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## 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: 30 September 2021**

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**Appeal Ref: APP/X1165/W/21/3274851**

**29 Ellacombe Church Road, Torquay TQ1 1LJ**

- 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 Mehmet Sevim against the decision of Torbay Council.
  - The application Ref P/2021/0160, dated 9 February 2021, was refused by notice dated 16 April 2021.
  - The development proposed is conversion of existing outbuilding to a self-contained unit of accommodation consisting of a one bed, garden apartment, with amenity space and car parking.
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing outbuilding to a self-contained unit of accommodation, consisting of a one bed, garden apartment, with amenity space and car parking at 29 Ellacombe Church Road, Torquay TQ1 1LJ in accordance with the terms of the application, Ref P/2021/0160, dated 9 February 2021, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MM/MS/LP; MM/MS/BP; MM/MS/P1; MM/MS/P2; MM/MS/RP1 and MM/MS/SEC1.
  - 3) Details of the proposed fence to be erected between the amenity space and parking area, as identified on drawing number MM/MS/P1 shall be submitted to and approved in writing by the local planning authority. The dwelling hereby approved shall not be first occupied until the fence has been provided in accordance with the agreed details. The fence shall thereafter be retained.
  - 4) The dwelling hereby approved shall not be first occupied until the parking identified on drawing number MM/MS/P1 has been provided. The parking shall thereafter be kept available at all times for the parking of vehicles.

### Preliminary Matters

2. At the time of my site visit, it appeared that some work had been carried out to the appeal premises. It was apparent to me that the works carried out did not wholly comply with the drawings submitted as part of this appeal. However, I have determined this appeal on the basis of the plans which have submitted to me.

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 the character and appearance of the area;
- Whether the proposal would provide adequate living conditions for future occupiers by reason of space, outlook and noise; and
- The effect of the appeal proposal on highway safety.

### **Reasons**

#### *Character and Appearance*

5. The appeal site is located in a predominately residential area consisting of terraced housing with the appeal property itself being located at the junction of Ellacombe Church Road and Alexandra Road. The terraces along Ellacombe Church Road tend to be set back from the road with small front gardens and the terraces on Alexandra Road are generally positioned on the back edge of the pavement. Being on the corner, the host dwelling is located within a generous plot which provides garden areas at the side and rear.
6. Given the topography of the area, the outbuilding the subject of this appeal, is set well down from Ellacombe Church Road, with its roof being roughly level with the top of the stone boundary wall to Alexandra Road. As a result, I noted during my site visit that the outbuilding is not a significant or dominant feature in the street scene, being largely obscured from wider view by the existing walls surrounding the rear garden area of the host dwelling.
7. With the exception of a small extension to provide a shower room, the appeal proposals involve little in the way of external alteration to the overall size and bulk of the existing building and would lead to a development which would be no more discernible in the street scene following the conversion works than it is at present. The boundary walls which surround the site would be retained and the resulting scale, height and massing of the appeal proposal would not be out of character with the local area.
8. I conclude that the proposals would be well related to and integrated with surrounding development in accordance with Policy DE1 of the Torquay Local Plan 2012-2030 (LP) and TH8 of the Torquay Neighbourhood Plan to 2030 (TNP) which seeks high quality designs which respect local character.

#### *Living Conditions*

9. It is understood that the current vehicular and pedestrian access would serve the appeal property as well as an existing ground floor flat and the host dwelling. As such, the Council are concerned that vehicles and pedestrians attracted to the site would have an adverse impact on the living conditions of future occupiers of the appeal property by virtue of noise and disturbance.

10. The site plan indicates parking for two vehicles, with one of these being allocated to the appeal property. In this respect, I find that the potential for noise and disturbance to the occupiers of the appeal premises from other vehicles would be very limited and would not in my view, be harmful to the living conditions of the future occupiers of the appeal premises. The comings and goings associated with the occupiers of the adjacent premises would be more frequent and I accept that this could result in some disturbance to the occupiers of the appeal property.
11. The appeal proposal indicates the erection of a new timber fence along the boundary of the appeal site with the proposed parking area. This would have the effect of defining the private garden space for the appeal property but in my view could also provide the necessary level of privacy for the occupiers of the appeal proposal and mitigate the harmful effects of noise and disturbance I identified above.
12. The fence would enclose a garden area for the appeal dwelling which the plans indicate would measure approximately 21sqm. This accords with the requirements of Policy THW4 of the TNP for no less than 20 sqm but the Council are concerned that the area would be enclosed and cramped. Although the garden area would be completely enclosed by virtue of the stone wall along Alexandra Road, the existing terrace area serving the host dwelling and the fence I have identified in paragraph 11 above as being necessary, I am not persuaded that this would result in an unacceptable sense of enclosure or cramped conditions. The site is gently sloping and positioned to the south of the appeal dwelling and I noted during my site visit that despite the existing constraints, the area received a good degree of daylight such that in my view it would result in a private but useable space for the occupiers to enjoy which would not be adversely affected by the erection of a fence to divide it from the parking area.
13. The Council have concluded that the appeal proposal has a gross internal floor area which exceeds the nationally described space standards but are concerned that the irregular shape of the 3 rooms provided would result in poor living conditions for any occupier. The proposed floor plan (drawing number MM/MS/P1) shows the possible positioning of furniture such as the bed, kitchen units, settee and sanitaryware in the shower room. The irregular shape of the rooms would not appear to be a barrier to the positioning of furniture required for everyday living and as such I conclude that this would not lead to a development which would adversely affect the living conditions of its occupiers to an unacceptable degree.
14. I therefore conclude that with the imposition of a condition relating to the provision of a fence, the proposal would not have an adverse impact on the living conditions of the occupiers of the appeal property and the proposal therefore complies with Policy DE3 of the LP and THW4 of the TNP which seeks to provide a good level of amenity and space for the occupiers of new development.

#### *Highway Safety*

15. The access to the appeal site is located on the junction of Alexandra Road with Warberry Vale and Orchard Road where on-street parking occurs on both sides of the road. Even during the working day, I noted that on-street parking would

appear to be at a premium and in my view, it would not therefore be appropriate to add to the pressure for on-street parking.

16. The appeal proposal includes the provision of a single parking space for the appeal proposal. This does not comply with the parking requirements in Policy TA3 and Appendix F of the LP which sets out a requirement for a dwelling to have two parking spaces. The policy does however allow for a reduction in parking provision in locations such as town centres where there is a choice of transport options. 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.
17. The site is not located within the town centre of Torquay but is located within a ten-minute walk. In my view, this would mean that occupiers of the appeal property would have the realistic option of walking or cycling to the town centre to access a range of services and facilities and transport options and I give this moderate weight in the consideration of the appeal proposal.
18. The appellant has indicated that the appeal site was previously used as a commercial garage but is now vacant. The Council do not dispute that such a use occurred at some point in the past. This would have attracted a level of vehicle movements and a requirement for parking which is likely to be greater than those associated with a residential property. I have not been provided with any evidence of the number and type of vehicle movements and requirements for parking that this would have attracted but given that the matter does not appear to be in dispute, I have given this moderate weight in my assessment.
19. The proposed parking arrangements for the appeal proposal would not allow for the manoeuvring of vehicles so that they could enter and exit the site in a forward gear. In paragraph 15 above, I identified that the site is located at the junction of three roads and that parking occurs on both sides of the road. As a result, I consider that traffic speeds on these roads are likely to be very low and that the drivers of vehicles entering and exiting the appeal site at the junction would do so with caution. As a result, I am not satisfied that to allow the appeal without an on-site manoeuvring space would result in an unacceptable impact on highway safety.
20. Therefore, when taken together, I do not find that the proposal would lead to an increased demand for on-street parking or the manoeuvring of vehicles to such an extent that it would result in an unacceptable impact on highway safety. I conclude that the proposal complies with Policy TA3 of the LP and TH9 of the TNP which seek to provide an appropriate level of parking in new developments.

## **Other Matters**

21. The Council have identified that the appeal site lies within a critical drainage area and that a condition would be required in the event that the proposal is permitted to ensure that the most sustainable form of drainage is explored before opting for the means set out on the submitted flood risk assessment. This would be in order to comply with policy ER1 of the LP to ensure that risk of flooding is not increased elsewhere.

22. I have seen correspondence from the statutory undertaker advising that they are content for the roof water to be connected to the existing drainage for the host dwelling and in the absence of any evidence to the contrary, I am satisfied that the proposal would not conflict with policy ER1 by leading to an increased risk of flooding elsewhere.

### **Conditions**

23. Despite being given the opportunity to provide conditions in the event that the appeal is allowed, the Council have chosen not to provide any. I have found it necessary to impose four conditions.
24. In addition to the standard time limit, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. In order to protect the living conditions of future occupiers, I have imposed a condition requiring that the details of the new fence demarking the garden area for the appeal property be agreed in writing and erected on site prior to first occupation of the appeal dwelling. Finally, I have also required that the parking is provided prior to first occupation in the interests of highway safety.

### **Conclusion**

25. 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 allowed.

*Alison Fish*

INSPECTOR