



Appeal Decision

Site visit made on 25 January 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal Ref: APP/X1165/W/20/3261577

32 Hameldown Close, Shiphay With Willows, Torquay TQ2 7JJ

- 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 Helen Jones against the decision of Torbay Council.
 - The application Ref P2019/1255, dated 27 November 2019, was refused by notice dated 10 September 2020.
 - The development proposed is an extension to domestic garage to provide living accommodation.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the scheme would provide adequate car parking for the occupiers of 32 Hameldown Close,
 - the effect of the proposal on the character and appearance of the area, including adjoining trees, and
 - whether the proposal would provide adequate living conditions for future occupiers, having regard to the provision of natural light, external amenity space and relationship to adjoining vehicle parking and movement areas.

Reasons

Car parking

3. Hameldown Close is a reasonably modern housing estate with a mix of dwellings and landscaped areas arranged around a gently curving road. Some of the dwellings have car parking and garaging forming part of that individual property. Other dwellings have parking allocated in combined parking spaces in front an assigned garage within a block. There are some parking areas available along the road side within Hameldown Close although at my site visit there was, at that time, limited parking available. While my visit was only a snap shot in time and took place during the pandemic lockdown, I have no reason to believe that this situation would be untypical of some other times, such as in the evenings and at weekends when most residents may normally be at home.
4. 32 Hameldown Close is a terrace property that fronts an area of communal landscaping. At the rear there is a fenced garden area. The parking for this

property is accessed via a shared drive that passes around the side and rear of the terrace. This drive leads to a parking and turning area, and a row of garages that serves the surrounding properties. No 32 has the end garage as well as a space in front of the garage for parking.

5. The proposed dwelling would be built next to the garage. The existing garage and parking space would be used to serve this new property. This parking would then not be available to serve No 32. I note the plans show that a space could be created on an area to the side of the access drive, within the appellant's ownership, to provide a parking space for No 32. However, I am not satisfied that the evidence, or my observations at the site visit, demonstrates that there would be a sufficient area to provide a standard sized car parking space. If this space was to be used in a conventional way and with a medium sized vehicle, it is likely that the vehicle would overhang part of the drive potentially hindering access to the communal parking area. As a consequence, in all likelihood, if the proposal was to be allowed, No 32 would be left without off street car parking.
6. Policy TA3 of the Torbay Local Plan 2012-2030 (adopted 2015) (the Local Plan) sets the parking requirements for development and states that the appropriate provision of car parking spaces for all new development will be required. The parking standards for a dwelling is 2 parking spaces per unit. The new unit would have adequate parking to meet the standard. However, the development overall would not meet with this requirement because No 32 would be without spaces, or would have only one space if the proposed space next to the drive was to be judged adequate. In all likelihood, the under supply of parking spaces to meet the standard would result in occupiers of No 32 being required to park within the road area. This could, because the available spaces are limited, be likely to lead to some parking at times close to bends or junctions and in turn this would lead to inconvenience and potentially safety issues for other road users.
7. In the light of the above analysis, I conclude that the scheme would not provide adequate car parking to the appropriate standard for the occupiers of No 32 and this displaced car parking would in turn, in all likelihood, lead at times to inconvenience and potential safety issues for road users. As a consequence, the proposal would conflict with Policy TA3 of the Local Plan, Policy TH9 of The Torquay Neighbourhood Plan (adopted 2019) (the Neighbourhood Plan) and the National Planning Policy Framework (the Framework) which, amongst other things, sets parking standards for development.

Character and appearance

8. Along the broadly south eastern boundary of the housing estate, in the area visible from the access drive and parking area, is a row of hedging and trees. While each element of the boundary planting may not individually be an important specimen, collectively they form a pleasant and verdant feature. The vegetation helps to provide a visual barrier to the buildings beyond, provides a sense of enclosure to the adjoining parking and turning area and complements the built form of the adjoining housing.
9. I have carefully considered the Arboricultural Survey and Tree Risk Assessment and this identifies the trees and makes recommendations. However, a substantive part of the advice is that the trees are poor and their removal

should be considered. I have noted the works that have taken place to the trees along the boundary, nevertheless, the row is still collectively a positive feature of the area. The evidence from the appellant is that the vegetation along the boundary is a jointly owned feature and also I have taken into account that there is no evidence that the trees are the subject of a preservation order.

10. In the corner of the site, in the area around the end of the garage block, the trees would be close and some would overhang the roof of the proposed dwelling. It appears that the building may be located within the root protection area of some trees and there is limited details on tree protection measures that may be possible during construction. The evidence, therefore, does not robustly demonstrate that the dwelling could be constructed without harm to the nearby trees. Furthermore, in all likelihood, given the overhanging nature of the trees there could also be requests to cut back the trees in this area, partly to aid construction and/or because they would be close to and overhang the dwelling and this may cause apprehension for future occupiers.
11. The effect of the likely harm to these trees, and/or their cutting back, would adversely affect their health and appearance and, in turn, detract from the value and positive contribution that the row would make collectively to the area.
12. In terms of the building itself, it would have a generally modest form and appearance and while it would project forward in front of the line of the garages, it would be located in a corner area and have the same ridge height as the garages. The front glass gable would be a contrasting feature to the garage block but it would be set to one side, and in the general surroundings of the nearby housing, which have a mix of designs and appearances. As a consequence, the dwelling would not be out of character or an over dominant addition to this part of the estate. In this respect the proposal would comply with Policy TH8 of the Neighbourhood Plan.
13. Although the built form of the dwelling itself would be acceptable, I conclude that there would be, in all likelihood, an adverse and harmful impact on the nearby trees which would harm the character and appearance of the area. Accordingly, the proposal would not comply with Policies DE1 and C4 of the Local Plan and the Framework which notably, in this respect, requires development proposals should seek to retain and protect existing hedgerows, trees and natural features wherever possible.

Living conditions

14. The proposed accommodation would meet with the appropriate space standard for a one bedroom unit. Internally, the lounge and kitchen area would appear quite spacious because of the vaulted ceiling. The rooflights and large glazed gable at the front would provide acceptable natural light and satisfactory living conditions for occupiers within this part of the dwelling. The bedroom at the back of the building, even though lit by a rooflight and side window, would receive limited natural light because of its position and the surroundings. However, as this part of the site would provide sleeping accommodation and the substantive and main parts of the living accommodation would be satisfactory, I consider that the living conditions as a whole would be acceptable.

15. The proposed external amenity space would extend parallel with the boundary and include the present decking area. It would therefore be a reasonable size to serve a one bedroom property. The space may not be wholly conventional in position and layout, however, with an appropriate treatment along the boundary with the parking area, it could provide a reasonably pleasant sitting out space. The dwellings within the adjoining estate are set back from this corner area and, as a consequence, there would not be undue levels of overlooking from these properties. Other residents using the car parking area may be able to see into the proposed amenity space but this would be little different than the mutual intervisibility that occurs between many properties and adjoining external amenity spaces.
16. The dwelling and the external space would adjoin the garages and the parking area. However, the garage next to the dwelling would be used by the occupiers of the proposed dwelling and therefore the use of this adjoining garage by a vehicle would not raise an amenity concern. The use of the parking area generally would, in all likelihood, be fairly infrequent and vehicles are unlikely to be moving at speed or cause noise for a prolonged period. The sleeping accommodation is at the back and, consequently, occupiers of this space are unlikely to be unduly affected by headlights and the noise from general vehicle movements at night. Other properties are in the general vicinity of the parking area and I have no reason to believe that their living conditions are adversely affected by the present arrangements.
17. Accordingly, I conclude that the proposal would provide adequate living conditions for the proposed occupiers of the dwelling. In this respect the scheme would comply with Policy DE3 of the Local Plan and the Framework which requires, notably, that all development should be designed to provide a good level of amenity for future residents or occupiers.

Other Matters

18. The proposal would deliver a small boost to housing supply by providing an additional dwelling within a built-up area. The scheme would make effective use of the land which, in principle, would be supported by policies of the development plan and the Framework. I have had due regard that the scheme would provide a home for the appellant's son¹ and that social and economic benefits to the area would result during construction and in subsequent occupation. The site would be located in an area where occupiers of the dwelling would have reasonable access to local services and facilities. As the dwelling would be modest in size, it would be more affordable than others in the area and would add to the range of housing stock locally.
19. The site is presently difficult to use in a productive way and has been the subject of fly tipping and some antisocial behaviour in the past. The scheme would help alleviate these issues and this is one of the reasons why the proposal is supported by a local resident.
20. These are all benefits of the scheme, however, as only a single unit of accommodation would be provided, I attribute the cumulative benefits of the proposal limited weight.

¹ Taking into account the requirements under the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010.

21. I have taken into account all the letters of representation both for and against the scheme. A fence could be erected along part of the boundary with the neighbour to the east and this would address any overlooking issues in that respect. The concerns raised regarding the impact and condition of the driveway are essentially private matters and do not materially affect the consideration of the main issues examined above.
22. I have noted the comments, frustration and delays which have been expressed by the appellant regarding how the Council undertook the planning process prior to its decision. However, these are not matters for my consideration as part of the appeal which I have considered on its merits.

Planning Balance and Conclusion

23. The evidence from the Planning Report is that the Council is unable to demonstrate a five year supply of deliverable housing land. In these circumstances, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. This indicates that planning 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.
24. I have found that the design of the building itself would be acceptable and that the proposal would provide occupiers with adequate living conditions. Taking all matters into account, the cumulative benefits which I have summarised above, including the boost to housing supply, merit limited weight in favour of the scheme as only a single unit of accommodation would be provided.
25. On the other hand, the proposal would not provide adequate car parking for No 32 thereby leading, in all likelihood, to an adverse impact on highway safety and the scheme would be likely to cause harm to the trees adjoining the site and thereby detract from the character and appearance of the area. Because part of the identified harm includes the likely adverse impact on highway safety, I consider that the combined harm resulting from the proposal should afford substantial weight. The harm in respect of these matters is such that the scheme would conflict with the development plan when considered as a whole.
26. Drawing all these matters together, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a consequence, the proposal would not constitute sustainable development and this weighs heavily against the scheme.
27. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR