



Appeal Decision

Site visit made on 7 July 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2021

Appeal Ref: APP/X1165/W/21/3268606

37A Morin Road, Preston, Paignton TQ3 2PN

- 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 Gareth Brocklehurst against the decision of Torbay Council.
 - The application Ref P/2020/0723, dated 26 July 2020, was refused by notice dated 12 October 2020.
 - The development proposed is construction of a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the living conditions of the occupants of 37 and 39 Morin Road, with reference to outlook and light; and,
 - the character and appearance of the area.

Reasons

Living conditions

3. The site comprises a narrow plot of land in use for vehicle parking, set between 37 and 39 Morin Road to the north east and south west respectively. The proposed dwelling would be very close to these two properties and would also extend back quite far into the site, in line with the neighbouring rear gardens.
4. The appellant considers that assessment of this scheme should focus on the effects on the neighbouring properties, but not the living conditions of their occupants. However, Paragraph 127 of the National Planning Policy Framework (the Framework) is clear that proposals, amongst other things, should provide places with a high standard of amenity for both existing and future users.
5. Nos 37 and 39 are currently accessed via entrances within their flank walls facing the site. The proposal would create a stark change in the experience of occupants accessing these properties and within their respective hallways, taking light and spacious areas and shifting them to something darker and, in terms of the outside space at the entrances, far more oppressively constrained.
6. No 39's facing elevation contains a ground floor kitchen window which is set above a sink. Even considering the patio doors also serving this room, light into and outlook from this space would be significantly diminished in my view, particularly during the morning, given the orientation of the dwelling.

7. No 39 has a garage which would shield its rear garden from the proposed dwelling, However, No 37 has a standard, and I understand incomplete, garden boundary fence. The height and length of the proposed dwelling, which would be directly to the south west, would cause it to rise well above and along this fence, and thereby significantly compromise light into and outlook from No 37's rear garden area. These effects would not be balanced out by the modest improvements in privacy through the completion of the boundary fence, which it seems to me could also be carried out independent of this proposal.
8. Consequently, I conclude on this issue that the proposal would have an unacceptable effect on the living conditions of the occupants of 37 and 39 Morin Road, with reference to outlook and light. It would conflict with the residential amenity aims of Policy DE3 of the Torbay Local Plan 2012-2030 (adopted 2015) (TLP), Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 (made 2019) (PNP) and the Framework.

Character and appearance

9. Morin Road has an early to mid-twentieth century character. However, this derives from its rich and thematic architectural detailing and use of materials, with white rendered dwellings formed of verandas, bays and gables with timber panelling, under tile roofs. It does not derive from the scale and massing of the buildings, which is actually quite varietal. Moreover, given the pattern of development, large gaps between buildings are not characteristic in my view.
10. Front and side gardens in Morin Road are in many instances formed of areas of hardstanding to accommodate parking. As such, the appeal site, as a parking area between two buildings, has a neutral presence within the Morin Road scene, despite being somewhat wider than is typical here.
11. The design of the proposed dwelling is well considered insofar as its gable, use of exposed timber work and materials palette would adhere to the detailing prevalent across Morin Road. Its modest and elongated form would be appropriate within this context of mixed building shapes and sizes, as would its set back from the Morin Road building line, which would also allow it to maintain a degree of repose and avoid an assertive or cramped appearance. Overall, the dwelling would have a neutral impact upon the Morin Road scene.
12. As such, I conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the design aims of Policy DE1 of the TLP, Policy PNP1(c) of the PNP and the Framework.

Other Matters

13. As I am dismissing the appeal for other reasons, I have not considered the sequential and exceptions tests due to the site's position within Flood Zone 3.
14. An interested party has also suggested that a more negative use of the land could take place if this development does not occur. However, there is no clear evidence before me that a deleterious use of the site is in the offing. I have also had regard to the concerns raised by other interested parties about issues such as highway safety and the parking situation in the street. However, these matters have not influenced my assessment of the main issues of the appeal.

Planning Balance

15. The harm to the living conditions of neighbouring occupants brings the proposal into conflict with the development plan when read as a whole and attracts significant weight in the balance.
16. The Council accepts that it cannot currently demonstrate a five-year supply of deliverable housing sites. It follows that Paragraph 11 d) of the Framework should be applied.
17. The government is seeking to significantly boost the supply of housing and set against the harm identified would be the social, environmental and economic benefits of the reuse of a site in a location with good access to services and facilities to provide one dwelling. However, as the site is in a built-up area and was previously attached to No 37, it is not demonstrated that the site meets the definition of brownfield land (or previously developed land) contained within the Framework, which excludes domestic gardens. In any event, given the harm to neighbouring occupants that would arise, I do not consider the proposal to make effective use of the site in the Framework's terms, which also requires decision makers to ensure a healthy standard of living conditions.
18. I understand that the dwelling has been accessibly designed and, notwithstanding the fact that the Design and Access Statement states it would be used as a holiday let, there is demand for this type of housing locally. However, given only a single dwelling would be provided, it would make little difference to the overall supply of housing. For these reasons, the social, environmental and economic benefits of the proposal attract modest weight.
19. Consequently, the adverse impacts on the living conditions of neighbouring occupants would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such, the presumption in favour of sustainable development does not apply.

Conclusion

20. There are no other considerations, including the Framework, which outweigh the conflict with the development plan in this case. For the reasons given above, and taking into account all other matters raised, I therefore conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR