



Appeal Decision

Site visit made on 22 June 2021

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2021

Appeal Ref: APP/X1165/W/21/3270893

Primley Lodge, 190 Totnes Road, Paignton TQ3 3SB

- 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 Trevor Barfoot against the decision of Torbay Council.
- The application Ref P/2020/1070, dated 25 October 2020, was refused by notice dated 2 March 2021.
- The development proposed is described as 'Application to construct a new dwelling on the site of the approved 3 car garage and storage (P/2019/0058) in the garden of Primley Lodge 190 Totnes Road, TQ3 3SB'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans at the appeal stage. The amendments involve reducing the land level beneath the proposed dwelling by 1m, changing the three front dormers to rooflights and lowering the position of the three rear rooflights.
3. Annexe M of the Procedural Guide: Planning appeals – England 2021, sets out that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. The suggested amendments are of such significance that they would materially alter the application and lead to possible prejudice to other interested parties. Consequently, the amended plans have not been taken into consideration and the appeal has been determined on the basis of the plans referenced in the Council's decision notice.
4. At the time of the site visit foundations had been laid in the location of the proposed dwelling but which also correspond with an approved detached garage, (Council Ref: P/2019/0058). It has not been confirmed whether the level of the foundations relate to the proposed dwelling or the approved garage, with that of the garage being 1m lower.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area and the setting of Primley House.

Reasons

6. Primley Lodge stands alongside the initial part of the driveway to Primley House, the latter being a Grade II listed building which is an impressive villa

that is now in use as a residential care home. As the appeal site forms part of the setting of a listed building (LB), a designated heritage asset, it is necessary in determining the appeal to pay special attention to the desirability of preserving the LB's setting.

7. The National Planning Policy Framework (the Framework), sets out that the setting of a heritage asset is the surroundings in which it is experienced. The Planning Practice Guidance further clarifies that although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.
8. The siting, design and the name of the property emphasise that Primley Lodge is a historic building that was originally an entrance lodge to Primley House. It is now a private dwelling with a deep garden area extending alongside the western edge of the driveway to Primley House. The garden is enclosed and separated from Primley House by a tall close boarded fence on the northern boundary and by a similar tall fence projecting above a lower wall sited alongside the driveway. A pair of tall wooden gates provide access to the garden area from the driveway.
9. Notwithstanding the tall erected boundary separation between Primley Lodge and Primley House, the historic connection and the spatial relationship between the two properties remains an important part of the character and appearance of the locality and the setting of the LB.
10. The proposed scheme involves severing Primley Lodge's plot through the erection of a 2m high closed boarded fence. A detached house would be erected at the north-eastern edge of the existing site boundary with its south-eastern flank positioned close to the fence and wall running alongside the driveway. The ground floor would include a garage and living accommodation while there would be two bedrooms within the dual pitched roof above that would have three front dormers facing towards Primley Lodge and three rear rooflights.
11. The footprint of the proposed house would be of a similar size to the original form of Primley Lodge and it would have a fairly bulky roof level. When viewed from the LB, the upper part of the dwelling's rear wall and the full height of the roof would conspicuously project above the boundary fence. Furthermore, in public views from the junction of Totnes Road with Waterleat Road, the front of the proposed dwelling would be visible behind Primley Lodge. Given the land rises towards the LB, it would occupy a higher and more dominant position relative to Primley Lodge. Therefore, owing to its scale and siting, the intention to replicate a coach house aesthetic that would be perceived as subservient to Primley Lodge would not be achieved.
12. Indeed, the form and design of the proposed house would have little regard to the character and appearance of Primley Lodge or Primley House. It would function and visually read as a separate new modern dwelling, harmfully disrupting the historic connection and spatial relationship between Primley House and its former lodge. Consequently, it would have a significant detrimental impact on the setting of the LB.

13. 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 also fail to preserve the setting of Primley House. As such, it would conflict with Policies DE1 and SS10 of the Torbay Local Plan 2015 and Policy PNP 1(c) of the Paignton Neighbourhood Plan 2019. Amongst other things, these policies seek to ensure development respects and enhances Torbay's special qualities and character, including buildings of historic interest. Moreover, paragraph 130 of the Framework specifies that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Other Matters

14. Paragraph 196 of the Framework sets out that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, as in this case, the harm should be weighed against the public benefits of the proposal. Paragraph 193 also sets out that great weight should be given to the conservation of designated heritage assets, irrespective of whether any potential harm is less than substantial.
15. Public benefits of the proposed scheme include the provision of an additional dwelling in a sustainable location and at a time when the Council are unable to demonstrate a 5 year supply of deliverable housing sites. There would also be economic benefits associated with the construction and subsequent occupation of the house, including spending at shops and services in the area. However, as the proposed scheme would only provide one additional dwelling, it would make a very limited contribution to the housing supply and the local economy.
16. Consequently, even when taking account of the Government's objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with 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 cumulative public benefits of the proposed scheme only attract modest weight. Therefore, having regard to the great weight that should be given to the conservation of designated heritage assets, the public benefits do not outweigh the less than substantial harm to the significance of the LB.
17. The Council's housing land supply situation also means that paragraph 11 d) of the Framework must 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 or assets of particular importance provides a clear reason for refusing the development.
18. Designated heritage assets are one of the defined protected assets and given the harm to the setting of the LB, the policies in the Framework which seek to protect designated heritage assets provide a clear reason for refusing the development. The presumption in favour of sustainable development therefore does not apply.
19. The appellant has drawn attention to the available fallback of the approved detached garage with storage above (Council Ref: P/2019/0058). It would be in the same location as the proposed dwelling and would similarly have its own gated entrance off the driveway. While the footprint and height of the garage building itself would be similar to that of the proposed house, the ground level

would be 1m lower and the roof would not be as bulky. Therefore, in public views from outside the site and when viewed from the LB, its visual presence would be less conspicuous. Furthermore, unlike the appeal proposal, the approved garage would be contained within Primley Lodge's plot and function as an ancillary outbuilding to that property. As such, it would not harmfully disrupt the historic relationship between Primley House and its former lodge. Accordingly, the fallback is not directly comparable and it does not justify the harm that would arise from the proposed dwelling.

Conclusion

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

C J Ford

INSPECTOR