
Appeal Decision

Site visit made on 6 June 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 12th June 2017

Appeal Ref: APP/X1165/W/17/3167939

24 Southfield Avenue, Paignton TQ3 1LH

- 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 & Mrs R Hooper against the decision of Torbay Council.
 - The application Ref P/2016/0683/PA, dated 14 June 2016, was refused by notice dated 12 August 2016.
 - The development proposed is a bungalow and garage with curtilage and car port to existing (all as drawings).
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Decision

1. The appeal is allowed and planning permission is granted for a bungalow and garage with curtilage and car port to existing at 24 Southfield Avenue, Paignton TQ3 1LH in accordance with the terms of the application Ref P/2016/0683/PA, dated 14 June 2016, subject to the following conditions:
 - 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: 1617/1; 1617/6; 1617/19 and; 1617/4.
 - 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
 - 4) The dwelling hereby permitted shall not be occupied until works for the disposal of surface water have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Main Issues

2. The main issues in this appeal are firstly, the effects of the development on the character and appearance of the area; secondly, on the living conditions of occupiers of both the host property in terms of private amenity space and outlook and occupiers of the proposed dwelling in terms of private amenity space, and; thirdly, whether the proposal would pose unacceptable flood risks.
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Reasons

Character and appearance

3. The appeal site comprises part of the rear garden to No 24 Southfield Avenue, which is a corner plot that also faces Winsu Avenue, a relatively steep hillside that provides access to the host property's garage. This garage would be removed and a car port provided as a replacement.
4. The proposal would see the erection of a dormer style bungalow with its ground floor set slightly higher than the level of the existing raised area of the garden. To accommodate parking facilities, the bungalow would incorporate garaging facilities, which would be built into the hillside giving a split level appearance to the dwelling when viewed from Winsu Road. The attractive natural stone wall would remain either side of the driveway to the appeal property.
5. The Council's principal concerns relating to the first main issue relates to the effect of the development on the character and appearance of the area arising from its elevated and prominent position on the plot. However, from what I saw, the proposals would utilise the existing slope and retain as much of the landform as possible. Working with the existing contours in this way would help reduce the massing effect of the proposed dwelling and retain much of the attractive walling that contributes to the character of Winsu Avenue in particular.
6. My attention has been drawn to earlier appeals for a dwelling at the site that were dismissed, the last one in 1990¹. The details of these appeals are not before me; however, the Inspector noted that the proposal involved significant excavation with the dwelling sited very close to the pavement edge, which he found unacceptable. Whilst the Council too has recognised that local policies have changed since the earlier decision thereby acknowledging that developments of this nature are not unacceptable in principle, from what I saw, the low profile design and positioning of the proposed dwelling would not be unduly prominent in the street scene. As the appellant points out, a number of corner and other seemingly restricted plots have been successfully developed within the neighbourhood in this way without detriment to the character and appearance of the area.
7. Accordingly, the proposal would comply with Policy DE1 of the Torbay Local Plan 2012-20130 (TLP), which sets out amongst other things, to ensure that new developments are well-designed to reflect the character of the area, particularly by making the best use of space in terms of ground coverage and height.

Living conditions

8. The proposal would see the provision of some 195 sqm of outdoor space for the proposed dwelling and, through adaptation and re-arrangement of existing outdoor space, some 202 sqm for No.24. The dwelling has been designed to avoid overlooking of the rear elevation of No.24 whilst the siting avoids unacceptable overlooking of neighbouring properties on the opposite side of Winsu Avenue. Policy DE3 of the TLP sets out minimum standards in terms of requirements for external amenity/garden space, which according to the appellant's calculations, the proposal substantially exceeds. Although the

¹ T/APP/M1140/A/90/160329/P8

Council believes that the distance between the proposed dwelling and the existing property is too short resulting in an overbearing outlook, due to the positioning of the proposal together with its low profile design, I am satisfied that the relationship between the two properties would be satisfactory.

9. Consequently, the proposal would comply with Policy DE3 as it sets out to ensure that new developments are designed to provide a good level of amenity for future occupiers whilst not unduly impacting on the amenity of neighbouring existing occupiers in terms of outlook and provision of useable gardens and outdoor amenity areas.

Flood risk

10. The Council's concerns regarding surface water drainage related to the lack of details at the application stage. In a consultation response, the Council's Drainage Engineer advised that full details would be necessary if a soakaway system was proposed given the sloping nature of the site and the location within a Critical Drainage Area. That said, it was also advised that in the event of the site being too steep or ground conditions unsuitable for surface water drainage, connection to the surface water sewer would be possible provided the run-off was suitably controlled. The appellant has now provided details as part of the appeal that depicts the provision of an attenuation tank that would be designed for an allowance of a 1:100 year + 30% allowance for climate change.
11. As a result, I am satisfied that a satisfactory drainage solution is possible to serve the proposed development, which would satisfy the requirements of the Council. Thus I am satisfied that the proposed development would not give rise to unacceptable flood risk thereby meeting Policies ER1 and ER2 of the TLP that requires amongst other things that new developments must be safe for its lifetime, maintain the prevailing water flow regime on-site including an allowance for climate change and provide adequate surface water drainage solutions.

Conditions

12. In addition to the standard condition relating to the commencement of development, a condition is included that specifies approved plans in order to provide certainty. A condition is also included in the interests of protecting the character and appearance of the area for the prior approval by the local planning authority of external materials. A condition is also necessary that requires the final approval by the Council of details of surface water drainage.

Conclusion

13. For the reasons set out above and having regard to all other matters raised, this appeal is allowed.

Gareth W Thomas

INSPECTOR