 3.2 metres above that of the existing flat roof, thereby creating a second storey.² The materials proposed, render, timber boarding and natural slate, would be consistent with those used in outbuildings nearby. Nevertheless the scale of the proposal would result in a building which, in my view, is markedly out of keeping with the prevailing modest scale of outbuildings along the service lane, particularly given that the existing garage is presently large in comparison with those nearby.
14. Whilst the service lane is likely used intermittently, and is primarily a functional access, from this location the proposal would clearly represent an incongruous and unduly imposing addition. It would also be apparent from the garden of neighbouring properties, and indeed through windows within their rear elevations. From these vantage points it would appear to significantly and detrimentally add to the density of the built environment.
15. Although I acknowledge that No 11A is of broadly comparable scale and form, I have identified above how it is an exception to the prevailing consistent form of development in the area and may be a historic building. As such its presence does not justify development that would be detrimental to the otherwise generally consistent character and appearance of the area.
16. The appellant contends that the slate roof proposed would be more attractive than the existing felt roof. Whilst this may be the case, I have identified above how the prevailing design of outbuildings served by the access lane is utilitarian, and as such the existing design of the garage is not detrimental to the character of the area. As such this change in roof design would be essentially neutral in effect.
17. For these reasons I therefore conclude that the proposal would result in an unacceptable effect to the character and appearance of the area in conflict with the relevant provisions of policy DE1 of the Local Plan.

Living conditions

18. Policy DE3 '*Development amenity*' of the Local Plan requires that all development should be designed to provide for a good level of amenity for all occupants of nearby properties. More specifically criterion 3 of policy DE5 '*Domestic Extensions*' of the Local Plan requires that such extensions do not '*cause harm to the amenity of nearby properties, for example through... [an] overbearing impact...*'.
19. I acknowledge that on account of the relatively dense residential nature of the surrounding environment alongside the topography of the land and presence of existing outbuildings there is already a sense of enclosure in the surrounding area, particularly from within gardens. However this renders that openness which exists important, and does not justify development that would unacceptably affect the living conditions of neighbouring properties.

² Measurements stated on drawing No TQ/0040/16/4 supporting the application.

20. I accept that the effect of the proposal in respect of overshadowing would be limited given that the garage is set to the north of No 17, and indeed that the extension would not give rise to significant overlooking as the new space created would be served by roof lights alone. However the proposal would significantly add to the scale and bulk of the existing garage as identified in respect of the first main issue in this case.
21. Whilst the common boundaries of the garden of No 17 and its neighbours are demarcated by various boundary features, it appears from the information before me that the majority of the extension proposal would be significantly higher than these. I acknowledge that the tree within the garden of No 17 close to the boundary of No 19 may, however, partially obscure certain views of the extension.
22. Nevertheless the proposal would be in part visible by those using neighbouring gardens. It would be of substantially greater scale and bulk than the present garage, set close to the common boundaries of neighbours and would be of substantial construction as opposed to the softer presence of natural features and more lightweight fencing. There is moreover no outbuilding present within the garden of No 19 which would mitigate the effect of the proposal as experienced from within the rear of that garden.
23. It therefore appeared to me that the proposal would result in an overbearing presence and adverse sense of enclosure significantly beyond that which is already present as experienced from within neighbouring gardens. This would clearly be to the detriment of the living conditions of those nearby, particularly to the pleasant enjoyment of their gardens from which the proposal would appear incongruous and unduly dominant.
24. I therefore conclude that the proposal would adversely affect the living conditions of the occupants of nearby dwellings, bringing the proposal into conflict with the relevant provisions of policy DE3 and DE5 of the Local Plan.

Other Matters

25. I note the concerns of nearby residents in respect of noise that may result from the proposal were it used certain activities undertaken, however there are separation provisions for addressing noise which amounts to a statutory nuisance,³ and in any event this matter does not form part of the Council's case. I further note the concern expressed by nearby residents that the proposal may give rise to use of the garage as an independent dwelling. However this is not the intention of the appellant, and were the development otherwise acceptable a suitably worded condition could prevent an independent unit from arising.
26. I accept that the proposal has been reduced in scale compared to that which was proposed via application Ref P/2016/02120, however for the reasons identified above in my view it would nevertheless be unacceptable. Although the appellant contends that the hipped roof form would prevent its use as a

³ Under the provisions of *The Environmental Protection Act 1990*.

balcony, there is no indication that the roof of the existing garages is, or intended to be, used as a balcony. In any event it would fall to the Council in the first instance to consider what, if any, consent is required for such use here or indeed elsewhere. As such neither this, nor any other matter, is sufficient to outweigh my findings in respect of the main issues in this case.

Conclusion

27. For the above reasons, and having taken account of all other matters raised, the proposal conflicts with the development plan as a whole. I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR