



Appeal Decision

Site visit made on 15 September 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/X1165/D/20/3254930

Hansen, Briseham Road, St Marys with Summercombe, Brixham TQ5 9NX

- 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 Michael Beeson against the decision of Torbay Council.
 - The application Ref P/2019/1235, dated 15 November 2019, was refused by notice dated 26 May 2020.
 - The development proposed is ancillary residential annexe.
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Decision

1. The appeal is allowed and planning permission is granted for ancillary residential annexe at Hansen, Briseham Road, St Marys with Summercombe, Brixham, TQ5 9NX, in accordance with the terms of the application, Ref P/2019/1235, dated 15 November 2019, subject to the conditions in the attached schedule.

Preliminary Matter

2. The first reason for refusal listed in the Council's decision notice raises the issue of whether the proposal would comprise an annexe extension or a separate dwelling. The application was submitted on householder application forms suited for works or extension to a dwelling. The application was determined on this basis and was not returned as invalid.
3. The proposed annex would extend from the existing dwelling to the side, creating a form of 'L' shape. The proposal would have the effect of enclosing one side of the garden and its long rearward projection would be visible from rear windows of the main house. Future occupants would access over the frontage of the main dwelling, utilising its car parking provision, but would have the option of using the main front door and interconnecting internal door, or a direct separate door to the side.
4. The appellant has indicated his intention for the annexe to be occupied by a relative on a permanent basis, and for other relatives to stay in the annexe as guests regularly. The proposal would therefore allow for multigenerational living within a sufficiently sized plot between the host dwelling and a deliberately attached annexe extension. The effects of the proposal on both the living conditions of the current occupiers of the main house and the related future occupiers of the proposal would be acceptable on the basis that it would be maintained as an annexe.
5. The inclusion of a separate kitchen would typically signal that the property is capable of being occupied entirely separately of the host dwelling. However, in this instance, the desire to maintain some degree of independence whilst living

in an obviously attached and linked part of the building would not automatically render the proposal a separate unit in its own right. The nature of its siting and design would otherwise render the proposal an extension of the main house, with a condition capable of ensuring the future occupation as ancillary and also for the interconnecting door to be permanently retained.

6. As such, the proposal would constitute an annexe to the host dwelling and a condition would be capable of permanently maintaining its ancillary function.

Main Issue

7. The main issues are:

- the effect of the proposal on the character and appearance of the dwelling and area; and
- the effect of the proposal on the living conditions of future occupiers.

Reasons

Character and appearance

8. The appeal dwelling is a semi-detached bungalow within a predominantly residential area. Other dwellings in the surrounding area take a variety of forms, including detached and terraced two storey dwellings, with pitched and mansard roof forms and a varied material palette.
9. The appeal dwelling has a very similar appearance to its adjoining neighbour, albeit that it has some alterations in the form of a front porch and small dormer extension. It also has a wider plot and sits adjacent to a corner building which contains commercial units on the lower ground and residential flats above. This is a different relationship to that which exists with the adjoining dwelling, which sits in close proximity to a dwelling on its opposite side.
10. The appeal proposal would add an extension to the side in the order of half of the width of the existing dwelling. It would be set back from the front elevation and would be marginally stepped down in height from the main ridge of the host dwelling. From this perspective, the proposal would appear as a subordinate extension to the dwelling and would maintain its character.
11. The extension would also project to the rear by a sizeable degree, with a long and narrow profile, resulting in the dwelling having a broadly 'L' shape plan. This projection would not be apparent in the street scene from the front of the dwelling. Whilst its roof form would be apparent in glimpsed views from St Mary's Hill, this would not be harmful to the character and appearance of the dwelling or the sufficiently varied street scene.
12. The rear garden of the property is sizeable and the construction of the proposal would have a limited impact on the available space. Notwithstanding that the proposal appears large in terms of its floor area relative to the size of the existing dwelling, it would fit well within the site and would not amount to overdevelopment.
13. In view of this main issue, the proposal would not harm the character and appearance of the dwelling or wider area, and would therefore comply with

Policies DE1 and DE5 of the Torbay Local Plan¹, which seek to ensure that new development is well designed and in respect of extensions, would not dominate or have any other adverse effects on the character and appearance of the original property or on the street scene in general. It would also comply with Policy BH5 of the Brixham Neighbourhood Plan (adopted 2019) which similarly requires good quality design and to ensure new development respects the character and appearance of the surrounding area.

