



Appeal Decision

Site visit made on 6 October 2020 by Christian Ford BA (Hons) BTP MRTPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2020

Appeal Ref: APP/X1165/W/20/3256890

155 Lymington Road, Torquay TQ1 4BE

- 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 S Almosawi against the decision of Torbay Council.
 - The application Ref P/2019/1124, dated 21 October 2019, was refused by notice dated 15 June 2020.
 - The development proposed is conversion to form 2 self-contained flats and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for conversion to form 2 self-contained flats and associated works at 155 Lymington Road, Torquay, TQ1 4BE in accordance with the terms of the application Ref: P/2019/1124, dated 21 October 2019 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans; 2963-P11, 2963-P12 Rev A, 2963-S02, 2963-S01 Rev B and 2963-P10 Rev A.
 - 3) Notwithstanding the approved plans, prior to the first occupation of the flats, details of the subdivision of the rear garden area and the erection of associated privacy screening shall be submitted to and approved in writing by the local planning authority. The development shall be carried out as approved and maintained in that form thereafter.
 - 4) Prior to the first occupation of the flats, cycle storage shall be provided in accordance with drawing no. 2963-P10 Rev A and shall thereafter be kept available for the storage of cycles.

Appeal Procedure

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

Procedural Matters

3. It was observed that the rear first floor level did not reflect the submitted existing plans. The open decked area shown to the side of the bathroom had been changed to living accommodation with a doorway.
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Main Issues

4. The main issues are;

- i) the effect of the proposed development on the sustainability of the community which is within a Community Investment Area and,
- ii) whether future occupiers of the proposed development would have acceptable living conditions with particular reference to privacy.

Reasons for the Recommendation

i) Sustainability of the community

- 5. The 2015 Torbay Local Plan (LP) identifies Community Investment Areas (CIAs) as areas experiencing significant deprivation. The parties agree that the appeal site is located within the Torquay Town CIA. The LP sets out that it seeks to promote investment in such areas to provide new homes or mixed use schemes that help to achieve more balanced, and therefore more sustainable, communities by delivering a mix of employment, family housing, healthcare, childcare and local centre facilities.
- 6. The proposal is to horizontally convert a 3 bedroom two storey terraced house into two, 2 bedroom flats. LP policy SS11 sets out that development will be assessed against its contribution to improving the sustainability of existing communities within Torbay. Thirteen criteria are listed and the most relevant to the proposal are: '10. Deliver development of an appropriate type, scale, quality, mix and density in relation to its location', and '13. Provide a good standard of residential accommodation, by seeking to retain small to medium sized homes (2-4 bedrooms) and resisting change of use of these homes to HMOs and small self-contained flats. This especially applies in Community Investment Areas, identified on the Policies Map, and other areas with significant living environment deprivation'.
- 7. The Council's officer's report maintains there is an oversupply of small units in the area and an identified need for medium sized 2-3 bedroom 'houses', though provides no evidence to support this. Part 13 of Policy SS11, however, refers instead to the retention of small to medium sized 'homes' of 2-4 bedrooms. As flats are homes, the policy indicates that 2 bedroom flats, such as those proposed, also form part of the identified need. It is noted that the policy seeks to resist the change of use of these homes to HMOs and small self-contained flats, but the latter is not defined. Given one of the aims of CIAs is to achieve more balanced communities, including the provision of family housing, 'small self-contained flats' may be regarded as 1 bedroom flats, as this would be accommodation that would be unsuitable for occupation by a family.
- 8. Accordingly, although there would be the loss of a 3 bedroom house, the proposal would result in the provision of two family homes of a size for which there is an identified need. It is therefore concluded the proposal would not have an unacceptably harmful effect on the sustainability of the community. It would therefore not conflict with Policy SS11 of the LP as set out above. It would also not conflict with paragraph 122 of the Framework which seeks to ensure development makes efficient use of land, taking into account the identified need for different types of housing.

ii) Living conditions

9. The Council's expressed concern is that due to the stepped levels within the rear garden area, its shared use would lead to overlooking of the first floor flat's decking area and kitchen windows by occupants of the ground floor flat. However, as suggested by the appellant, this concern could be overcome by a condition which requires the submission and approval of details showing the subdivision of the garden area and the erection of any necessary privacy screening. Subject to such a condition being imposed, it is concluded future occupiers of the proposed development would have acceptable living conditions with particular reference to privacy. It would therefore not conflict with Policy DE3 of the LP in this regard which seeks to ensure a good level of amenity for future residents in terms of overlooking and privacy.

Other matters

10. The site is within the Upton Conservation Area. This covers a central part of Torquay and contains a mix of civic, commercial and residential buildings. The appeal site is part of a late 19th century terrace, and indeed the significance of the conservation area is strongly influenced by the preponderance of 19th century buildings on road patterns determined by natural topography. As the proposal would involve very little built development and the resultant residential use would be in keeping with the surroundings, it is considered the development would preserve the character and appearance of the conservation area.

Conclusion and Recommendation

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

Conditions

12. In addition to the garden subdivision condition referred to above, the standard time limit condition is imposed as well as a condition which specifies the approved plans to ensure certainty. As referred to in the officer's report, a condition requiring the provision of the identified cycle storage can be imposed to promote sustainable transport and to accord with the provisions of Policy TA3 of the LP.

Christian Ford

PLANNING DECISION OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Planning Decision Officer's report, and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR