



Appeal Decision

Site Visit made on 9 September 2021

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2021.

Appeal Ref: APP/X1165/D/21/3275480

49 Marine Drive, Paignton TQ3 2NS

- 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 A Ripley against the decision of Torbay Council.
 - The application Ref P/2021/0298, dated 26 February 2021, was refused by notice dated 23 April 2021.
 - The development proposed is described as remodelling of existing dwelling, alterations to roof, creation of roof terrace with pergola, new pedestrian access onto highway and external landscaping to provide vehicle turning provision within the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in July 2021. However, as its policies that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - the living conditions of adjoining occupiers, with particular regard to overlooking and loss of light.

Reasons

Character and appearance

4. The appeal site contains a detached dormer bungalow situated within a row of chalet bungalows. Although some of those are larger than the building on the site, and their front elevations include for example a gable-fronted second floor at 55 Marine Drive and a gabled feature within the roofspace at No 45, they nevertheless read as bungalows of a similar height and with first-floor accommodation in their roofs. As shown in the submitted photographs, there are a variety of larger and taller properties in the surrounding area, including buildings – some of which are being redeveloped – with three-four storeys further along Marine Drive and on Marine Parade. However, the row of bungalows which the site sits within is experienced as a distinct group of smaller, lower properties. I also observed on my site visit that there is a noticeable graduation in height from the three-four storey buildings on Marine

Parade to the group of bungalows while the degree of separation to Marine Parade means that the larger buildings there appear as well removed, background features from the site.

5. Although the building's ridge height would not increase, the proposed first-floor extension would notably increase the height and mass of the side, front and rear of the property and extend the width and depth of its roof. The privacy screens around the roof terrace and pergola, combined with the front extension to the ground-floor, would further add to the building's overall scale and presence. Collectively, this would add significant bulk and mass to the property, with the resulting building appearing as a relatively sizeable two-storey property noticeably taller than the neighbouring chalet bungalows. Visible in public views, including from along Marine Drive, Preston Green and the promenade, the extended building would read as a disproportionate and dominating feature that would fail to reflect its surroundings. The proposed materials and sizeable fenestration would draw attention to its presence and exacerbate its excessive and incongruous scale and form.
6. It has been put to me that the appearance of the existing building needs updating, the accommodation needs modernising in order to bring it up to an acceptable standard and that permitted development rights would allow for works to the roof, such as a hip to gable conversion, to be undertaken. Be that as it may, I observed on my site visit that the bungalow reflects its surroundings and does not appear as a negative feature within the streetscene, and it seems to me that the appeal proposal is unlikely to represent the only way that the accommodation could be modernised. I also have little substantive evidence that indicates that works to the roof under permitted development rights would result in a building with a similar mass and proportion as the appeal proposal and that such works are anything more than a theoretical scenario.
7. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with Policies DE1 and DE5 of the Torbay Local Plan 2012-2030 (TLP) and Policy PNP1(c) of the Paignton Neighbourhood Plan. Amongst other aspects, these require well-designed development which is in keeping with the surroundings, does not dominate the character or appearance of the original and neighbouring properties, and which respect and reflect the surrounding built environment in terms of scale, height, massing and design. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places.

Living conditions

8. Roughly doubling the height of the flank walls, the proposed development would result in significantly taller built form on the shared boundary with No 51. I observed on my site visit that several of the side windows in that property's south/south-western elevation serve habitable rooms, are not obscure glazed and would face towards the two-storey flank wall of the proposed development. The appeal proposal would therefore clearly reduce the amount of natural light reaching those windows. Given the proximity of the windows to the shared boundary, their orientation and that they serve habitable rooms, it seems to me that the effect on the living conditions of the occupiers of No 51 from the reduction in natural light would be significant.

9. In coming to this view, I have taken into account the hipped ends of the proposed development, that the footprint and ridge height of the existing building would not change and that the windows in the flank elevation of neighbouring dwellings are said to not be principle windows. The lack of objections from neighbours is also not determinative and does not lead me to a different conclusion.
10. The windows in No 47's side elevation closest to the shared boundary with the site are obscure glazed. The first-floor extension and higher flank wall facing No 47 would also be set back from the shared boundary while the privacy screen would allow some light through. Accordingly, the proposed development would not significantly reduce the amount of natural light reaching No 47.
11. In theory, the roof terrace would potentially provide greater views over adjoining plots than the existing raised patio on the site. However, with the proposed privacy screen limiting such views, overlooking into neighbouring gardens and plots would not be significant. Accordingly, the appeal proposal would not result in an unacceptable loss of privacy for adjoining occupiers.
12. Nevertheless, for the above reasons, I conclude that the proposed development would unacceptably harm the living conditions of adjoining occupiers, with particular regard to loss of light at No 51 Marine Drive. I therefore find that it conflicts with TLP Policy DE3 which, amongst other aspects, requires that the amenities of neighbouring uses are not unduly affected by development.

Planning Balance

13. The site is located in the built-up area of Paignton and is not subject to any other designations in the TLP. The Council did not raise any objections in relation to matters such as the principle of the proposed development, ecology and flood risk. There were no objections from consultees, local residents or the Paignton Neighbourhood Plan Forum, and it has been put to me that the lack of objections from neighbours equates to implied support for the development proposed. Amongst other aspects, the appeal proposal would also allow for vehicles to enter and exit the highway in forward gear.
14. However, the lack of specific objection on these grounds and from third parties only attracts limited weight and the above considerations neither indicate that harmful development should be permitted nor provide justification for development that conflicts with the development plan. Given the harm I have identified to the character and appearance of the surrounding area and the living conditions of adjoining occupiers, the appeal proposal also cannot reasonably be described as making effective use of land.

Conclusion

15. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR