

# Appeal Decision

Site visit made on 20 June 2017

**by K Taylor BSc (Hons) PGDip MRTPI**

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

**Decision date: 29<sup>th</sup> June 2017**

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**Appeal Ref: APP/X1165/D/17/3171251**

**1 & 3 Hartop Road, St Marychurch, Torquay TQ1 4QH**

- 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 Chris Gorvin against the decision of Torbay Council.
  - The application Ref P/2016/1190/PA, dated 31 October 2016, was refused by notice dated 6 January 2017.
  - The development proposed is described as "removal of part of front gardens of 1 & 3 Hartop Road to accommodate one car per property. This application is a first revision of P/2016/0402/HA due to a change in material finishes and overall aesthetics of the street scene. These have been made giving consideration to the comments given in response to the original application by the planning department. See all separate documents relating to this proposal: - Site Plans, CGI digital models, Location Plans, Supporting Documentation for Local Area".
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the development on:
  - the character and appearance of the area;
  - the safety and convenience of users of the pavement;
  - on-street parking provision; and
  - drainage.

## Reasons

### *Character and appearance*

3. The appeal dwelling and its attached neighbour No.3 are semi-detached dwellings with a stone faced retaining wall at the frontage. The gardens and houses are raised well above the road. The retaining wall creates a sense of enclosure to the street and it appears as a consistent feature with other parts of the street where the front gardens and houses sit above road level.
  4. The removal of a section of the stone wall and the associated excavation would result in the loss of the sense of enclosure and it would harmfully degrade the consistency of the stone walls that front the raised gardens. The opening would be relatively narrow at 6m, and less significant than openings for other double driveways. The side and rear retaining walls would be finished in stone and areas of raised garden with landscaping would be retained. These features would not however minimise the harmful loss of enclosure created by the breach in the wall and the associated excavation.
  5. Parking spaces have been created to the front of a number of houses, largely this is confined to properties without significantly raised gardens, including at
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No.9, and therefore the impact of the creation of those parking spaces is not as significant. There are some examples where excavation has also been necessary, but I consider that such other development should not be seen as acting as a precedent to allow for harmful development.

6. My attention has also been drawn to development further afield in Trumlands Road and Petitor Road. The immediate context of those developments is substantially different to the appeal site and as such they do not justify the proposed development.
7. I therefore conclude that the development would result in harm to the character and appearance of the area and consequently to the setting of the St Marychurch Conservation Area which lies opposite the site. The development would therefore conflict with Policies DE1 and SS10 of the Torbay Local Plan 2012-2030 (the LP). These policies require that development is well designed, acknowledges local character, and sustains Torbay's built heritage. There would also be a failure to accord with the National Planning Policy Framework's emphasis on achieving high quality design and reinforcing local distinctiveness.

#### *Users of the pavement*

8. The driveways would fall short of the minimum length for a parking space required by the LP. The length would be such that, if carefully parked close up to the rear retaining wall, most domestic vehicles could be accommodated without overhanging the pavement; including those that are longer than average. However the LP standards would allow for easy use of spaces with the ability to access the boot of vehicles without interfering with the pavement. With the short length of the driveways overhanging or obstruction to the pavement is likely to arise from time to time. This could force users of the pavement, especially those with pushchairs, using wheelchairs, or similar, into the road.
9. It appears that many other parking spaces in the street are also short of the standard. However, this does not form a sensible basis to allow for such situations to be exacerbated.
10. I therefore conclude that the development would be harmful to the safety and convenience of users of the pavement. It would be contrary to Policies DE3 and TA2 of the LP. These require that satisfactory provision is made for off-road motor parking which does not adversely impact on the amenity of neighbouring uses, that accesses are safe for pedestrians, that pedestrian infrastructure is enhanced, and that car parking is provided to an appropriate standard.

#### *On-street parking*

11. From my site visit I observed that on-street parking was at a premium. Depending on the arrangement of other parked cars in the road, at any given time, the development would result in the effective loss of between 1 and 2 on-street parking spaces. On-street spaces are shared and once a space is vacated by one user it is available to another. This is not so with private off-street parking. Two off-street spaces would be created. However these would only be available to the occupiers of No.1 and No.3 and would only be in use when required by them. In these circumstances the provision of on-site private parking would not outweigh the effect of the loss of publically available on-street provision.

12. It appears that attempts have been made to alleviate parking pressures related to the school drop off/pick up. While this could have some limiting effect on the demand for on-street parking at certain times it would not mitigate the pressures that occur at other times.
13. I therefore conclude that the development would result in a detrimental loss in on-street parking in a location which is subject to high demand for such parking contrary to Policy TA3 of the LP.

#### *Drainage*

14. The Council has stated that the majority of the district is designated as a critical drainage area, however no specific information has been provided in respect of the appeal site. It appears that the testing and additional information sought by the Council would be necessary to ensure a surface water drainage scheme is provided to an adequate design. However there is no evidence that it is reasonably likely that an appropriate scheme would be unable to be provided. This therefore appears to be an issue that could be dealt with through a condition, which could be pre-commencement if necessary. There is evidence that the Council has taken this approach to other similar development.
15. In the absence of any evidence to the contrary I have no reason to doubt that an appropriate drainage scheme could be provided. I therefore find no conflict with Policies ER1 and ER2 of the LP which seek to ensure development does not increase flood risk and provides appropriate surface water disposal systems. This indicates a lack of harm but adds little weight in favour of the development.

#### *Other matters*

16. Off-street parking would be convenient for the appellant and the occupiers of No.3, and I note that there has been recent development in the surrounding area which the appellant considers has exacerbated the parking pressures. This must however be balanced against the effect of the loss of on-street parking that would occur for other users of the street. I therefore give this benefit only very limited weight. I note the appellant intends to ensure a drop kerb is provided, unlike some of the existing accesses. This would not however mitigate the harm to the character of the area, the effect on the users of the pavement, or the reduction in on-street parking.

#### **Conclusion**

17. Although benefits would arise to the appellant and the occupiers of No.3 through the provision of off-street parking, and it appears that adequate drainage could be provided, these factors do not outweigh the significant harm that I have identified above. The adverse effects of the development are sufficient to mean that the proposal would conflict with the development plan when taken as a whole. For the above reasons, I conclude that the appeal should be dismissed.

*K Taylor*

INSPECTOR