
Appeal Decision

Site visit made on 7 February 2018

by G P Jones BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2018

Appeal Ref: APP/X1165/W/17/3180619

72 Laura Grove, Preston, Paignton, Devon TQ3 2LN

- 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 Mark Slade against the decision of Torbay Council.
 - The application Ref P/2017/0153/PA, dated 13 February 2017, was refused by notice dated 31 May 2017.
 - The development proposed is New single storey dwelling in rear garden of 72 Laura Grove, Paignton.
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Decision

1. The appeal is dismissed.

Policy background and preliminary matter

2. The Torbay Local Plan 2012 – 2030 (TLP) was adopted in December 2015. The appeal site also lies within the area covered by the emerging Paignton Neighbourhood Plan (PNP). However, the PNP is still at an emerging stage and I afford little weight to the policies it contains, and I note that the Council did not cite any of these emerging PNP policies in its reasons for refusal.
3. In Appendix 5 to the Statement of Case the appellant has submitted a Proposed Site & Floor Plan, reference 1266/P/03A, that indicates the “*extent of demolition if required*” for the rear part of the existing extension of no. 72. This would increase the space between the respective flank elevation of the proposed dwelling and the rear elevation of no. 72 from that as indicated in the plans submitted with the planning application, so as to create a space of 3.3m between them. The appellant also has submitted an amended plan, reference 1266/P/04A, that indicates a “*revised front elevation showing reduced elevation of kitchen/games room if required*”.
4. Although both dated February 2017 these amended plans were submitted to accompany the appeal, and I note that it is the original plans, reference 1266/P/03 and 1266/P/04, that are listed in the Council’s decision notice and not the amended ones. In addition, another plan, reference 12266/P/08 dated July 2017, has been submitted which depicts a blank wall on the rear elevation of the extension to the host property that faces north towards the proposed dwelling. The appellant contends that these amended plans were: “*submitted as potential amendment, but not accepted by the LPA*”.
5. Due to their wording I do not consider that the amended plans contain sufficient certainty that such demolition of part of the rear extension of no. 72 would be carried out, and neither is this revised proposal secured via a

submitted planning obligation. Therefore due to the timing of the submission of these amended plans and the lack of precision in their wording, I intend to consider the appeal on the basis of the scheme as set out in the application that was considered by the Council.

6. In reaching this decision I have had regard to Annexes M.1.1 and M.2.1 of the Procedural Guide Planning Appeals – England, 2018. These state respectively that: *"If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. The local planning authority should be open to discussions on whether it is likely to view an amended scheme favourably",* and, *"If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought."*

Main Issues

7. Taking this into account I therefore consider that the main issues are:
- the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of the existing occupants of no. 72 Laura Grove in terms of having an overbearing impact.

Reasons

Character and appearance

8. The host dwelling of no. 72 Laura Grove is a large house that occupies a corner plot within a residential area. No. 72 has a sizeable front garden that primarily comprises parking space, and also reasonably-sized rear and side garden areas that are mainly laid to grass. The rear garden sits in an elevated position in relation to the road.
9. Although the site address is Laura Grove the proposed new dwelling would face on to, and be accessed off, Shorton Road. As such the proposal would appear more within the context of this stretch of Shorton Road rather than that of the substantial two storey dwellings on Laura Grove. Along this part of Shorton Road between the junctions with Laura Grove and Southfield Avenue there are bungalows on both sides of the road.
10. Therefore in principle an additional bungalow would not of itself be out of keeping with the surrounding street scene. However, the host dwelling of no. 72 has quite a large flat roof rear extension with substantial fenestration, and the side elevation of the proposed new dwelling would be sited in close proximity to this. Although the new bungalow would be set back from Shorton Road, the proposed garage would be located on a lower level in front of the dwelling and close to the eastern boundary of the site. Due to its elevated position the proposed dwelling would be sited in a prominent location and would fill most of the plot with built development. Consequently, it would give rise to a development that would have a rather cramped and contrived appearance.
11. In regard to the nearby street scene, the bungalow of no. 28 on the opposite side of Shorton Road has an appearance akin to an infill property.

Nevertheless, it is set further away from the rear elevation of no. 70 Laura Grove than is the case with the proposal that is before me, and it has an attached side garage rather than a detached one in front. Although no. 70 does also have a rear extension it is smaller in scale and in a less prominent location than is the case for the extension to no. 72, being largely obscured by the boundary wall and fence.

12. Overall it is therefore my view that due to its design, scale, positioning and location the proposal would give rise to a development that would appear overly-cramped and incongruous within the surrounding street scene. As such it would have an unacceptable effect on the character and appearance of the area and therefore it would not accord with paragraphs 17, 53, 60 and 64 of the National Planning Policy Framework (the Framework) and to Policy DE1 and of the TLP. Taken together these require, among other matters, that permission should be refused for development of poor design and that development respects the existing built form, is uncluttered and integrates with the existing street scene.

Living conditions

13. The Council's report refers to a space between the side elevation of the proposed new bungalow and the northern elevation of the rear extension of no. 72 as being 1.8m, but only 0.9m if the overhangs of the respective roofs are taken into account. In effect the occupants of no. 32 would have a boundary fence and then the flank wall and hipped roof of the proposed dwelling all in very close proximity.
14. I accept the appellant's contention that the rear extension of no. 32 has glazing on its eastern, western and northern elevations and therefore would receive daylight from multiple directions. However, due to the amount of glazing the proposed new fencing and bungalow would be highly visible when viewed from inside the rear extension of no. 72 and this would accentuate the oppressive and overbearing effect of the proposal.
15. Therefore I consider that the proposal would be of such a scale and proximity as to give rise to an unacceptable overbearing impact on the occupiers of no. 72, and thus it would adversely affect the living conditions enjoyed by the occupiers of this property. As such it would be contrary to paragraph 17 of the Framework and TLP Policy DE3 which, among other things, seek to ensure that new development provides a high quality living environment that achieves appropriate levels of amenity for existing and future occupants, and seeks to assess the scale and nature of the use, specifically where this would be overbearing.

Balancing exercise

16. The proposal would create an additional dwelling that would provide a very limited boost to housing supply. It would be located within an existing residential area and with good access to the range of services and facilities in Paignton. In addition, it would create some economic benefits through the construction works entailed.
17. However, for the reasons I have indicated I consider that the proposal would have an unacceptable effect on the character and appearance of the area and would also have an adverse effect on the living conditions enjoyed by the

occupiers of no. 72 in terms of being overbearing. I attach considerable weight and importance to these harmful impacts that I have identified.

Conclusion

18. For the above reasons, and having regard to all other matters raised, I conclude that the proposal would not represent a sustainable form of development for which the Framework presumes in favour, and therefore the appeal should be dismissed.

GP Jones

INSPECTOR