

Appeal Decision

Site visit made on 28 November 2016

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

Decision date: 29 December 2016

Appeal Ref: APP/X1165/W/16/3156941

Land between 101 and 105 Penwill Way, Penwill Way, Paignton TQ4 5JN

- 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 Andrew Developments against the decision of Torbay Council.
 - The application Ref P/2015/073/PA, dated 4 August 2015, was refused by notice dated 14 June 2016.
 - The development proposed is two detached houses and garaging with parking.
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Decision

1. The appeal is allowed and planning permission is granted for two detached houses and garaging with parking on land between 101 and 105 Penwill Way, Penwill Way, Paignton TQ4 5JN in accordance with the terms of the application, Ref P/2015/073/PA, dated 4 August 2015, subject to the conditions set out in the Annex to this decision.

Application for costs

2. An application for costs was made by Andrew Developments against Torbay Council. This application is the subject of a separate Decision.

Procedural matters

3. The application form describes the site as "Plot 205 Penwill Way". The Council's decision notice and the appellant's appeal form describe the site as Land between 101 and 105 Penwill Way". The latter description better identifies the site and it is one I have adopted.
4. The application was amended whilst under consideration by the Council and I have taken the amended plans into account in my decision.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the surrounding residential area.

Reasons

6. Penwill Way is a steeply sloping road which runs across a hillside. Houses on either side of the road are of various designs, but most have split levels. The appeal site is a vacant plot partly cut into the hillside lying between two three-storey detached houses.
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7. It is proposed to erect two houses on the plot, each possessing three levels. Whilst the houses would be of a comparable height to those on either side, which with No 107, form a similar group, they would be narrower and with a smaller gap between them, whilst being significantly deeper. The overall massing of the proposed houses would also be greater than the neighbouring properties.
8. However, the three houses at 101, 105 and 107 comprise only a small element in a varied street scene, and their scale, plot width and spacing do not create a distinctive streetscape character which it is important to replicate or ensure that it is not interrupted. The proposed houses, whilst exhibiting the differences to which I have referred above, would nevertheless incorporate design features of the neighbouring houses, such as the use of an asymmetric element in the roof, and would fit in satisfactorily with the mixed context elsewhere on Penwill Road, where plot sizes are generally smaller, and where there are smaller gaps between dwellings. In this respect the proposal would relate satisfactorily to the surrounding built environment as required by Torbay Local Plan Policy DE1, which deals with design.
9. The proposed houses would have gaps between them and their neighbours, between which glimpses of the depth of the site could be obtained, and in my view the overall plot sizes would be sufficient to ensure that the houses would not appear squeezed or over-developed, and the proposal would make the best use of space in terms of ground coverage and height, another requirement of Policy DE1.
10. I therefore conclude on the main issue that the proposal would not result in material harm to the character and appearance of the surrounding residential area and would not conflict with Policy DE1.

Other matters

11. Whilst the depth and height of the closest dwelling to 105 Penwill Way would result in some loss of light, the extent would not be sufficient to materially harm the occupiers' living conditions. I also noted on my visit that Penwill Way was a well-used route for traffic, but I consider that the addition of two dwellings would have only a marginal impact on highway conditions, and would not be sufficiently harmful to justify dismissing the appeal.

Conditions

12. The Council has suggested a number of conditions which I have assessed in the light of national guidance. A condition to secure parking is needed for highway safety reasons, and to ensure that the parking provision shown is provided and retained. A condition to secure landscaping is required in the interests of appearance, and in part, to promote biodiversity. Whilst the appellant considers that such a condition is unnecessary, I disagree; the street scene elevation shows planting to the front of the site, which in my view, helps to soften the development and integrate it into the street scene, and details are needed to ensure that a suitable high quality scheme is secured. Although there is currently only sparse vegetation on the site, the permission need not be implemented for three years and it would not take long for more substantial vegetation to grow, and for birds to nest within it. Thus, for biodiversity reasons, a condition to deal with the timing of clearance works is also needed. A condition is also required to ensure that the site is

satisfactorily drained, whilst a condition relating to the treatment of side facing windows is needed to protect neighbours' living conditions. The condition allows for adequate ventilation.

13. Although not suggested by the Council, I shall also impose a condition to require the development to be carried out in accordance with the approved plans so as to ensure certainty.

Conclusion

14. For the reason given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than where specified by other conditions of this permission, the development hereby permitted shall be carried out in accordance with the following approved plans: 1435/8B, 1435/8.3, 1435/9B, 1435/10B and 1435-12.
- 3) The parking facilities shall be provided in accordance with the approved plans prior to the occupation of the dwellings hereby approved, and thereafter they shall be permanently retained for the parking of vehicles.
- 4) The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority. Details of soft landscape works shall include retention of any existing trees and hedges, finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure and boundary and surface treatments. The details shall also include details of the retained chain link mesh to prevent badger re-entry within the application site. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.
- 5) No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird breeding season from March to September, inclusive. If this period cannot be avoided, these works shall not be undertaken until the reasons why have been submitted to and approved in writing by the local planning authority. The works shall not be undertaken except in the presence of a suitably qualified ecologist. If breeding birds are found or suspected, the works shall not proceed until the ecologist is satisfied that breeding is complete.
- 6) Surface water drainage shall be in accordance with the submitted Storm Water Management System details (Reference 04-4297) received 22 February 2016, Drawing No. PSMFC160-30-BM-D1 Proposed Various received 22 February 2016, Drawing No. 1435/14 Proposed Layout received 23 February 2016 and Flood Risk Assessment (Reference 1511/NLH/KS) received 11 April 2016, unless an alternative means of surface water drainage is submitted to and agreed in writing by the local planning authority prior to the commencement of development.
- 7) Prior to the occupation of the two dwellings hereby approved, all of the windows in the flank elevations of the two dwellings shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. Such windows shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition.