



Appeal Decision

Site visit made on 4 May 2021

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2021

Appeal Ref: APP/X1165/W/20/3264203

58 Southfield Avenue, Paignton TQ3 1LH

- 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 & Mrs Munro against the decision of Torbay Council.
 - The application Ref P/2019/0923, dated 27 August 2019, was refused by notice dated 17 July 2020.
 - The development proposed is new dwelling in curtilage of 58 Southfield Avenue.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect on the living conditions of neighbouring occupiers with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site is located in a residential area which has a distinctive street pattern. Rows of streets, namely Laura Grove, Southfield Avenue, Winsu Avenue and Barcombe Road generally run east to west and they are connected, broadly at a mid-point within each street, by Shorton Road which runs north to south.
4. It appears the area was originally laid out with dwellings that have deep rear garden areas and which front the respective east to west running streets. However, over time, there has been infill development within the rear garden areas of many of the properties that flank Shorton Road. The proposed dwelling, within the rear garden area of 58 Southfield Avenue, would be a continuation of this now established pattern of development.
5. Given such infill development has been achieved through the subdivision of other properties, they often have a smaller plot size than is typically found in the area. The proposal would be no different in this regard and in comparison to several of the other infill developments, the footprint of the building would not appear unduly cramped within its plot.

6. Nevertheless, given it exceeds 2 storeys, the building would be comparatively tall. Furthermore, the land falls significantly between Winsu Avenue and Southfield Avenue. A natural design response to the landform would therefore be for the section of the building closest to Winsu Avenue to be higher than the remainder, thus reflecting the manner in which development within this part of Shorton Road characteristically steps down from Winsu Avenue. However, owing to the ridge height of the mono-pitch element on the south side being the tallest part of the proposed building, the design takes the opposite approach and it thereby fails to sympathetically respond to the topography and the character of the street.
7. Moreover, the centrally positioned front mono-pitch element would project beyond the building line in Shorton Road. The tall and featureless appearance of its flank rising above the front door would stand out as a visually jarring feature within the street scene when viewed from the south.
8. In combination with the building's overall height, the two highlighted elements would result in a dwelling that in its scale, design and siting would appear unduly prominent and incongruous within the locality. While the Council notes the majority of the dwellings in the area have hipped roof forms, there is nevertheless a fairly wide variety of roof designs, such that the proposal would not appear out of place in this respect.
9. In light of the above, it is concluded the proposed development would have an unacceptably harmful effect on the character and appearance of the area. It would conflict with Policy DE1 of the Torbay Local Plan 2015 (LP), which seeks to ensure development integrates with the existing street scene and relates to the surrounding built environment in terms of scale, height and massing. It would similarly conflict with Policy PNP1(c) of the Paignton Neighbourhood Plan 2019 (NP), which expects development to be in keeping with its surroundings in respect of scale, design and height. It would also conflict with paragraph 127 of the National Planning Policy Framework (the Framework), which expects development to be sympathetic to local character, as well as paragraph 130, which specifies that development of poor design that fails to take the opportunities available for improving the character of an area should be refused.

Living conditions

10. The proposal would be set back and set down from 32 Shorton Road. It would also be separated from the dwellings on the western side of Shorton Road by the road itself along with their own set-backs from the highway and the shallow set-back of the proposal. The development would therefore not be overbearing in respect of those properties.
11. Given the topography, the development would be positioned above the rear elevations of 58 and 56 Southfield Avenue. Nevertheless, owing to the sizeable separation distances, it would not be overbearing when viewed from those dwellings. The remaining rear garden area of No 58 would be most affected by the development. However, given the building would be set back a short distance from the boundary and the roof would rise away from No 58, it would not be unduly overbearing. The existing open western outlook above the fence level at the far end of No 56's rear garden would largely be lost but given the set-back from the boundary and the height of the building, it would similarly not be unduly overbearing.

12. Accordingly, it is concluded the proposed development would not have an unacceptably harmful effect on the living conditions of neighbouring occupiers with particular regard to outlook. It would not conflict with Policy DE3 of the LP which seeks to ensure development does not unduly impact on the amenity of neighbours through being overbearing, or paragraph 127 of the Framework which promotes high standards of amenity.

Other Matters

13. The Council confirms it cannot demonstrate a 5 year supply of deliverable housing sites. Paragraph 11 d) of the Framework should therefore be applied. This sets out that planning permission should be granted, subject to two tests. The first test is whether the application of policies in the Framework which protect areas of particular importance provides a clear reason for refusing the development. However, the defined protected areas are not relevant to this case.
14. The second test is whether any 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. Paragraph 213 of the Framework makes it clear that due weight should be given to existing development plan policies according to their degree of consistency with the Framework.
15. The Framework specifies that good design is a key aspect of sustainable development. It also expects development to be sympathetic to local character. It therefore generally supports Policies DE1 and PNP 1(c), which seek to ensure development is well designed and respects the character of the surrounding built environment.
16. Therefore, even when taking account of the Framework's objective of significantly boosting the supply of homes, the acknowledged important contribution that small sites can make to meeting the housing requirement of an area, and the Council's housing land supply situation, the arising adverse impact in terms of the proposal's conflict with the LP and the NP (Policies DE1 and PNP 1(c)), as well as the Framework's promotion of good design and development which respects local character, should be afforded significant weight in the determination of the appeal.
17. Set against this, the benefits of the development include the provision of one dwelling. There are also the economic benefits associated with the construction and subsequent occupation of the dwelling, including spending at shops and services within the surrounding area. However, as the proposal is for just one house, it would make a very limited contribution to the housing supply and the local economy.
18. Any net biodiversity gains would be marginal and while it is suggested the development would make the most effective use of previously developed land, the Framework specifically excludes residential gardens in built-up areas from the definition of such land. While I have found the development would not have an unacceptably harmful effect on the living conditions of neighbouring occupiers in relation to outlook, that is a neutral consideration. The cumulative benefits of the proposal are therefore only afforded very limited weight.

Planning Balance

19. When assessed against the policies in the Framework taken as a whole, the adverse impacts of granting planning permission, namely the harm it would have on the character and appearance of the area, would significantly and demonstrably outweigh the benefits. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

20. The proposed development would conflict with the development plan as a whole and there are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons given above and having had regard to all other matters raised, the appeal is dismissed.

C J Ford

INSPECTOR