



Appeal Decision

Site visit made on 12 February 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2020.

Appeal Ref: APP/X1165/W/19/3239943

**The Coach House, Steartfield Road, Roundham With Hyde, Paignton
TQ3 2BG**

- 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 James O'Dwyer against the decision of Torbay Council.
 - The application Ref P/2019/0249, dated 4 March 2019, was refused by notice dated 16 July 2019.
 - The development proposed is a new detached dwelling comprising of two self contained retirement apartments within the curtilage of the Coach House estate.
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Decision

1. The appeal is allowed and planning permission is granted for a new detached dwelling comprising of two self contained retirement apartments within the curtilage of the Coach House estate at The Coach House, Steartfield Road, Roundham With Hyde, Paignton TQ3 2BG in accordance with the terms of the application, Ref P/2019/0249, dated 4 March 2019, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - (i) The effect of the development on the character and appearance of the area;
 - (ii) The effect of the development on the living conditions of existing nearby residents with particular regard to outlook, privacy, noise and disturbance; and of future residents of the site with particular regard to the size of accommodation proposed;
 - (iii) The effect of the development on highway safety, with particular regard to parking provision; and
 - (iv) Whether any other material considerations might indicate a decision otherwise than in accordance with the development plan.

Reasons

Character and appearance

3. The Coach House is a complex of retirement apartments. The site is located at the end of a branch off Steartfield Road that serves The Coach House and the rear of a number of terraced properties that face Warefield Road. The main

Coach House building is two-storeys high, and an adjoining block containing Nos. 22-29, between the main building and the site, provides first floor accommodation within the roof space. Nos. 22-29 stand only a short distance from the side of the main building.

4. Therefore, the area is characterised by high density development with a strong built form to either side of the access road. That said, the site is continuous with an area of garden that serves The Coach House complex and adjoins other residential rear garden land associated with dwellings on Oldenburg Park. On the boundary are a number of trees and other soft landscaping that gives the immediate area a more verdant character, providing some relief from the surrounding buildings. There is some uncertainty over whether the trees are covered by a Tree Preservation Order (TPO) or not, but whatever the situation, they are visible from parts of Steartfield Road and Warefield Road, breaking up the built form.
5. The proposed building would sit close to the existing Nos. 22-29, with little separation. It would also be close to the boundary with Oldenburg Park. The building would be higher than the adjoining Nos. 22-29 and the additional wall height would make it appear more bulky, especially given the narrow plot frontage. However, given the overall high density nature of the surrounding development, and lack of uniformity in design, these factors would make it not appear cramped or incongruous in the street scene.
6. The proposal would require the felling of one tree and may affect the root structures of some other nearby trees. There is no substantive evidence about the effect of the development on the trees and so I cannot be certain that some damage to the retained trees would not result. As the trees may be protected by TPOs and make a positive contribution to the character and appearance of the area, their loss, or a deterioration in their cover either through damage or effects of shading, would result in some harm to the character and appearance of the area.
7. Therefore, there would be some conflict with Policies DE1 and C4 of the Torbay Local Plan 2012-2030 (LP), and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 (NP) which require development to be of good design, respecting the natural and built environment including integrating with and where possible retaining existing trees.

Living conditions

8. I have already noted the close proximity of the proposal to the boundary with the Oldenburg Park dwellings. The building would span the rear boundary of No.18, which would be the most affected by the presence of the building. That existing boundary includes some trees and so the outlook is already interrupted to some extent. The building would be at a lower level to No.18, which would reduce its overall height, relative to this property. Therefore, whilst the building would be higher than the existing boundary structure, any additional sense of enclosure that may be experienced within No.18 and its garden would not be so significant as to harm the living conditions of its occupiers.
9. Other neighbouring residents in Oldenburg Park have suggested that a loss of privacy would result. Their rear boundaries are set at an angle to the front elevation, such that the closest part of the gardens to the properties on the front side of the building would be visible from the proposed first floor

- windows. However, the main outlook from the development would be across the parking area to the front and not towards the gardens of Oldenburg Park.
10. Whilst any reduction in tree cover could provide more open views to neighbouring property at the rear, the first floor rear window would be further away than those at the front, with the distance to the boundary increasing as the plot widens further away from the building. I note that the Council has not raised any concern in respect of privacy and, with regard to the foregoing, I also find that no harm would arise.
 11. There could be increased activity close to the boundary with Oldenburg Park, through access and servicing, including by emergency vehicles. However, as this area already appears to service the site and other nearby dwellings, the increase in activity would not be significant.
 12. The existing dwellings at The Coach House are currently buffered from the access and parking area by some fixed planters. The proposal would replace these with parking alongside the building. Such would bring vehicle movements alongside these windows which could cause some disturbance to the occupiers. However, being parallel to the building, the spaces would be small in number and so disturbance would be unlikely to be frequent. I, therefore, find that no significant harm would arise through noise and disturbance.
 13. Overall, there would be no harm to the living conditions of the occupiers of surrounding properties and no conflict with those parts of LP Policy DE3 which aim to ensure that development does not unduly impact upon the amenity of neighbouring and surrounding uses.
 14. Policy DE3 also seeks to ensure that adequate floorspace is provided in residential development to achieve a pleasant and healthy living environment. The supporting text, at Paragraph 6.4.2.15, explains that regard will be had to the Government's Nationally Described Space Standards (NDSS). These would not be met in respect of the proposed ground floor 2-bedroom apartment.
 15. However, the appellant has indicated that due to age restrictions at the Coach House, the apartment is unlikely to be occupied as a typical two-bedroom home and is more likely to be occupied by two people seeking separate sleeping arrangements, or with the second bedroom used for an occasional carer. The complex also has additional communal lounge space available and commercial laundry facilities. Therefore, whilst having regard to the NDSS, I find that adequate living space would be provided and no conflict with Policy DE3 would result.

Highway Safety

16. The proposal would provide 3 parking spaces in place of one existing space that would enhance provision across the Coach House site. Although I noted congestion from the limited availability of parking within the area, the Local Highway Authority has not raised any concern about the number of spaces proposed.
17. The Council's officer report indicates that the spaces would be only 2.6m wide, whereas spaces that abut the public footway should be 3.2m wide to prevent vehicles causing an obstruction to the footway and potentially the highway. However, there is no public footway in this location, with access gained via a

shared surface arrangement, so there is no clear evidence to suggest that obstruction would occur.

18. The Council's highway engineer also indicates that the spaces should be at right angles to the highway so that vehicles can enter and exit the property in one movement. However, the site is within a cul-de-sac location partially accessed from the private car parking area. In this context, and in the absence of any substantive evidence that tangible harm would arise, I find that any manoeuvring that may result from the proposed arrangement would not cause harm to highway safety, including that of pedestrians. Although there is no detailed vehicle tracking plan, there is no substantive evidence that there have been manoeuvring difficulties associated with the existing parking space at the site, so I attach limited weight to these concerns.
19. Overall, I find that there would be no harm to highway safety. Therefore, there would be no conflict with those aims of LP Policies TA2 and TA3 that seek to provide safe access to the highway network, including the provision of appropriate parking, for the safe turning/manoeuvring of vehicles, and seek ensure that development does not add to congestion.

Other material considerations

20. There is no dispute that the Council cannot currently demonstrate a 5 year supply of deliverable housing land. The Council indicates that the proposal would make a contribution to the supply of housing in a location that is broadly considered appropriate for development. Whilst the contribution to housing supply would be small, given those policies of the National Planning Policy Framework (the Framework) that seek to boost significantly the supply of housing, I attribute the benefits that would arise from the additional housing significant weight.
21. Furthermore, the housing land supply situation means that Framework Paragraph 11(d) is engaged. This indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. I have found that there would be some harm to the character and appearance of the area as a consequence of potential effects on trees. However, these effects, insofar as they relate to the immediate garden environments, would be localised and largely of private interest. Whilst I have identified some wider public views of the affected trees, the trees are distanced from main vantage points, amongst or behind built form. Therefore, the weight that I attach to this harm is limited.
23. In exercising the balance under Framework Paragraph 11(d), Paragraph 14 indicates that that the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits provided that all of four specific criteria apply. These criteria include that there must be least 3 years supply of deliverable housing land and that the Neighbourhood Plan must contain policies and allocations to meet its housing requirement. The Council has confirmed that neither of these requirements are met, so Paragraph 14 does not influence the Paragraph 11(d) balance. That the housing supply is below three years further increases the

weight that I attribute to the benefits associated with the provision of additional units.

24. I, therefore, find that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. Therefore, the presumption in favour of sustainable development outlined at Framework paragraph 11 applies and this is of substantial weight.

Other matters

25. There is some concern expressed in the representations about the effect of the development on biodiversity. However, a preliminary ecological appraisal has been provided and, whilst it may not mention all species that local residents believe to be present in the area, the Council is content that harm would not arise to protected species. I have no clear reason to disagree with that assessment.
26. Doubt has also been raised over the ownership of the site. However, whilst I have a copy of Land Registry documents that appear to describe maintenance arrangements of a potential access through the site to the rear of Oldenburg Park, there is no substantive evidence that the whole site is not available for development or that incorrect ownership certificates have been provided.

Planning balance

27. I have found that there would be no conflict with the development plan in respect of the effect on living conditions or highway safety. However, I have found some harm and a consequential conflict with the development plan in respect of the effect on the character and appearance of the area related to the effect on trees. The Council has explained that residential development in the location of the site is permissible only subject to compliance with other development plan policies. Consequently, I find that there would be a conflict with the development plan, considered as a whole.
28. However, due to the characteristics of the surrounding environment, the harm that I have found would be limited. The benefits of granting permission in terms of housing supply, taken together with the presumption in favour of sustainable development conferred by the Framework are of substantial weight. Given the limited harm that I have identified, I find that these considerations indicate a decision otherwise than in accordance with the development plan.

Conditions

29. A plans condition is required in the interests of certainty. Conditions to clarify external materials, the landscaping of the site and methods for protecting trees as far as possible are necessary in the interests of the character and appearance of the area. The tree protection condition must be a pre-commencement condition to avoid damage during early site works.
30. A condition is required to secure parking provision. The Council has suggested a condition that the spaces should relate to the 'associated dwellings', but it is the appellants intention to make them available for use in association with the wider Coach House site. As I have found the proposal appropriate on that basis, I have amended the condition accordingly.

31. The Council has recommended conditions to secure details of bin and bicycle storage. However, the wider site already provides these facilities and the appellant has confirmed that they would be available in connection with the proposed development. There is no compelling evidence that further provision is required to make the development acceptable and, therefore, I have not imposed these conditions.
32. A condition requiring approval of a construction method statement to safeguard living conditions has been suggested by the Council. I have given careful consideration to the need for such a condition, particularly with regard to the proximity of the proposed building to the site boundaries. Given the fairly small-scale of the proposal, the site's location within the appellant's existing residential complex and position at the end of a cul-de-sac service road, I am satisfied that the risk of significant disturbance would be low and short lived. Therefore, a condition is not necessary in this instance.
33. In the interests of managing flood risk and climate change, and to ensure compliance with LP Policies ER1 and ER2, surface water should be disposed of via soakaways. Such follows proposals outlined in the appellants flood risk assessment and a condition is necessary to ensure compliance.
34. I have found that the development is partly justified due to the characteristics of likely future occupiers and their requirements. Therefore, having sought the views of the parties, I have also imposed a condition restricting the age of future occupiers.
35. I have made some revisions to the Council's suggested wording, in the interests of clarity and precision.

Conclusion

36. With regard to the above, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 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: 7327 (location map); 7327 (amenity area); 7327P001 issue E; 7327P011 issue E; 7327P012 issue E; 7327P016 issue E.
- 3) No development, including ground works or vegetation clearance, shall take place until an Arboricultural Impact Assessment and Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. This information shall be prepared in accordance with BS 5837:2012 (or any superseding British Standard) and include details of tree protection fencing, which must be erected prior to the commencement of the development and retained until the completion of the development. No vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences. The approved Arboricultural Impact Assessments and Tree Protection Plans shall be adhered to throughout the construction of the development.
- 4) Prior to the first occupation of the development hereby permitted, the materials detailed on the plan ref. "7327P012 issue E shall be provided and installed in full. Such details shall thereafter be retained as such.
- 5) Prior to the first occupation of the dwelling hereby approved, details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion or first occupation of the development (whichever is sooner) and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within four weeks of the development being brought into use, and shall thereafter be retained as such.
- 6) Prior to the first occupation of the development hereby permitted, the parking spaces detailed on the plan ref. "7327P011 issue E" shall be provided and capable of use. The spaces shall thereafter be retained for use in connection with the Coach House site.
- 7) Prior to the first occupation of the development hereby permitted, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage has been previously submitted to and agreed in writing by the Local Planning Authority.
- 8) The accommodation hereby permitted shall not be occupied other than by persons aged 55 and over.