
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: 14th June 2017

Appeal Ref: APP/X1165/W/17/3168850

Unit 3, Batson Gardens, Goodrington With Roselands, Paignton TQ4 5LT

- 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 James Rundle against the decision of Torbay Council.
 - The application Ref P/2016/1152/PA, dated 21 October 2016, was refused by notice dated 21 December 2016.
 - The development proposed is for the change of use from store to flatted dwelling and alterations at first floor level over workshop/store.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description in the application differs from that used by the Council in its decision. I have considered the appeal on the basis of the Council's description as this accurately describes what is before me. This is for the change of use from store to flats with alterations at first floor level over workshop/store.

Main Issues

3. The main issues in this appeal are:
 - The effects of the development on the living conditions of neighbouring residential properties by reason of privacy levels;
 - The effects of the proposal on the living conditions of future occupiers by reason of noise, and;
 - Whether the lack of parking would cause detriment to highway safety.

Reasons

Living conditions

4. The appeal site comprises a workshop premises located to the rear of No's. 51 and 51A St Michaels Road within a tightly knit built up area of Paignton. The proposed development appears to have been substantially completed and involves the provision of a replacement roof together with the installation of a single dormer and five no. rooflights. Access to both the workshop and first floor flat would be from the service lane that serves other properties fronting St Michaels Road.
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5. The Council's evidence indicates that there is a clearance of 6m from the bedroom window of the proposed flat and the rear windows of No's. 51 and 51A, both residential properties. Despite the offer by the appellant to incorporate obscure glazing, this would not prevent overlooking unless permanently closed, whilst it would also provide unacceptable living conditions for proposed occupiers of the flat in question. These considerations are both reflective of the overall cramped nature of the proposed development.
6. Consequently the proposed development would be likely to cause significant harm to the living conditions of neighbouring properties contrary to Torbay Local Plan (TLP) Policy DE3 that seeks to ensure that new development should not unduly impact upon the amenity of neighbouring uses, particularly impacts arising from privacy intrusion.

Living conditions – future occupiers

7. Immediately below the proposed flat would be a workshop. There is no indication as to the precise use of the workshop or how it will relate to the residential use above. I note the appellant's view that this is largely a matter for Building Regulations. However, effects on existing levels of amenity are material planning considerations. In this instance, I am cognizant of the intimate relationship between the two elements of the same property. The Council's Community Protection Officer considers that the proposed occupiers of the flat would be likely to suffer unacceptable noise and other disturbance.
8. Consequently, given the nature of the proposed uses within the same property and the strong possibility that noise and other general disturbance would follow, I conclude that the proposal would be likely to create unacceptable living conditions for future occupiers of the flat in question, which would be contrary to TLP Policy DE3 that seeks to ensure that developments are designed to provide a good level of amenity for future occupiers, particularly having regard to noise impacts.

Parking facilities

9. It is recognised that the proposed development would be likely to generate substantially less vehicle movements given the previous use of the premises as a commercial garage and workshop. The same can be said for off-road parking demand. However, I am cognizant of the general lack of available on-street parking in the area with little off-road parking facilities. Moreover, roads in the immediate neighbourhood are narrow with generally tortuous alignment. The proposal would be likely to displace existing on-road parking facilities to the detriment of highway safety and convenience of other road users.
10. Consequently, the proposal would be likely to have a significantly adverse effect on highway safety and convenience contrary to TLP Policies TA3 and DE3, which amongst other things, seek to ensure that flats do not result in the loss of parking provision below the Council's standards of one off-street parking space per unit of accommodation.

Other matters

11. In addition, the Council has expressed concern regarding the lack of bicycle parking or refuse bin storage facilities within the development. Whilst it has not been demonstrated that the necessary bicycle parking or bin storage facilities can be provided in accordance with Policy DE3 criterion 2, this is a

matter that could reasonably be addressed through a planning condition and would not on its own constitute a reason to withhold permission.

CONCLUSION

12. For the above reasons and having regard to all other matters raised, I conclude that this appeal should be dismissed.

Gareth W Thomas

INSPECTOR