
Appeal Decision

Site visit made on 24 January 2017

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

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

Decision date: 14 March 2017

Appeal Ref: APP/X1165/W/16/3161761

Hotel Blue Conifer, Higher Downs Road, St Marychurch, Torquay TQ1 3LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Renaissance Retirement Ltd against Torbay Council.
 - The application, Ref P/2016/0571, is dated 17 May 2016.
 - The development proposed is the demolition & redevelopment to form 10 sheltered apartments for the elderly including communal facilities, access, car parking, and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition & redevelopment to form 9 sheltered apartments for the elderly including communal facilities, access, car parking, and landscaping at Hotel Blue Conifer, Higher Downs Road, St Marychurch, Torquay TQ1 3LD in accordance with the terms of the application, Ref P/2016/0571, dated 17 May 2016, subject to the conditions set out in the Annex to this decision.

Procedural matters

2. The application was amended during its consideration by the Council, and I have taken the amended plans into account in my decision.
3. Had an appeal not been made against non-determination, the Council resolved to refuse the application for the following reason:

By reason of the scale, bulk and design of the building, the proposed development would constitute overdevelopment of the site and would result in a form of development that would be out of keeping with the established character of the area.

Main Issue

4. The main issue is the effect of the proposal on the character or appearance of the area.

Reasons

5. The site lies in a visually prominent position at the junction of Higher Downs Road with Babbacombe Downs Road. The site forms part of the Hampton Estate, a mainly inter-war development with a number of attractive buildings, mostly set in landscaped and spacious gardens. Although local residents have referred to the development of the estate as being influenced by the garden
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city movement, its layout, growth and subsequent alterations mean that today has only a loose affinity with the concept, and Government policy in favour of new settlements or extensions to existing villages and towns that follow the principles of Garden Cities has little application here.

6. Although the putative reason for refusal does not allege that the proposal is contrary to any development plan policy, the Council's statement refers to a conflict with Policy DE1 of the Torbay Local Plan (LP) 2012-2030. That policy requires that development should be well-designed, respecting and enhancing Torbay's special qualities.
7. Whilst the site and the estate are not subject of any planning designation in respect of their character and appearance or other special qualities, the site lies adjacent the Babbacombe Downs Conservation Area to the south-west. The Downs and the nearby Babbacombe Cliff Railway are popular tourist features and the area, even on a murky day in winter when I carried out my site visit, was bustling. The site is occupied by a two storey detached building used as an hotel, set in a fairly spacious landscaped garden.
8. The proposal would occupy a much larger proportion of the site than the current building, and would be closer to all the boundaries of the site other than the south-western boundary, where the nearest part of the building would be slightly further away, but higher. Achieving an efficient use of land is consistent with one of the objectives of Torbay Local Plan (LP) Policy H1 which seeks to maximise the re-use of urban brownfield land and with Policy D1 which aims to make the best use of space in terms of ground coverage and height.
9. The footprint of the apartments would be more than double that of the existing hotel, which in turn is already one of the larger buildings in the inter-war Hampton Estate in which it is situated. However, the plot is unusually large in comparison with others on Babbacombe Downs Road and Higher Downs Road. Thus, whilst the width of the building would be much greater than the average plot size on the adjacent roads, the larger plot size can readily accommodate a larger building.
10. The proposal would still impart a spacious feel because the building would be set back from both of the road frontages, roughly in line with other buildings in the respective roads. On the Babbacombe Downs Road frontage the north-easternmost part of the building would be slightly canted away from the road, increasing the sense of space nearer to the junction. There would be a sizeable area of undeveloped space at the junction of the roads, and there would be a generous gap between the back of the building and the boundary with Hampton Lodge, in which car parking and landscaping would sit.
11. The Council alleges no harm to the adjacent conservation area, where buildings are generally of a larger scale and height, and I agree that its character and appearance would be preserved. However, the appeal site is at the end of Higher Downs Road, immediately opposite the much higher and more bulky Summerbay Resort (Norcliffe Hotel). Whilst the conservation area and the Hampton Estate have their own distinctive and separate characters, to my mind, the larger size of building proposed here would relate satisfactorily to both areas.

12. I recognise that the proposal would impinge on some views of the tower and spire of nearby churches to the north-west of the site. These features help to reinforce a sense of place, and from what I have been told by local residents, their historic and cultural associations are valued. However, the proposal would not completely block out these views, which are in any event, only partial ones, and the narrowing of viewpoints would not be a sufficient reason to justify dismissing the appeal.
13. The building would be of two storeys with some rooms in the roofspace served by rooflights and well-proportioned dormer windows. The highest part of the building would be similar to that of the existing hotel, although the larger size of the building and the greater proportion of the roof which would be higher than the existing roof would result in a greater bulk. Even so, having regard to the amount of space about the building, and a roof design which slopes down towards the neighbouring property at 6 Babbacombe Downs Road, I consider that the site could satisfactorily accommodate a larger building without appearing incongruous or harming the overall character of the area.
14. In terms of design, the building would incorporate features such as balconies, louvres and metal flues which are not ubiquitous features of the estate, although the existing hotel has a large balcony facing the Higher Downs Road frontage. However, these elements are not dominant parts of the design. Whilst they are more redolent of contemporary design, I consider that the overall composition of modern and traditional design elements would pay sufficient regard to the building's context, whilst avoiding being a mere copy of existing architectural styles. The success of modern materials often comes down to their quality, and this could be safeguarded by the imposition of an appropriate condition. There would be no design features to denote horizontal separation, but I do not consider that this is either a pronounced or important feature of nearby properties. Stacked windows in bays are not typical of the Hampton Estate, and whilst there is some variation, particularly with unsympathetic modern windows and dormers, there is a vertical emphasis in fenestration which the proposal would provide.
15. The building would be well articulated, so that on the main road frontages the mass of the building would be broken up into different elements through the use of roof gables, hips and pitches and set-backs, giving the building a more domestic scale. Landscaping has the potential to soften the appearance of the building and to break up the areas of car parking.
16. A material consideration is the previous appeal decision¹ dated 20 May 2011⁴ in relation to a proposal to construct 32 sheltered apartments for the elderly on a larger site which also took in the adjacent Hampton House site. I have not been provided with the plans for that development but it is clear that that proposal was considerably bigger in terms of the overall site area, the numbers of apartments proposed and the height and bulk of the proposal. I note that the Inspector in that case found against the scheme because of its harmful impact on local character. However, it seems to me that this proposal is of a materially different scale, bulk and design. Accordingly, and particularly in the absence of plans and precise details of the previously dismissed scheme, the Inspector's finding in that case are of limited assistance to me in this case, and

¹ Ref: APP/X1165/A/03/1127556

do not prevent me from arriving at a different view on the particular merits of this scheme.

17. I therefore conclude on the main issue that the proposal would not result in material harm to the character and appearance of the surrounding area, or conflict with LP Policy DE1.

Other matters

18. I have had regard to other concerns expressed by local residents including the effect of the proposal on light and highway safety, but neither of these matters is sufficient to alter my conclusion.
19. It is also alleged that there is no need for apartments for the elderly. However, the appellants' evidence is that there is a considerable demand for such purpose-built accommodation and that the need will grow substantially in coming years. The Government's Planning Practice Guidance says that the need to provide housing for older people is critical given that the projected increase in the number of households aged 65 and over accounts for over half of the new households. In my view, the provision of sheltered accommodation brings with it significant social and economic benefits which do not appear to have been weighed in the balance by the Council. Even if I had found limited harm to the character and appearance of the area, these benefits would have been likely to have been sufficient to have outweighed it.

Conditions

20. The Council has suggested a number of matters to be incorporated into conditions, which I have considered in accordance with national guidance. Conditions relating to external materials, the design of architectural details and landscaping and the protection of trees are needed in the interests of appearance. A condition requiring details of waste storage and the storage of cycles and mobility scooters is needed in the interests of appearance and respectively to promote sustainable treatment of waste and travel other than by the private car.
21. A condition dealing with the closure of the existing access and the provision of new parking is needed in the interests of highway safety. Details of surface water disposal are required to ensure that the site is satisfactorily drained. Obscure glazing is required to certain north-west facing windows in order to protect living conditions. Conditions relating to the removal of vegetation, the carrying out of measures to mitigate the effect of the proposal on bats and the submission and implementation of a lighting scheme are needed to protect and promote biodiversity. A construction method statement is needed to protect neighbours' living conditions.
22. A condition to require the development to be carried out in accordance with the approved plans is needed to ensure certainty.

Conclusion

23. For the reasons 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) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs: 5510-03-AC-101 B, 5510-03-AC-120 A, 5510-03-AC-121 A, 5510-03-AC-122 A, 5510-03-AC-130 A, 5510-03-AC-201 C, 5510-03-AC-202 C, 5510-03-AC-203, 5510-03-AC-132 and 5510-03-AC-131.
- 3) Notwithstanding condition 2, no development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, together with details design of all gazing, louvres, vent pipes, recesses, eaves and fascias, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) Development shall not commence until details of the means of surface water drainage including a timetable for implementation, and details of future management have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) All the trees shown on the landscaping plan as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 8) Prior to the first occupation of the apartments hereby approved, the existing car parking spaces shall be removed and the car parking spaces and access as shown on the approved plans shall be provided.
- 9) The facilities for the storage of waste and the cycle/mobility scooter stores shown on the approved plans shall be provided prior to the first

occupation of the apartments hereby approved, and thereafter they shall be retained.

- 10) The development and its timing shall be carried out in accordance with the details set out in the submitted Bat Emergence Survey. No external lighting shall be provided other than in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority.
- 11) Vegetation clearance on the site shall be restricted to periods outside of the bird nesting season (undertaken between September and end of February) or following written confirmation from a suitably qualified ecologist to be submitted to the local planning authority that no breeding birds are present.
- 12) The apartments hereby permitted shall not be occupied until the windows to first floor bathroom and second floor en-suite bathrooms on the north west elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.