



Appeal Decision

Site visit made on 10 December 2019 by Ben Phillips Bsc Msc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An appointed by the Secretary of State

Decision date: 13 March 2020

Appeal Ref: APP/X1165/D/19/3236248

20 Cecil Avenue, Preston, Paignton, TQ3 1LW

- 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 Mrs Maunder against the decision of Torbay Council.
 - The application Ref P/2019/0084, dated 21 January 2019, was refused by notice dated 14 June 2019.
 - The development proposed is described as an extension to side of existing dwelling to form new annexe for elderly relatives.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue in this case is the effect of the proposed extension on the living conditions of the occupants of No 18 Cecil Avenue, with particular regard to outlook.

Reasons for Recommendation

4. The proposed single storey extension would be sited on the eastern side of the dwelling, replacing an existing garage and kitchen projection. The plans show that the proposed extension would be slightly set off, but close to the party boundary, and given the rise of the road there is an approximately 0.5m (on plan) difference in height between the extension and the side elevation of the eastern neighbour, No 18, which has one side elevation window serving, it is stated, a bedroom.
5. This window directly faces the side elevation of the appeal property and the boundary fence between the two properties, and, as a centrally sited ground floor side elevation window has a somewhat restricted existing outlook. However, the proposed full-length extension, by filling in the gap between the existing 2 extensions and taking it closer to the party boundary would have a more harmful effect on the outlook from this window than the existing situation. It would have a significant enclosing effect upon the side window of No 18 and would be overbearing on the outlook from it, particularly given the elevated nature of the appeal site, relative to No 18. The extension would be

likely to make this room less pleasant to use as a result, and it follows that harm to the living conditions of the occupiers of No 18 would result.

6. The appellants have drawn my attention to an extension which they consider could be built under their permitted development rights¹. The submitted drawings indicate that such an extension could be constructed closer to the party boundary and could extend further beyond the rear elevation of the host property than that proposed. It would however be lower in height.
7. I consider that the fallback position presented to me would be likely to have a similar effect upon the living conditions of the occupiers of No 18 in terms of outlook from the side window. However, I have no substantive evidence before me to indicate that there is a significant probability that the permitted development extension would be constructed should this appeal be dismissed. This limits the weight that I can attach to it as a fallback position. Moreover, this matter does not justify harmful development.
8. I note the support given to the proposed annexe and acknowledge that the extension would allow family members to care for each other. However, there is a high probability that this could be achieved within an alternatively designed extension to the property. No substantive evidence has been presented demonstrating that the extension as proposed is the only available or suitable option.
9. In light of the foregoing I conclude that the proposal would be harmful to the living conditions of the occupants of No 18 Cecil Avenue, in conflict with Policies DE3 and DE5 of the Torbay Local Plan which collectively seek to ensure that development does not unduly impact upon the amenity of neighbouring uses including the living conditions of nearby properties. The matters advanced in support of the proposal including the need for the extension and the fallback position do not outweigh the conflict with the development plan or the harm to living conditions that I have identified.

Conclusion and Recommendation

10. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR

¹ Schedule 2 Part 1 A.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended)