



Appeal Decision

Site visit made on 4 November 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/X1165/W/19/3238247

46A Burton Street, Brixham, Devon TQ5 9JA

- 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 John Tribe against the decision of Torbay Council.
 - The application Ref P2019/0355, dated 13 March 2019, was refused by notice dated 16 July 2019.
 - The development proposed is the widening of access to property for disabled parking.
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Decision

1. The appeal is allowed and planning permission is granted for the widening of access to property for disabled parking at 46A Burton Street, Brixham, Devon in accordance with the terms of the application, Ref P2019/0355, dated 13 March 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: 1:1250 Site Location Plan; LBS.219.01; LBS.219.02; LBS.219.1; LBS.219.2.
 - 3) The materials to be used in the construction of the external surfaces of the altered wall hereby permitted shall match those used in the existing wall. The wall shall be finished in accordance with the approved plans prior to the parking space being brought into use and shall thereafter be maintained as such.

Procedural Matter

2. Different postcodes are given on the appeal and the application forms. That stated on the appeal form, which was also used on the Council's decision notice, appears to be correct so I have used it in my heading. To avoid any uncertainty, however, I have not referred to a postcode in my formal decision.

Main Issues

3. The main issues are the effect on the character and appearance of the Brixham Town Conservation Area and the effect on highway safety.

Reasons

Character and appearance

4. Burton Street is part of Torbay's district distributor road network and so the site is highly visible within the public realm. In the main, the road has an enclosed character where historic properties line the narrow street with limited, if any set back from the highway edge.
5. No.46A is one of seven dwellings (nos. 46-52) with an appearance of having been constructed at a later time to many others in the vicinity. They are set back further from the highway edge creating a pocket of slightly looser development, but a stone boundary wall on the back edge of the highway helps to maintain the overall sense of enclosure. The wall is, therefore, a positive feature in the character and appearance of this part of the conservation area.
6. No.46A currently has a pedestrian-sized gate in the boundary wall. Of the other 7 dwellings in the group, 5 have vehicular access points. No. 52 has no boundary wall, which creates a wide open frontage, but the others have retained parts of the wall, helping to maintain a degree of enclosure. The current proposal would similarly retain part of the wall, and given its already punctuated appearance, would not create such a wide gap that would harm the character and appearance of this part of Burton Street, nor the wider conservation area.
7. It is also proposed to hard surface the entirety of the area to the front of the dwelling. With the exception of No.52, this would result in more hard surfacing to the front of the dwelling than those others in the group. However, unlike No.52, it would be partially screened behind the retained wall and, therefore, not particularly intrusive in the street scene.
8. The Council has advised that guideline L4 of the Brixham Town Design Statement (BTDS) aims to minimise the amount of hard surface, in part to allow soft landscaping to dominate. However, there is no evidence that the BTDS seeks to prevent such surfacing if no harm would result. Given the existing boundary wall, the front garden of No.46A does not currently contribute significantly to soft landscaping in the area, nor the overall character and appearance of the area. I, therefore, find that no harm to the character and appearance of the conservation area would result from the area of hard surface.
9. I have little information about the significance of the Brixham Town Conservation Area. From my own observations, in the area around the appeal site, it appears to relate to the historic development of the area, such as can be understood from its overall character and appearance. Accordingly, in light of my above findings, no harm to the significance of the area would result.
10. I, therefore, find that the proposal is not one of poor design of the type that the National Planning Policy Framework seeks to resist. Nor would there be any conflict with those aims of Policy DE1 of the Torbay Local Plan 2012-2030 (LP) or Policy BH5 of the Brixham Neighbourhood Plan 2012-2030 that requires development to demonstrate good quality design and respect the character and appearance of the surrounding area.

Highway Safety

11. I understand that the Local Highway Authority's standing advice requires that parking spaces adjoining a highway should be a minimum of 5.5m in length and that the depth of site between the highway and front of the dwelling would be less than that. However, the Council's officer report also confirms that the total area proposed could facilitate the parking of a car and so I conclude that a car parked at the site need not overhang the highway edge.
12. Even if I am wrong, it appeared to me that Nos. 50 and 50A are similarly positioned relative to the highway and during my site visit, cars were parked at those dwellings that did slightly protrude from their site frontages. Thus, this arrangement appears an established component of the highway network in the immediate vicinity of the site, as is an absence of on-site turning opportunity and consequential need to manoeuvre or adjust on the highway.
13. The relationship of the frontage to the highway and boundary wall to the front of Nos. 46-52 would restrict visibility from and of vehicles emerging from the site. However, the likely available visibility appeared to me to be substantially the same as that existing at Nos. 46, 48, 50 and 50A. As with the lack of turning and driveway lengths, there is no substantive evidence that any shortcomings in visibility at this location harm highway safety or have a significant impact upon the free flow of traffic in the area.
14. In part, LP Policy TA2 requires new accesses to/from the highway to be safe with a satisfactory standard of visibility, safe turning/manoeuvring, and not impact on the wider network, by causing/adding to congestion for example. In particular, the Policy sets out that new access points to the district distributor road network will not be permitted where there is an impact on road safety, or severe impact on the function and operational efficiency of the network. With regard to the above, I find that no harm would arise and there would be no conflict with this policy.

Conclusion

15. I have found that there would be no harm to the significance of the conservation area, and its character and appearance would be preserved. There would also be no harm to highway safety. Such indicates that permission should be granted.
16. A plans condition is required in the interests of certainty and a condition requiring materials in the altered wall to match the existing wall is required to preserve the character and appearance of the area. The Council's appeal questionnaire indicates a condition that materials should match those in the existing building. This could be construed to relate to the dwelling rather than the wall. Given the appellant's clear intention to alter the wall so that it matches the existing wall, no injustice would arise from my condition referring to the wall. I have also added details of the timing of the works to ensure compliance with the Planning Practice Guidance in respect of conditions.
17. For the reasons given above, I conclude that the appeal should be allowed.

M Bale

INSPECTOR