



Appeal Decision

Site visit made on 20 May 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref: APP/X1165/W/19/3224364
22 Southfield Avenue, Devon 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 Wayne Terry against the decision of Torbay Council.
 - The application Ref P/2018/1026, dated 10 October 2018, was refused by notice dated 14 December 2018.
 - The development proposed is a parking bay.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's Planning Officer Report referred to the Paignton Neighbourhood Plan (the Neighbourhood Plan), and specifically Policy PNP1(c), that had completed its Independent Examination. Since the submission of this appeal the Neighbourhood Plan has been successful at referendum. Policy PNP1(c) has not changed between the post-examination stage and the referendum, I am satisfied that both main parties are aware of this policy and therefore that it was not necessary for me to go back to the parties on this matter.
3. In accordance with section 3 of the Neighbourhood Plan Act 2017, it now forms part of the development plan for the area. As such, any planning decision should be made in accordance with policies contained within a Neighbourhood Plan that has passed referendum, along with the Local Plan policies unless material considerations indicate otherwise in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004. I have therefore determined the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - highway safety; and
 - the character and appearance of the appeal site and area.

Reasons

Highway safety

5. Number 22 Southfield Avenue (No 22) occupies a corner plot at the junction of Southfield Avenue and Winsu Avenue. These are both residential streets with a 30mph speed limit. The appellant has indicated that cars appear to travel faster than this along Southfield Avenue. From the evidence before me and my own observations on site, Southfield Avenue is a reasonably busy road which can be heavily parked. At the time of my site visit during the afternoon, I did not observe any cars that appeared to be exceeding the speed limit.
6. On a 30mph road, the Council's guidance is that vehicles moving onto the highway should have a visibility splay of 43metres x 2.4metres in order to allow safe access on to the highway. The local highway authority has indicated that this requirement is not met and has objected to the scheme on that basis.
7. From my observations on site, it would be possible to gain good visibility along Southfield Avenue from the back of the pavement where cars would be exiting the proposed drive. However, due to the position of the proposed driveway adjacent to the junction and the existing boundary wall and vegetation, it would not be possible to gain an adequate view of vehicles or other users of the highway approaching from the direction of Winsu Avenue.
8. I note the appellant has suggested that removing on street parking from this corner of Southfield Avenue by creating a driveway would improve visibility for vehicles exiting Winsu Avenue. Even if visibility for highway users turning out of Winsu Avenue was improved, the proximity of the proposed drive with its restricted visibility, would still increase the risk of collisions between users of the highway.
9. The proposed drive would slope down towards the highway. Indeed, I note the local highway authority's view that the steepness of the slope would exceed the gradient of 1 in 8, which local guidance advocates to be the maximum in these regards. Due to the steepness of the driveway manoeuvring onto and off the driveway would be difficult and would impede efficient entry and exiting of the site. Moreover, parking vehicles on such a gradient, would create the risk of vehicles rolling from the driveway towards the highway. These aspects of the proposed development again increase the risk of collisions between users of the highway, especially pedestrians and adds materially to my overall concerns.
10. I acknowledge that there are other examples of driveways in similar corner locations and with poor visibility. However, I am not clear that the gradient would be the same in these cases. I also do not have details before me of any other material considerations that may have been taken account of in any planning permissions for these schemes. I do not therefore find these directly comparable with the scheme before me.
11. I have had regard to the provision of off-street parking which would help alleviate the current on-street parking stress. I also acknowledge the appellant's comments that having an off road parking space would increase safety for his family in getting in and out of the car. It would also reduce the risk of damage to the appellant's vehicle that has been caused when parked on

street. These factors weigh in favour of the scheme in highway safety terms. However, they would not overcome the harm that I have found.

12. I therefore conclude that the proposed development would harm highway safety. It would therefore conflict with Policies TA1, TA2 and TA3 of the Torbay Local Plan (the Local Plan) which together seek to ensure that development improves road safety, minimises the conflict between road users, meets satisfactory standards for visibility and safe manoeuvring of vehicles and provides satisfactory parking space.

Character and appearance

13. Due to ground level changes, the front garden is on a slope and set up much higher than the pavement level on Southfield Avenue. A high retaining wall forms the boundary at the rear of the pavement. The proposal would create a sloping driveway enclosed by retaining walls and set behind double gates and the existing front boundary wall, which would be kept.
14. The boundary wall with the terraced, sloping front garden visible above forms a stark, solid and bulky boundary at the back of the pavement. The excavation of the garden behind this wall would reduce the bulk along this boundary when viewed from the street creating a more open appearance to the plot, similar to other properties along the street.
15. A number of properties on this side of Southfield Avenue, including Number 20 Southfield Avenue (No 20) adjacent to the site, have garages inserted into their boundary walls, with gardens above. The proposed development would result in a less solid and bulky frontage to these neighbouring properties and in particular No 20 which has a significant amount of planting above the boundary wall. The installation of gates into the boundary wall would break up the continuity of the wall but this is already a characteristic as there are various openings within this wall including pedestrian accessways and garage doors. However, the wall would be kept at its existing height and would still visually provide a sense of enclosure at the rear of the pavement.
16. Driveways are a common feature on both sides of Southfield Avenue and the wider area. However, due to the area's topography, some of these are level with the footway and others slope down towards it and are set between retaining walls, albeit smaller than those forming part of the appeal proposal. Nevertheless, this type of development is not inconsistent with the character of the area. Furthermore, the driveway, being set behind the gates and wall and screened by vegetation on its western boundary, while visible would not be visually prominent from the streetscene.
17. I therefore conclude that the proposed development would not harm the character and appearance of the appeal site or area. It would therefore accord with Policy DE1 of the Local Plan; Policy PNP1(c) of the Neighbourhood Plan; and the National Planning Policy Framework. Amongst other matters and taken together, these policies seek to ensure that development is in keeping with its surrounding built environment.

Other Matter

18. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 which requires me to have due regard to the need to eliminate unlawful

discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Amongst other things, for the purposes of the Equality Act protected characteristics includes disability.

19. In this case the appeal scheme, in providing the parking off-road, would reduce the risk of conflict with traffic using Southfield Avenue for people with mobility impairments when accessing their car. This would advance equality of opportunity, and as such this is a clear public benefit of the scheme. However, as this matter relates to visitors rather than permanent residents of the property, I have given this moderate weight.

Conclusion

20. The proposed development would avoid harm in character and appearance terms. However, this is not a positive benefit of the appeal scheme and accordingly neither weight in favour of nor against it. The other matter addressed above carries moderate weight in favour. Consequently, the appeal scheme's highway safety harm would clearly tip the overall planning balance against the approval of the scheme. No material considerations have been advanced sufficient to justify a decision other than in accordance with the development plan, with which, in highway safety terms the appeal scheme would clearly conflict.

21. Accordingly, for the reasons set out above, the appeal is dismissed.

Rachael Pipkin

Inspector