



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: 14 July 2021

Appeal Ref: APP/X1165/W/20/3264250

125 Winner Street, Paignton TQ3 3BP

- 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 P Farmer against the decision of Torbay Council.
- The application Ref P/2020/0337, dated 2 April 2020, was refused by notice dated 30 July 2020.
- The development proposed is described as 'formation of studio flat, change of use from workshop to dwelling; all as drawings'.

Decision

1. The appeal is allowed and planning permission is granted for formation of studio flat, change of use from workshop to dwelling, at 125 Winner Street, Paignton TQ3 3BP in accordance with the terms of the application, Ref P/2020/0337, dated 2 April 2020 and subject to the attached schedule of conditions.

Preliminary Matter

2. The description of the proposed development in the banner heading above is taken from the application form. The words 'all as drawings' is omitted from the formal decision as it is not a description of the proposed development.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for future occupants with particular regard to the provision of internal living space, natural light and outlook.

Reasons

Internal living space

4. Policy DE3 of the 2015 adopted Torbay Local Plan (LP), sets out that all development should be designed to provide a good level of amenity for future occupiers. One of the listed criteria in making such an assessment is the provision of adequate floorspace in residential development to achieve a pleasant and healthy living environment. The supporting text clarifies that regard will be had to the Government's Nationally Described Space Standard when considering applications, which is reflected in Table 23 of the LP.
5. The proposed development would comprise a one bedroom, two person, two-storey dwelling and Table 23 specifies the Minimum Gross Internal Area (GIA) for such a dwelling is 58sqm. The Council considers the dwelling would only provide 54sqm while the appellant considers it would be 85sqm, the key difference seemingly being the Council's exclusion of a lower ground floor room

at the back of the building that would lack any windows and which is labelled on the plans as a cycle store.

6. A footnote to Table 23 specifies the GIA is defined as the total floorspace measured between the internal faces of perimeter walls that enclose a dwelling and includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. On this basis, the cycle store room should be included in the calculation and the proposal would thereby exceed the minimum GIA specified in Table 23.
7. Notwithstanding this, the consideration in the policy is the achievement of a pleasant and healthy living environment. In this regard, there is no evidence before me which indicates the upper ground floor lounge/kitchen and the separate bedroom would be unduly cramped for the proposed two occupants. Furthermore, the property would benefit from the cycle store room which would provide more storage space than is required for two bicycles. The adjacent utility room would also benefit the upper ground floor living accommodation in terms of reduced noise from laundry machinery than would otherwise be the case. The proposal would therefore provide adequate floorspace to achieve a pleasant and healthy living environment.

Natural light and outlook

8. The proposal has sought to address concerns about natural light and outlook that led to a previous appeal being dismissed, (Appeal Ref: APP/X1165/W/19/3238317). The concerns related to the bedroom only having one west facing window and there being no openings, aside from the front door, to the lower ground floor level.
9. The revised scheme includes altering the west facing bedroom window to a bay form and adding two roof lights on the east facing roof slope. The latter would provide a significant improvement in terms of daylight and enable some sunlight to reach the bedroom during the morning. They would also provide a secondary outlook, albeit of the sky, while the bay window would enable a wider view of the rear courtyard garden. Therefore, notwithstanding the westward aspect of the main bedroom window and the fairly close proximity of perimeter walls and fencing, the bedroom would have adequate natural light and an acceptable outlook.
10. At the lower ground floor level the accommodation has been reconfigured so the utility room would be served by a window of the same height as the adjacent front door. The front door would also have a side light. The utility room and hallway would therefore have acceptable levels of natural light. The submitted plans indicate the use of obscure glass which would ensure suitable privacy for future occupants given the close proximity of the neighbouring pathway which leads to other properties. Whilst obscure glazing would limit the outlook from the lower ground floor level to changes in light derived from individuals moving along the pathway, this would be an acceptable outlook for a utility room and a hallway.
11. In light of the above, it is concluded the proposed development would provide acceptable living conditions for future occupants with particular regard to the provision of internal living space, natural light and outlook. As such, it would not conflict with Policy DE3 of the LP.

Other Matters

12. The proposed development is situated within the Old Paignton Conservation Area (CA) and forms part of the setting to several listed buildings which face Winner Street. As the design would be in keeping with the type of structure that can be expected behind the main Winner Street frontage and subject to conditions that would ensure the use of appropriate materials, the development would preserve the character and appearance of the CA and the setting of the listed buildings.

Conditions

13. The list of conditions suggested by the Council have been considered having regard to the tests set out in the National Planning Policy Framework and the advice in the Planning Practice Guidance. Where appropriate, the suggested conditions have been amended for clarity and precision.
14. A condition specifying the approved plans is necessary to ensure certainty. Notwithstanding the information provided on the approved plans and the application form, conditions in respect of the following matters are imposed having regard to the confined nature of the site and in the interests of preserving the character and appearance of the CA and the setting of the nearby listed buildings; details in respect of external walls and roof materials, windows and doors, hard and soft landscaping, boundary treatment and refuse storage. Furthermore, conditions removing permitted development rights in relation to Classes A to E of Part 1 and Class A of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 are both necessary and reasonable given the close-knit nature of the area, with the exception of the erection of one ancillary structure of up to 10 cubic metres in volume within the rear garden.
15. A condition requiring the provision and retention of the identified cycle store is imposed to ensure adequate cycle parking facilities. A condition in respect of surface water drainage is imposed in the interests of managing flood risk and adapting to climate change within the Torbay Critical Drainage Area. Finally, a condition requiring the submission and approval of a Construction Method Statement is imposed to protect the living conditions of neighbouring residents. It is necessary that this is a pre-commencement condition to ensure the living conditions of neighbouring residents are protected throughout the construction period of the development.
16. While the Council's Planning Officer Report suggested the need for a condition to provide adequate sound proofing from potential noise nuisance in relation to the neighbouring pathway, the pathway did not appear to be a particularly busy walkway and the sill levels of the lounge and kitchen windows would be positioned at least 2m above the pathway. In light of this, a condition in respect of sound proofing would not be necessary.

Conclusion

17. For the above reasons and having had regard to the development plan as a whole, the approach in the Framework, and all other relevant material considerations, it is concluded that the appeal should be allowed.

C J Ford INSPECTOR

SCHEDULE OF 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: 1914/1R, 1914/7R and 1914/8R.
- 3) No development above damp-proof course level shall take place until details of the external materials for the walls and roof have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such.
- 4) Prior to the installation of the windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:
 - Sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors,
 - Reveal sections, drawn to a scale of 1:1-1:10, and
 - Sill sections, drawn to a scale of 1:1-1:10.

The development shall be carried out in accordance with the approved details prior to the first occupation of the development and shall be retained as such.

- 5) Prior to the first occupation of the development hereby permitted, a scheme of hard and soft landscaping shall have been submitted to and agreed in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and the same species. The approved hard landscaping shall be provided within four months of the development being brought into use and shall be retained thereafter.
- 6) Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained.
- 7) Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained.
- 8) Notwithstanding the provisions of Classes A to E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration shall take place to the permitted dwelling, and no outbuildings shall be erected, with the exception of one ancillary structure up to 10

cubic metres in volume within the rear garden of the dwelling under Schedule 2, Part 1, Class E of the aforementioned Order.

- 9) Notwithstanding the provisions of Class A of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected, other than those approved pursuant to conditions attached to this permission.
- 10) Prior to the first occupation of the development hereby permitted, the cycle store identified in the approved plans shall be provided and retained thereafter.
- 11) Notwithstanding the submitted flood risk assessment and prior to the first occupation of the development hereby permitted, the surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change, unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority and is carried out as approved prior to the first occupation of the dwelling.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a) The parking of vehicles of site operatives and visitors.
 - b) Loading and unloading of plant and materials.
 - c) Storage of plant and materials used in constructing the development.
 - d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - e) Wheel washing facilities.
 - f) Measures to control the emission of dust and dirt during construction.
 - g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to the reuse of building materials on site wherever practicable.
 - h) Measures to minimise noise nuisance to neighbours from plant and machinery.
 - i) Construction working hours from 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

End of Schedule