



Appeal Decision

Site visit made on 12 November 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2019

Appeal Ref: APP/X1165/W/19/3235351

Horse Shoe Barn, Cockington Lane, Cockington With Chelston, Torquay, TQ2 6XA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Robert Brotherston against the decision of Torbay Council.
 - The application Ref: P/2018/1150 dated 15 November 2018, was refused by notice dated 26 June 2019.
 - The application sought planning permission for change of use to residential dwelling at Barns at Lanscombe Cottages, Cockington Lane, Torquay without complying with a condition attached to planning permission Ref: P/2005/2124/PA dated 20 April 2006.
 - The condition in dispute is No. 2 which states that:
The use of the barn conversion hereby approved shall be ancillary to the use of the existing dwelling and the property shall not be sub-divided into separate units of residential or holiday accommodation.
 - The reason given for the condition is:
The said accommodation is not designed for multiple occupation, in accordance with Policies BES, BE1, BE5, BE6, BE7 and T25 of the Torbay Local Plan 1995-2011.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A non-material amendment to Condition 2 of the original planning permission (Ref: P/2005/2124/PA) was approved (Ref: P/2016/0888) on 17 October 2016. The amended condition now states, *'The use of the barn conversion hereby approved shall be ancillary to the use of 1 Lanscombe Cottages, Cockington Lane, Torquay and the property shall not be sub-divided into separate units of residential or holiday accommodation.'* I have determined the appeal on the basis of this amended condition.
3. Since the original planning permission, the Council adopted the Torbay Local Plan 2015 (TLP), thereby superseding the cited policies from the Torbay Local Plan 1995-2011. In addition, the Torquay Neighbourhood Plan 2019 (TNP) now forms part of the development plan for the area. I have therefore dealt with this appeal under the policies as set out in both the adopted TLP and the TNP.

4. The use of the space between Horse Shoe Barn and 1 Lanscombe Cottages (No. 1) is indicated to be a parking space. The status of this space is in dispute. Given this, I have not taken its use into account in assessing the appeal proposal before me.

Main Issue

5. The main issue in this appeal is whether or not the condition is necessary and reasonable having regard to the provision of off-street parking and the effect of this on highway safety and the living conditions of occupiers of Numbers 1 and 2 Lanscombe Cottages and future occupiers of Horse Shoe Barn.

Reasons

6. The planning permission to which this condition was attached was for a change of use of the barn at Lanscombe Cottages to a residential dwelling. A condition was imposed restricting the use of the barn to an ancillary use to No. 1. The purpose of the condition was to prevent the building from becoming a separate dwelling or its use for holiday accommodation as it was not considered to be designed for multiple households to occupy. The removal of this condition would enable the creation of a separate dwelling.
7. Horse Shoe Barn is separated from No. 1 by an area of garden adjacent to the barn and a cobbled area. A shared access to both buildings and the adjoining cottage at 2 Lanscombe Cottages (No. 2) is via a gate off Cockington Lane. At the far end of the garden, accessed across part of the garden to No. 2, there is an area of parking off a private lane leading to Reapers Cottage.
8. The village of Cockington is a popular tourist destination. As a consequence, the surrounding area is subject to parking restrictions which prevent on-street parking and there are a number of car parks. Policy TH9 of the TNP requires any new residential unit to be assessed for its impact on parking requirements. Policy TA3 of the TLP requires parking to be provided in accordance with Appendix F. This sets out that two spaces should be provided per dwelling/house.
9. It is proposed that the existing and proposed dwellings would be served by a parking space off Cockington Road and three parking spaces at the rear of the property off a private lane.
10. The cobbled area between No. 1 and Horse Shoe Barn would provide one off-street parking space. This is a narrow space, accessed between two high front boundary walls. The submitted plans indicate that the space would be 2.4 metres wide and 4.8 metres deep. The length of the space is disputed. The Council's requirements for a parking space is for a minimum width of 3.2 metres through the entire parking bay for a single width access serving no more than one dwelling, although wider if serving more than one property. It also requires a minimum length of 5.5 metres to ensure that any parked vehicle does not over-hang the highway. The proposed space would not meet these minimum requirements.
11. Whilst I accept that the space could accommodate a small car, however, when a car is parked there it would leave very little space for opening doors, loading or unloading the car or for anyone accessing either Nos. 1 and 2 or the proposed separate dwelling at Horse Shoe Barn to pass around it, especially if moving a bicycle or push chair or moving bins to the front of the properties for

collection. This would make the use of this space for parking impractical and inconvenient for existing occupiers of Nos. 1 and 2 as well as future occupiers of Horse Shoe Barn.

