
Appeal Decision

Site visit made on 23 March 2021

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 12 April 2021

Appeal Ref: APP/X1165/W/20/3264441

9 Miranda Road, Paignton TQ3 1LE

- 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 James Polding against the decision of Torbay Council.
 - The application Ref P/2020/0645, dated 9 July 2020, was refused by notice dated 22 October 2020.
 - The development proposed is the construction of dwelling following demolition of existing garage. Creation of new vehicular access and alterations to first floor window positions of existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of dwelling following demolition of existing garage. Creation of new vehicular access and alterations to first floor window positions of existing dwelling at 9 Miranda Road, Paignton TQ3 1LE, in accordance with the terms of the application, Ref: P/2020/0645, dated 9 July 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The second reasons for refusal on Council's Decision notice refers to the effect of the proposed development on the occupiers of 138 Southfield Avenue. However, it apparent from the evidence before me and from observations made on my site visit, that the relevant neighbouring dwelling is numbered 141 Southfield Avenue. I have therefore determined the appeal on the basis that the second reason for refusal relates to the impact on the living conditions of occupants of 141 Southfield Avenue.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding area; and,
 - The effect of the proposed development on the living conditions of neighbouring residents, with particular reference to light and outlook.

Reasons

Character and Appearance

4. The appeal site is located within a residential area and comprises land associated with the two storey detached dwelling at 9 Miranda Road. The appeal site is surrounded by residential development. Whilst the appeal site is relatively flat, Miranda Road slopes downhill from south to north. By reason of the gradient of the land, properties within Miranda Road step up the road and results in the neighbouring dwelling at 8 Miranda Road being positioned elevated above the level of the appeal site and the level of the adjacent highway.
5. Whilst there is some commonality in terms of external finishes of dwellings within Miranda Road and the immediate surrounding area, in terms of scale, height, mass and spread, properties within Miranda Road can be properly described as mixed, with detached and semidetached dwellings occupying plots of various sizes. Within Miranda Road variety is the rule and, in my view, it is the mixture of styles and designs of buildings, as well as the relatively densely arranged properties with little separation distance between dwellings, which define the character of the area and the street scene.
6. The proposal is for a new two storey detached dwelling which, the evidence indicates, would provide internal and external amenity space which meets the required standards. Whilst the Council submissions are noted, in my view the appeal site does not represent an important gap in the street scene, but rather appeared as an unkept area of land upon which was sited a somewhat run down garage. Consequently, I do not find that the site makes any positive contribution to the character or appearance of the surrounding residential area.
7. The appeal scheme would result in a dwelling of a height which would not step up with the topography of Miranda Road. In this respect, it was observed on my site visit that there were a number of dwellings within Miranda Road and within the immediate surrounding area, which also did not step up in terms of overall height, and which did not result in a continuous consistent progression as land levels rise. In this respect, I therefore find that the overall height of the proposed dwelling would be acceptable in the context of the surrounding residential area.
8. Furthermore, when viewed from the adjacent highway, the appeal scheme would result in a plot width fronting the adjacent highway which would replicate the plot widths of other dwellings within Miranda Road. Whilst there would be limited separation distance between the proposed dwelling and its immediate neighbours, this would be consistent with the limited separation distances between other dwellings located within Miranda Road. In light of the above, in combination with the proposed use of materials that reflects local distinctiveness, I conclude that the proposal would not be at odds with the prevailing character and appearance of the surrounding residential area and would not represent overdevelopment.
9. For the reasons given above, the appeal proposal would accord with Policy DE1 of the Torbay Local Plan (the Local Plan), which seeks to ensure that developments are well-designed to respect and enhance Torbay's special qualities. Furthermore, the appeal proposal would comply with

Policy PNP 1(c) of the Paignton Neighbourhood Plan, which requires, amongst other things, that new development is in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials. For the same reasons, I also find no conflict with the design objectives of paragraph 130 of the National Planning Policy Framework (the Framework).

Living Conditions

10. Whilst noting the above preliminary matter, the Council have put it to me that the appeal scheme would have an unacceptable impact on the living conditions of residents of the neighbouring dwelling located within Southfield Avenue by reason of its proximity and scale.
11. In this regard, the proposed dwelling would have a lower overall height than the dwelling at 9 Miranda Road. Given the relative orientation of the dwellings and the separation distances between the proposed dwelling and the neighbouring dwelling at Southfield Avenue, and by reason of the prevailing scale and heights of dwellings that surround the site, I do not find that the proposal would unacceptably dominate the outlook from the abovementioned neighbouring dwelling.
12. Furthermore, the proposed dwelling would be located to the east of the rear garden area associated with the neighbouring dwelling within Southfield Avenue, and given the relative orientation of the dwellings, the separation distance between the rear elevations of those dwellings and in the absence of substantive evidence to the contrary, I find that there would be no unacceptable adverse effect on the living conditions of neighbouring residents with regards overshadowing or loss of light.
13. In conclusion on this issue I find that there would be no harm to the living conditions of the occupants of the neighbouring dwelling located within Southfield Avenue by reason of a loss of outlook or by reason of loss of light. Therefore, the proposal would accord with those terms of Policy DE3 of the Local Plan which, amongst other matters, seeks to protect the occupants of nearby properties from harm to their amenity. For the same reasons, the proposed development would accord with those provisions of the Framework which seek to protect the living conditions of residents.

Other Matters

14. The Framework provides that the concept of sustainable development comprises three dimensions – being the economic, social and environmental elements of the proposal. In this respect, the appeal scheme would provide social benefits in terms of contribution towards housing supply thereby helping to support the intention to significantly boost the supply of housing nationally.
15. The appeal scheme would provide economic benefits in terms of employment opportunities during the construction phase and through the spend of future occupants within local businesses. Furthermore, and in respect of any environmental benefits that may result from the proposed scheme, I conclude that the appeal site would be close to a range of services, facilities and employment opportunities contained within Paignton. Consequently, future occupants of the proposed dwelling are not likely to be solely reliant on private motor vehicles for most trips. This would comply with the objectives of the

Framework with regards to the transition to a low carbon future. Once these matters are considered together, the proposed scheme could be considered to be sustainable development in terms of the Framework.

16. Interested parties raise additional objections and concerns regarding the appeal proposal, on the grounds of land stability, drainage, overlooking and loss of privacy, loss of a view and adverse impact on property value.
17. In respect of overlooking and loss of privacy, I would concur with the Council's conclusions that the design of the proposed dwelling and its proposed positioning of openings, would not result in any overlooking or unacceptable loss of privacy for neighbouring residents. Whilst I acknowledge the concerns raised with regards to loss of view and property value, it is a well-founded principle that the planning system does not exist to protect such private interests.
18. With regards to land stability there is concern that part of the bank which separates the appeal site from the neighbouring property at 8 Miranda Road would be removed and that this could cause land instability potentially resulting in damage to property. Whilst these concerns are noted, it would be for the Appellant to evaluate the position with such matters being addressed by other legislation, with any damage to property resulting from the appeal scheme being a matter of civil law.
19. In respect of drainage concerns, in line with the recommendations of Council Officers, such matters can be adequately controlled by the Council through the application of suitable conditions, to which I shall return to in the below section of this appeal decision.

Conditions

20. The Council has not provided any suggested conditions in the event that the appeal was allowed. However, from the limited information before me, I consider that a range of conditions should be applied to any planning permission and which will control the development.
21. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. Additionally, and in the interests of protecting the environment, I also find it reasonable and proportionate to include a condition requiring that details of the proposed drainage system be approved by the Local Planning Authority. In the interests of biodiversity, I have included a condition to ensure that the development is carried out in accordance with relevant mitigation measures proposed in the submitted Ecological Impact Assessment.
22. In the interests of protecting residents living conditions, I find it reasonable to include conditions requiring that parking areas be laid out prior to first occupation of the proposed dwelling and that details of the proposed bin and bicycle storage be approved by the Local Planning Authority.

Conclusions

23. For the above reasons, the proposed development accords with the development plan and the Framework when taken as a whole. There are no material considerations that indicate the application should be determined

other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the identified conditions.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
- 2) The development hereby approved shall in all respects accord strictly with drawing numbers: Elevation Sections Location Plan 1535-20-001A, Plan & Elevations As Existing 1535-20-003, Plan & Elevations As Proposed 1535-20-004, Plan & Elevations As Proposed 1535-20-005, Access Design Statement P2020-0645-1 and Existing Survey Drawing 1535 TOPO received by the Local Planning Authority on 9 July 2020 and drawing number: Proposed Site Plan 1535-20-002B received by the Local Planning Authority on 24 September 2020 and drawing number: Ecological Assessment P2020-0645-2 received by the Local Planning Authority on 3 September 2020.
- 3) No development above slab level of the new dwelling hereby approved shall take place until details of a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of any dwelling and retained thereafter.
- 4) The new dwelling hereby approved shall not be occupied until precise details showing the exact location, design and form of the cycle store and the bin store area shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be erected in accordance with the approved details and thereafter permanently retained for the use of the occupants.
- 5) The new dwelling hereby approved shall not be occupied until the parking area relating to it as shown on approved drawing number: Proposed Site Plan 1535-20-002B shall have been properly surfaced, laid out and constructed. The parking area shall be kept permanently available for the parking and manoeuvring of motor vehicles in connection with the development hereby permitted.
- 6) The development hereby approved shall only take place in full accordance with the conclusions and recommendations of the Ecological Impact Assessment dated August 2020.