

Appeal Decision

Site visit made on 13 May 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th May 2020.

Appeal Ref: APP/X1165/W/20/3244507

31 Cockington Lane, Paignton TQ3 1ED

- 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 J Pritchard against the decision of Torbay Council.
 - The application Ref P/2019/0834, dated 6 August 2019, was refused by notice dated 7 October 2019.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the appeal, the Council confirmed that the appeal site was not part of the designated Rural Character Area under the Paignton Neighbourhood Plan (PNP) adopted 2019, contrary to the finding in the submitted evidence.
3. On the site visit, I noted that construction works were ongoing on the site. The appellant indicates that there is an extant permission for a domestic garage on the same site¹, although it is not for me to ascertain whether the works constitute a commencement of that development.

Main Issues

4. The main issues are:
 - whether the location of development would accord with local policies in respect of accessibility to services and reducing the need to travel by car;
 - its effect on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of future occupiers, in respect of the adequacy of the outdoor amenity space.

Reasons

Location of development

5. The appeal site forms part of the extended curtilage of 31 Cockington Lane which falls on the north-eastern edge of Paignton. The host dwelling lies within the urban area of Paignton as defined on the Policies Map forming part of the Torbay Local Plan 2012 – 2030 (adopted 2015) (TLP). Under the TLP, the

¹ APP/X1165/D/15/3128970

appeal site lies outside of, but adjoining the main urban area, and is therefore in the countryside in policy terms.

6. The Policies Map forming part of the PNP shows the site to be within the plan area, but not within the designated Rural Character Area (RCA). The site therefore appears to fall within the undesignated urban extent of Paignton.
7. Section 38(5) of the Planning and Compulsory Purchase Act 2004 (as amended) states that *"if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan."* Therefore, in so far as there is any conflict between the PNP and TLP, that conflict must be resolved in favour of the PNP as it is the more recent document.
8. I therefore find that the appeal site is within the urban area and is not afforded any special protection as an area of countryside or RCA. It is therefore an area where residential development is acceptable in principle and does not conflict with Policy PNP1a of the PNP.

Character and appearance

9. The appeal site adjoins Cockington Lane which is a residential cul-de-sac at this point. Due to its position, the appeal site is particularly prominent from Cockington Lane and the adjoining Old Paignton Road. Due to the slope of the site, much of it is taken up with retaining structures and the principal elevation is sited very close to the edge of the footway. A number of gabion baskets and stone walling also adjoin the edge of the footway. The driveway to the host dwelling cuts close to the rear of the appeal site.
10. As the site lies towards the settlement edge, the existing built form has a tapered quality. Opposite the appeal site is the green tree belt that demarks the Rural Character Area. To the east of the appeal site, notwithstanding the existence of an electricity substation, the area is also devoid of existing built development. As a consequence of this, and owing to the siting of most other dwellings at an elevated level, separated a good distance from the highway by landscaping and retaining features, the area has a spacious and verdant feel, with the appeal site being an anomaly in this context with the building directly adjoining the highway and landscaping almost spilling over the footway edge.
11. The appeal proposal would introduce a tall, split level dwelling in particularly close proximity to the footway on a compact site. It would be a stark, upright feature with little defensible space to soften its impact on the public realm. In combination with its retaining structures and planting on the steep embankment, the development would appear cramped and poorly designed in relation to the public realm and in the context of the more spacious form of development found in the surroundings. The harmful impact of the development would also be particularly apparent given the site's corner location which exposes much of the site to the public realm.
12. Whilst there is a permission for a large garage on the same site, the appeal proposal is different in scale and design. The verdant qualities of the appeal site described in the garage appeal decision are not apparent and there is little to soften the visual impact of an even taller building in such close proximity to the highway. In addition, any suitably sized dwelling would also need to be

provided with parking and external amenity space, which the site appears too constrained to accommodate without compromise to the characteristics of the area.

13. In view of this main issue, the proposal would conflict with Policy DE1 of the TLP and Policy PNP1(c) which seek to ensure new development relates to the surrounding built environment in terms of scale, height and massing. As I have found the site to be outside of the RCA, PNP Policy PNP1(a) is not relevant.

Living conditions

14. The TLP Policy DE3 requires that new dwellings are provided with useable amenity space, including gardens and outdoor amenity areas. The appellant states that the appeal proposal would provide in the order of 70 sqm of amenity space in addition to a separate parking space. The Council suggests that the area is closer to 25 sqm.
15. Having reviewed the plans and the site itself, it does not appear that the higher figure would be achievable in addition to the required parking spaces. The steepness of the land would hinder the usability of much of the area surrounding the footprint of the dwelling and its parking spaces. The amenity area leftover would be irregularly shaped and largely given over to retaining structures, some with landscaping and planting. These areas could not be used for sitting out or for recreational purposes and would also be compromised by their adjacency to the driveway and road. Consequently, there would be an absence of meaningful or useable outdoor amenity space to serve the future occupants.
16. In view of this main issue, the proposal would be harmful to the living conditions of future occupiers and would consequently conflict with TLP Policy DE3.

Planning balance and conclusion

17. I note the location of the site within an area suitable for new residential development under the PNP. The extant permission for a garage with a similar footprint has also factored as a matter weighing in favour of the proposal, along with the social and economic benefits that would result in the building becoming a dwelling. However, these matters do not outweigh the identified harm or conflict with the Development Plan.
18. For the reasons set out above, and having regard to all other matters raised, the appeal is dismissed.

Hollie Nicholls

INSPECTOR