12. Furthermore, the vehicle access to this area would be through a relatively narrow gap between two high boundary walls. This would make manoeuvring on or off this space awkward and it would be necessary to either reverse into or out of the drive. The height of the boundary walls either side of the gate would also restrict visibility for any car entering or exiting the space. The limited length of the space would mean that a parked car could overhang the highway or that the gates would have to be left open. This would obstruct the highway. This, and the reverse manoeuvring of cars into this space, would increase the risk of a collision between users of the highway, in particular pedestrians due to the popularity of the location with tourists who visit to walk around the village.
13. The plans indicate 3 parking spaces off the private lane leading to Reapers Cottage. The ownership of part of the land shown as parking is disputed. In addition, the right of access along the private lane to a separate dwelling not forming part of No. 1 is in dispute. However, these are not matters for me. The parking area at the rear appears small but nevertheless could be wide enough to accommodate three cars although with limited space around them. However, as these spaces would not be accessed off the public highway the same size requirements would not apply. However, I am mindful that even if I were to find these spaces acceptable in terms of size, I cannot impose a condition where there is any doubt of ownership, requiring action by another party. In this case, I do not have evidence that would allow any parking for the proposed dwelling to be accessed either from the private lane or across the garden of No. 2. On this basis, I do not consider the proposal would provide sufficient parking for two separate dwellings to comply with policy.
14. I have had regard to the provision of alternative parking nearby. Whilst I accept that it may be possible for future occupants to park within one of these car parks which are a short walk from the appeal property, I have no firm evidence that obtaining an annual parking pass from the car park owners could secure parking for future occupants throughout the year, especially during the high season when car parks are likely to be busy. Furthermore, I have no evidence that this would ensure the provision of car parking associated with a separate dwelling for the foreseeable future. I also have no evidence that a parking permit for the proposed dwelling could be obtained from the Council. I therefore give the provision of alternative off-street parking limited weight.
15. Cockington is set away from the main built up area of Torquay. I acknowledge that it is served by public transport with bus stops a short walk from the appeal site. However, I have conflicting evidence about the practicality of these in providing a satisfactory alternative to the use of a private car, especially for a local resident requiring transport either early or late in the day for shopping, work or other purposes. On the evidence before me, I am not therefore satisfied that the provision of public transport would overcome the need for future occupiers to have access to a private car.
16. My attention has been drawn to the number of properties without off-street parking within Cockington as well as other permissions for residential development where the parking requirement for off-street parking has

allegedly not been met. However, I do not have the full details of these cases before me. In any case, I must assess the scheme before me on its own individual planning merits.

17. I conclude that the condition is necessary and reasonable having regard to the provision of off-street parking and the effect of this on highway safety and the living conditions of occupiers of Nos. 1 and 2 and future occupiers of Horse Shoe Barn. I therefore conclude that allowing the development in non-compliance with Condition 2 on permission P/2005/2124/PA (as amended by permission P/2016/0888) would conflict with Policy TA3 of the TLP and Policy TH9 of the TNP. These policies together require appropriate and safe parking to be provided for new housing development so that parking does not lead to conflict with the community.

Other Matters

18. The appeal building is within the curtilage of the Grade II listed buildings of Lanscombe Cottages and within the Cockington Conservation Area (CCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 66(1) of the Act advises that special regard must be given to the desirability of preserving a listed building or its setting.
19. Since the proposed front parking space would involve no physical changes to the site and the parking to the rear would be some distance from any listed buildings and not within their immediate setting and not widely visible within the CCA, this leads me to conclude that the proposal would not have an unacceptable impact on the listed building or its setting nor would it fail to preserve or enhance the character or appearance of the CCA.
20. The provision of a separate dwelling would provide an additional house, making a small contribution to housing supply and would bring some limited economic and social benefits from an additional household within the village community, accessing shops and other services. I give these benefits limited weight in my decision. The appellants have indicated that without the removal of the condition, the property will remain empty. However, I have no evidence to confirm this. I therefore give this no weight. The renovation and conversion of the barn within a village was a benefit of the original planning permission but has already taken place and I also give it no weight.
21. The appellant considers the removal of the condition would result in an appropriate form of development under the National Planning Policy Framework, in particular paragraph 79(d). However, this paragraph relates to the provision of new dwellings within the countryside and is not relevant to the appeal scheme which is within an existing village.

Conclusion

22. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

Inspector