

Appeal Decision

Site visit made on 20 January 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/X1165/W/19/3238317
125 Winner Street, Paignton TQ3 3BP

- 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 P Farmer against the decision of Torbay Council.
 - The application Ref P/2019/0611, dated 6 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is described as '*resubmission, proposed studio flat (all as drawings)*'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposed development would provide adequate living conditions for future occupants with reference to (i) outside space, (ii) noise, (iii) outlook and natural light.

Reasons

3. The appeal site relates to a partially dilapidated workshop and associated land in behind the frontage of properties on the west side of Winner Street, within Paignton's town centre and inside the Old Paignton Conservation Area (the CA). Directly to the south is a footpath which provides access to houses to the west.
4. The proposal seeks to provide an additional storey to the workshop and convert it into a one-bedroom property. An open plan kitchen/lounge and an ensuite bedroom would occupy the first floor, with utility rooms, the entrance hall and a toilet downstairs.
5. Policy DE3 of the Torbay Local Plan 2012-2030 (adopted 2016) (TLP) requires for proposals to provide a good level of amenity for future residents. This is consistent with Paragraph 127 of the National Planning Policy Framework (the Framework) which, amongst other things, seeks to ensure that developments will function well, create a welcoming and distinctive place to live and promote health and well-being, with a high standard of amenity for future users.

Outside space

6. The outside space serving the property would be mainly on elevated land to its rear, west side, with a further area to the front, at its east side. The Council is concerned that the east area would be heavily overlooked and therefore compromised. If it were to be excluded from consideration for this reason, the remaining rear space would be too small when set against the space standards in the supporting text to Policy DE3.

7. However, these space standards are guidance and are not intended for prescriptive application to every circumstance. To my mind, the quality of the living environment also requires consideration on a practical basis. In this case, significant mutual overlooking between private garden spaces and dwellings is commonplace in the area. Properties with small outside spaces, or even none at all, also feature. In these circumstances, I find that the outside space provision would adequately serve the needs of future occupants.

Noise

8. The footpath would bring pedestrian movements directly past the property. However, it seems to me that this type of relationship, and the ensuing potential for noise, is also an established constraint of this location. A single opening is proposed on the elevation of the dwelling facing the footpath. Its function appears to solely relate to light and I see no reason why a condition could not be employed to ensure it would provide adequate sound proofing from potential noise nuisance.

Outlook and light

9. The south aspect of this window would ensure that sunlight would reach the kitchen and lounge space for large amounts of the day. Coupled with the full height French doors and the adjacent window within the west elevation, there would be adequate natural light received to this space. Although the room would be single aspect, its outlook would be reasonable by virtue of these two openings. I am also mindful that the doors would allow direct access to outside.
10. However, as the bedroom would be served by only a single window with a mainly westward aspect, it would likely have limited access to sunlight, particularly during the important morning period. Given the window's close proximity to walls north and west, it seems to me that daylight would also be restricted. The enclosure of these boundary treatments would also limit outlook. Reference is made to the vertical sky component and the elevation of the site at the rear. However, no substantive evidence as to the amount of natural light that these factors would provide to the bedroom is before me.
11. Moreover, although the ground floor incorporates rooms that would be more occasionally used, the absence of openings at this level, aside from the front door, would lead to unacceptably restricted levels of natural light and outlook. Given such, even considering the prevailing standard of living conditions in the area, I find that the internal environment would be inadequate for future residents. Whilst the distance of the property from Winner Street and neighbouring properties would provide a degree of tranquillity and privacy, these matters would not overcome my concerns.
12. I have been directed to several sites where planning permission has been granted by the Council for housing in the local area¹. On the face of it, there are some valid comparisons to be drawn between them and this scheme. However, each case is considered on its site-specific and individual merits and I do not have the detailed circumstances or the rationale for these other decisions. On the evidence before me I have identified inadequacies to the standard of the internal environment in this case which I consider to be

¹ Refs P/2002/0992, P/2009/0792, P/2012/0302, P/2013/0180, P/2017/0691, P/2017/0690, P/2017/1189, P/2018/0434

significant. As such, these examples do not persuade me that the scheme before me is acceptable.

Conclusion on main issue

13. Drawing my findings together, although the proposed development would be acceptable with reference to outside space and noise, I conclude that the living conditions of future occupants would be inadequate with reference to outlook and natural light. The proposal would therefore conflict with the residential amenity aims of Policy DE3 of the TLP and the Framework.

Other Matters

14. I am mindful of my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and, as the site is within the setting of a number of listed buildings², my duty to consider the impact of the proposal on the special architectural and historic interest of the listed buildings. From the evidence it is clear that the proposal would establish a building of comparable scale and form to that which once stood within the site. The character and appearance of the CA would therefore be preserved, and the significance of the listed buildings unharmed.

Planning Balance and Conclusion

15. The parties agree that the Council cannot demonstrate a five-year supply of deliverable housing sites. Pursuant to Paragraph 11 of the Framework, the weighted presumption in favour of sustainable development is engaged.
16. The proposal would contribute towards meeting the housing shortfall, in an area with good access to services and facilities where housing is supported in principle by the development plan. The scheme would add to the vitality and regeneration of the town centre. The size of the dwelling would likely lead it to be on the affordable side. The property may improve security or safety in the area to an extent. There would also be benefits in the reuse of an underutilised site and the removal of a potentially inharmonious commercial use. Given the small scale of the proposal, these benefits would be modest.
17. I have identified that the proposal would not provide adequate living conditions for future occupants with regard to outlook and natural light. Given the requirement of local and national planning policy for a good standard of residential amenity to be provided, this is a matter of significant weight in my assessment. I consider it to be an adverse impact which would significantly and demonstrably outweigh the benefits of the scheme.
18. I therefore find that the proposal would conflict with the development plan as a whole and that there are no other considerations, including the Framework, that outweigh this conflict.
19. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

² As identified in the Council's 'Listed Building Constraints' document.