Living conditions of future occupiers

14. The proposed annexe would contain a lounge, kitchen/dining room, bathroom and two bedrooms. The outlook from the second bedroom and kitchen would be constrained by the close proximity of the side wall to the high wooden fence boundary enclosure.
15. The kitchen/dining room would have a high level window and rooflight. Through its main window, it would have a constrained outlook. However, this is a secondary habitable room and the occupants would also have access to the kitchen in the main house which has an outlook over the rear garden.
16. The main bedroom would have a pleasant outlook over the frontage and street. The second guest bedroom would have a sizeable window which would allow sufficient ingress of light. Whilst it would have a similarly constrained outlook to the kitchen/dining room, this would also be a secondary habitable room.
17. In view of this main issue, the proposal would not harm the living conditions of future occupiers and would therefore comply with Policy DE3 of the Torbay Local Plan which seeks to ensure that new development is designed to provide a good level of amenity for future residents or occupiers and avoids any undue impacts upon the amenity of neighbouring and surrounding uses.

Conditions

18. In addition to the statutory time limit, it is necessary to list the approved plans in the interests of certainty. In order to maintain the character and appearance of the area, it is necessary to impose a condition requiring matching building materials.
19. In the interests of the living conditions of existing and future occupiers, it is necessary to impose a condition limiting the proposal to be used as an annexe and for the interconnecting door between it and the host dwelling to be permanently retained.
20. In the interests of highway safety, conditions are required to ensure that the scheme includes a suitable access and parking provision.

Conclusion

21. The proposal complies with the Development Plan and there are no material considerations to indicate that a decision should be made other than in accordance therewith.

Hollie Nicholls

INSPECTOR

¹ Torbay Local Plan 2012 – 2030 (adopted 2015)

SCHEDULE OF CONDITIONS

- 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:
 - Location Plan, Ref MBB 10, dated October 2019
 - Proposed Roof/Block Plan, Ref MBB 14A, dated October 2019
 - Proposed Plans, Ref MBB 15A, dated October 2019
 - Proposed Elevations, Ref MBB 16A, dated October 2019
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) This permission relates solely to the use of the premises hereby approved as a residential annexe, ancillary to the principal dwelling at Hansen, Briseham Road, Brixham, TQ5 9NX. For the avoidance of doubt, the principal dwelling and the approved annexe shall be maintained as a single planning unit. The interconnecting door between the existing kitchen and the annexe shown on Drawing no. MBB 15A dated Oct 2019 shall be retained for the lifetime of the development. There shall be no boundary demarcation or sub-division of garden areas between the annexe and the principal dwelling. The annexe shall at all times remain ancillary to the principal dwelling as additional accommodation and shall not be occupied other than by family members or occasional non-paying guests of the occupants of the principal dwelling. The annex hereby approved shall not be occupied either short term, or long-term:
 - for residential purposes, by persons who are not family members of the occupants of the principal dwelling; or
 - for holiday purposes, by paying guests.
- 5) Parking for the annexe hereby approved shall be provided in accordance with Drawing no. MBB 14A dated Oct 2019 prior to its first occupation and shall be retained as such thereafter.
- 6) Before the annexe hereby approved is brought into use (i) the access to the site as altered must be consolidated or surfaced for at least the first 5.0 metres of its length as measured from the edge of the adjoining carriageway, (not loose stone or gravel); and (ii) positive drainage shall be provided, to prevent the discharge of water from the site to the adopted highway.