
Appeal Decision

Site visit made on 9 July 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

Appeal Ref: APP/X1165/D/19/3228701

12 Sea View Terrace, Overgang Road, Berry Head With Furzeham, Brixham TQ5 8AU

- 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 De Lara against the decision of Torbay Council.
 - The application Ref P/2019/0120, dated 28 January 2019, was refused by notice dated 5 April 2019.
 - The development proposed is the increase in size of the existing front dormer and the addition of a rear dormer.
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Decision

1. The appeal is allowed and planning permission is granted for the increase in size of the existing front dormer and the addition of a rear dormer at 12 Sea View Terrace, Overgang Road, Berry Head With Furzeham, Brixham, TQ5 8AU in accordance with the terms of the application, Ref P/2019/0120, dated 28 January 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7319P001C, 7319P006B, and 7319P012C.
 - 3) Notwithstanding the hereby approved plans the materials to be used in the construction of the external walls of the development hereby permitted shall match the existing roof tiles.

Procedural Matter

2. The reasons for refusal within the decision notice refer to Policies BH5 and BH6 of the emerging Brixham Peninsula Neighbourhood Plan 2012-2030 (NP). Since that time the NP has been made by Torbay Council. Both parties have been given opportunity to comment on this material change since the council determined the application now subject to this appeal. I have considered their submissions and conclude that those policies now form a part of the adopted development plan for the area and have greater weight than as emerging policy. It is on this basis that the appeal has been determined.

Main Issue

3. The main issue is the impact on the street scene and whether the proposal would preserve or enhance the character and appearance of the Brixham Town Conservation Area.

Reasons

4. The site lies within the designated Brixham Town Conservation Area (CA). Sea View Terrace and the elevated terrace behind on North Furzeham Road characterise the established built form of the CA at this point. The contribution of 12 Sea View Terrace alone to the significance of the CA is limited. However, the cumulative value of the two terraces, taken as a whole, make a positive contribution to the heritage asset, defining the character and appearance.
5. Common adaptations to the terraces include front and rear dormer windows, which are varied in scale, form and materials. The appeal property has an existing flat roof dormer window within its front elevation. The existing dormer is positioned above the main roof's ridge, is set back from the eaves, and set in from the sides of the property. The dormer windows within the two terraces have a cumulative effect in generating a top-heavy appearance that dominates the roofscapes.
6. The adopted Policies DE1, DE5, and SS10 of the Torbay Local Plan 2012-2030 (LP) and made Policies BH5 and BH6 of the NP aim to protect and enhance character and appearance. They reflect the statutory provisions at Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding preserving or enhancing the character and appearance of conservation areas.
7. The proposal would enlarge the existing front-facing flat roof dormer window to make it wider and bring it forward, closer to the eaves. Consequently, the proposal would increase the scale and bulk of the dormer, although its height would not increase. It would maintain some separation to the side boundary of the property and would be set back from the eaves. Dormers of a similar or greater scale and mass to that proposed are evident in the street scene and flank the appeal property, and as such, these alterations would not appear out of place. As with the existing dormer, the proposal would not align with the fenestration details on the lower floors of the building. The proposed enlarged front dormer window would be prominent. However, the front dormer window would be in keeping with the established built form of the terrace where large dormer windows are typical and have led to a top-heavy appearance.
8. The rear dormer window would have the same form to that proposed at the front but would have a different fenestration arrangement. I have noted however that it would not be prominent. Some oblique, glimpsed and relatively distant views from around the public open spaces at the rear exist, but the proposal would be seen in the context of similar development.
9. Therefore, for the above reasons, the proposal would not appear incongruous within this context. I conclude that the alterations at the building's roof would be in keeping with the street scene. Furthermore, I consider that the proposal would preserve the character and appearance and result in no harm to the significance of the CA.
10. Therefore, despite some conflict with the criteria at Policy BH6 of the NP I find no harm to planning interests and the underpinning reason for the criteria

would not be prejudiced. Furthermore, I find no conflict with Policy BH5 of the NP, Policies DE1, DE5 and SS10 of the LP, or the National Planning Policy Framework (the Framework) when read as a whole.

11. The Framework sets out that where a proposal conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), approval should not usually be granted. Decisions though may depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. For the reasons set out above, I find that the limited policy conflict is outweighed by the specific circumstances of this proposal, namely its design and the existing character and appearance of the area.

Conditions

12. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. There is some ambiguity in the submission regarding materials, with the plans indicating weatherboard cladding and the application form indicating hanging tiles. In order to protect the character and appearance of the conservation area and to provide clarity I have also imposed a condition requiring the external walls of the development to match the existing roof tiles.

Conclusion

13. For the reasons given above I conclude that material considerations in this particular case indicate that the appeal should be allowed subject to the conditions listed above.

James Taylor

INSPECTOR