
Appeal Decision

Site visit made on 13 July 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 01 August 2017

Appeal Ref: APP/X1165/W/17/3173740

45 Colley End Park, Clifton with Maidenway, Paignton TQ3 3BY

- 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 and Mrs Binmore against the decision of Torbay Council.
 - The application Ref P/2016/1307/PA, dated 6 December 2016, was refused by notice dated 9 February 2017.
 - The development proposed is the change of use and extension to form 4 flats, parking and bin storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the development taken from the planning application forms which differs from that used by the Council on the decision notice. The original description refers to the extension of the building required to provide 4 flats and so more accurately explains the proposal.
3. The appellant submitted revised plans during the processing of the planning application and it was those that the Council considered when making its decision. I will also consider those plans.

Main Issues

4. The effect of the proposals upon the character and appearance of the area. Whether the proposed development and surrounding area would be kept safe from the effects of surface water. Whether the development would provide satisfactory living conditions for the occupiers of the proposed flats. The effect of the proposals upon highway safety and convenience.

Reasons

Character and appearance

5. The appeal site is located on the outskirts of Paignton town centre in a traditional residential area. This includes a mix of mainly terraced and semi-detached dwellings but also some detached properties.
6. The existing building at the appeal site is traditional and semi-detached. It has a hipped roof as does the adjoining dwelling at No 43. There is a reasonable amount of space to the side of similar proportions to that at the side of No 43.

The pair of buildings have a strong degree of symmetry in terms of the roof form and other features such as the front bay windows and external space. Other groups of properties nearby also generally have unifying characteristics such as either hipped roofs or gables at the end of terraces.

7. The proposal would involve a 2 storey extension on the space to the side of the existing building including a lower link between the old and new buildings. The hipped roof on 1 side and a truncated gable on the other would be an odd arrangement that would unbalance the pair of semi-detached buildings and would look cumbersome. The loss of space to the side with a large bulky addition would also detract from the street scene at this point.
8. The proposal would not adequately acknowledge the existing townscape or architectural details of the area. In relation to the first main issue, the proposal would have a harmful impact upon the character and appearance of the area. This would not comply with Torbay Local Plan¹ (LP) Policy DE1. This would constitute a poor design, not complying with paragraph 64 of the National Planning Policy Framework (Framework).

Surface water

9. The site is within a critical drainage area as defined by the Environment Agency and a very basic flood risk (FRA) assessment was submitted with the proposal. The FRA indicates that infiltration of surface water will be achieved within sustainable drainage system.
10. The conversion of the existing building would not lead to any more surface water arising from the site. There is hard-surfacing on some of the existing land on the site and the remains of what appear to be a former building. However, the construction of the extension for 2 of the proposed flats would increase the amount of surface water discharging onto the site.
11. The site is constrained. It is not clear whether there is space for soakaways or other sustainable drainage systems or whether ground conditions will allow for adequate infiltration. I consider that it is appropriate to demonstrate that it would be possible to minimise the generation of increased run-off as required by LP Policy ER2. Additional water could cause harm to this and other properties. It would not be reasonable to impose a planning condition to require the use of such an infiltration system because it is not clear that the physical attributes of the site would enable its effective use.
12. In relation to this matter, it is unclear whether or not the proposed development or the surrounding area could be kept safe from the effects of surface water. The proposal would not comply with LP Policy ER2.

Living conditions

13. The Council within table 23 of the LP has included dwelling space standards which support LP Policy DE3 in seeking to provide a good level of amenity for future residents. The standards are the same as set out within the government document Technical Housing Standards – National Described Space Standard as published in March 2015. These standards do not provide absolute requirements but as the LP makes clear, they should be considered in assessing whether a good standard of accommodation is being proposed. This

¹ Torbay Local Plan, A Landscape for Success, The Plan for Torbay: 2012 to 2030

supports the requirement in paragraph 17 of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

14. The 2 proposed flats within the existing building (1 and 4) would be around the guideline figure of 61m² for a 2-bedroom, 3-person property or 70m² for a 2-bedroom, 4-person dwelling. Even if one assumes that they are 4-person units, they would only be 4m² and 5 m² respectively below the suggested standard. Both of these flats would have 1 spacious bedroom, a good sized living room and kitchen. These flats would also have good level of daylight reaching each room through the proposed windows. I do not consider that any deficiency of internal space would make for uncomfortable living conditions.
15. The other 2 proposed flats would be more significantly below the guidelines. Even if one assumes that these flats would be occupied by 3 people, they would both be 9.5m² below the standard. These flats would be far more constrained, cramped and therefore far less comfortable. The bedrooms and kitchen area in particular look cramped according to the submitted plans. A high quality, pleasant and healthy living environment would not be achieved in these units.
16. The external amenity space provided would be greater than the 10m² guideline within LP paragraph 6.4.2.14 for communal space. A reasonable amount of outdoor space for recreation and other household activities would therefore be provided.
17. In relation to this main issue, the proposal would not provide satisfactory living conditions for the occupiers of some of the proposed flats. This would not comply with LP Policies DE3 and H1.

Highway safety and convenience

18. The appeal site is within a reasonable walking or cycling distance from a range of shops and other facilities in Winner Street. The town centre is further to the east. I also saw buses running along Colley End Road nearby.
19. Colley End Park close to the site is of sufficient width to accommodate on-street parking whilst allowing space for vehicles to cars drive through. There are some parking restrictions but not directly outside of the site. I have no evidence about car parking levels but at the time of my visit, albeit that is a short snap-shot in time, there was plenty of safe parking available on-street.
20. The Council considers that a parking space per flat is required with reference to LP Policy TA3 which refers to parking requirements as guidelines. LP paragraph 6.2.1.9 also refers to the greater flexibility on levels of provision in town centres. Current advice within the Framework, as updated by a Written Ministerial Statement on 25 March 2015 indicates that Local Planning Authorities should only impose local parking standards where there is clear and compelling justification that it is necessary to manage their local road networks.
21. Although it is not a town centre site, the location is accessible to a range of facilities without complete reliance upon the use of private vehicles. Some trips on foot or by cycle would require the negotiating of significant gradients however some provision would be made for people who would be more reliant upon private vehicle use. Only 2 parking spaces are proposed within the site but the development could also accommodate cycle storage.

22. Given the accessibility of the site and the availability of safe on-street parking, I consider that the proposals would not have a harmful effect upon highway safety and convenience. This would be an appropriate provision of car and cycle parking complying with LP Policy TA3. Safe and suitable access can be achieved as required by the Framework.

Other Matters

23. The building and land around it has fallen into disrepair but a lack of maintenance is not a reasonable justification of any significant weight. To give such justification more weight may encourage purposeful decay of sites and could be used as an argument elsewhere. The creation of additional accommodation in an accessible urban area would be an advantage which has modest weight in terms of the benefit to the stock of housing in the area.
24. Notwithstanding these other matters and my conclusion on the final main issue, due to my conclusions in relation to the other main issues, the proposed development is unacceptable.

Conclusion

25. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR