



Appeal Decision

Site Visit made on 10 August 2021

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/X1165/W/21/3275174

Garage Rear of 16 Hillesdon Road, Torquay TQ1 1QQ

- 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 Gary Dart against the decision of Torbay Council.
 - The application Ref P/2021/0171, dated 11 February 2021, was refused by notice dated 4 May 2021.
 - The development proposed is described as, 'conversion and change of use of existing shop storeroom into a one bedroom flat'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is a dispute between the parties as to whether the proposal would be a flat or a dwelling. The Town and Country Planning Act 1990 defines a flat as 'a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally'. Based on the fact that the appeal property would be a single storey unit that would not be subdivided horizontally, I have determined the appeal on the basis that it would form a single dwelling and not a flat.
3. The National Planning Policy Framework (the Framework) was revised on 20 July 2021. Insofar as it is relevant to this appeal, I have taken the Framework into account in reaching my decision.

Main Issues

4. The main issues are:
 - The effect of the appeal proposal on highway safety; and
 - Whether the appeal proposal would provide adequate living conditions for future occupiers by reason of space, outlook, noise, disturbance and fumes.

Reasons

Highway Safety

5. The appeal site is located within a predominantly residential area consisting mainly of terraced housing of good proportions where the layout of the terraces responds to the topography of the area with some terraces set well above road level and other terraces stepping down the hillside.

6. The appeal site is located to the rear of a terrace on Hillesdon Road and is accessed from the road leading to Grafton Terrace which sits above the site. The front portion of the site is currently being used as a florist workshop with the appeal site being attached at the rear. It is understood that the appeal site had been used as a storeroom in connection with the frontage of the site but at the time of my site visit, building works were underway so the area was unused.
7. The appeal proposal would provide a single storey unit of residential accommodation consisting of a bedroom, bathroom and a kitchen/living area. Part of the roof of the building had already been removed at the time of my visit and this would provide a small external yard area. Access to the unit would be from an existing footpath at the side of the building, which I understand is used to provide rear access to properties on Hillesdon Road.
8. The proposal does not contain any provision for the parking of vehicles on the site. Policy TA3 and Appendix F of the Torbay Local Plan 2012-2030 (LP) sets out the minimum parking requirements for developments. The Council contends that this proposal would require two spaces as a dwellinghouse but the appellant has suggested to me that just one space would be required as the appeal proposal is effectively for a flat.
9. Given my findings at paragraph 2 above, I conclude that the proposal would require two parking spaces as set out in Policy TA3 and Appendix F of the LP. In this respect the appeal proposal fails to meet this requirement as no off-street parking is proposed.
10. The appellant has forwarded an argument that parking is not an issue in the immediate vicinity of the appeal site as the road leading to Grafton Terrace is lightly trafficked and there are usually 4 or 5 available parking spaces nearby. I visited the site during the working day and found that I was able to park in the vicinity of the site on Hillesdon Road. However, I noted that parking is available on just one side of the road and I am in no doubt that the demand for parking is likely increase at the end of the working day when it could become more difficult to find a parking space.
11. Policy TA3 and Appendix F of the LP does allow for a reduction in parking provision in locations such as town centres where there is a choice of transport. Policy TH9 of the Torquay Neighbourhood Plan to 2030 (TNP) states that all housing developments must meet the guideline parking requirements contained in the LP unless it can be shown that there is not likely to be an increase in on-street parking resulting from the development.
12. There does not appear to be any disagreement between the parties about the proximity of the site to the town centre, but the Council suggests that the steep gradient of the route is such that occupiers of the appeal proposal would be more likely to own a car. During my site visit, I walked the route from the site down to the town centre. My return journey took just 5 minutes along footways and pedestrian pathways. I noted that a number of other pedestrians were taking the same route. Whilst I agree that the gradient could be a discouraging factor, the close proximity and ease of direct access to the town centre would mean that any occupier of the appeal proposal would not be reliant on the private car to access day-to-day services and facilities. Consequently, I find that there are reasonable grounds to conclude that a lack

of on-site parking provision would not lead to an increase in demand for on-street parking.

13. As such, I find that the lack of parking provision would not have any unacceptable harm to highway safety. The proposal therefore complies with Policy TA3 of the LP and TH9 of the TNP in this respect.

Living Conditions of Future Occupiers

14. The appeal scheme would provide an outside yard area which the appellant states is 10 sqm and would be sufficient for a garden area and for the occupiers to sit at a table and chairs.
15. The Council contends that the proposal is 9.5 sqm and provides less than the 20sqm of outdoor amenity space set out in Policy THW4 of the TNP. The appellant argues that the proposal should attract a requirement for 10 sqm, which Policy THW4 sets out as the requirement for flats. I have concluded above that the appeal proposal would be a dwelling rather than a flat and in this respect, the size of the outdoor amenity space which would be provided falls well short of the policy requirement for 20sqm. In addition, the three substantial walls surrounding the yard would result in a very enclosed and confined space offering little useable space for the occupiers of the property. Whilst being open to the pedestrian footpath alongside would provide longer range views, this would also result in a lack of privacy for its users.
16. The appeal proposal includes the insertion of just two windows which would serve the kitchen and the bedroom and a glazed rooflight to provide light into the lounge area. The windows which would be provided in the kitchen would look out onto the yard area and the substantial boundary walls I identified above. Given that I have concluded that this yard area is confined, I find that this would also result in a poor outlook.
17. The Council has identified that the internal size of the proposed unit would be marginally below the nationally described space standard and I conclude that all these elements when taken together, would result in a cramped form of development.
18. As set out above, the front part of the site is currently being used as a florist's workshop. However, the Council has put it to me that there is some evidence to suggest that the permitted and historic use of that part of the site is as a general industrial use, and that were this use to resume, it could have an adverse impact on the occupiers of the appeal proposal by virtue of noise, disturbance and fumes. In the absence of evidence to the contrary, I have to conclude that were a general industrial use to resume, the close proximity of the appeal proposal to such a use would result in significant harm to the living conditions of its occupiers by virtue of noise, disturbance and fumes.
19. The appellant has stated that the appeal proposal would be sound and fire-proofed but I have no conclusive evidence that this would sufficiently mitigate the harm I have identified.
20. I find therefore that the proposal would not provide adequate living conditions for its occupiers. As such it would not comply with Policies DE3 of the LP and THW4 of the TNP which seek to provide a good level of amenity and outdoor space for new developments.

Other Matters

21. The appeal property is located within the Warberries Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I give special attention to the desirability of preserving or enhancing the character or appearance of the CA. This is also the thrust of Policy SS10 of the LP. The appeal proposal is a small scale and requires little in the way of external alterations, other than the removal of part of the flat roof to form the external yard area. As a result, the appeal proposal would have a neutral effect on the CA thereby preserving its character.
22. I have taken account of the support for the proposal from local residents but it does not outweigh the harm I have identified above.

Planning Balance

23. The Council has advised that it is not able to demonstrate a three year supply of deliverable housing sites. Para 11 of the Framework states that where the development plan is out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the benefits of the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted. From the evidence before me, there are no specific policies in the Framework which suggest that the appeal development should be restricted.
24. When judged against some of the core planning principles, the proposal would perform well in that it would be in an urban area with good access to services and facilities and the proposal would make a very modest contribution of one unit to the supply of housing.
25. However, a well-designed environment is also a key aspect of sustainable development. I have identified significant harm to the living conditions of future occupiers and as a result, the social objective of sustainable development would not be achieved. When assessed against the benefits of the Framework taken as a whole, I conclude that the adverse impacts of the appeal proposal significantly and demonstrably outweigh the benefits. As a result, I find that the appeal proposal is not a sustainable form of development and the conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

22. Although I have found that the proposed development would be acceptable in respect of highway safety, this is outweighed by its inadequate living conditions for future occupiers. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alison Fish

INSPECTOR