



# Appeal Decision

Site Visit made on 18 October 2021

**by James Blackwell LLB (Hons) PgDip**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 October 2021**

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**Appeal Ref: APP/X1165/D/21/3270412**

**16, Lindthorpe Way, Brixham TQ5 8NY**

- 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 Upham against the decision of Torbay Council.
  - The application Ref P/2020/1128, dated 3 November 2020, was refused by notice dated 4 February 2021.
  - The development proposed is extensions and roof conversion with associated dormer and rooflights.
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## Decision

1. The appeal is allowed and planning permission is granted for extensions and roof conversion with associated dormer and rooflights at 16 Lindthorpe Way, Brixham TQ5 8NY in accordance with the terms of the application, Ref P/2020/1128, dated 3 November 2020, subject to the conditions set out in the Schedule.

## Preliminary Matters

2. I have taken the description of development from the Council's decision notice as this more accurately and succinctly describes the development proposed.
3. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. I am satisfied that the updates to the Framework do not materially affect its content insofar as it is relevant to the main issues of this appeal, so I have therefore determined this appeal with regard to the current version, published in July 2021.

## Main Issues

4. The main issues are:
  - the effect of the proposed development on the character and appearance of the appeal property and the surrounding area;
  - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to privacy and light pollution; and
  - whether the proposed development would make adequate provision for any associated flood risk.

## Reasons

*Character and appearance*

5. The appeal property is a detached dwelling which sits between Lindthorpe Way to the front, and Northfields Lane to the rear. There is a boundary wall separating the rear garden from Northfields Lane, and due to the sloping topography of land in the area, the roof ridge of the appeal dwelling sits lower than this wall. As a result, the appeal property is largely obscured from view along Northfields Lane. The surrounding area is predominantly residential in nature, and includes a variety of house types. Several of these include large rear dormers.
6. The appeal dwelling has a pitched roof, and already includes a large dormer to the rear. The existing dormer extends across approximately half of the roof, and sits flush with the northern elevation of the dwelling and very close to the roof ridge. This creates a mismatched and incoherent relationship between the bulk of the dwelling and its roof, which is harmful to its appearance.
7. The proposed development would incorporate a new rear dormer across the full width of the roof. Whilst Policy BH6 of the Brixham Peninsula Neighbourhood Plan 2012 – 2030 (Neighbourhood Plan) does provide that dormers should be subservient to the roofscape, the proposed development in this instance would help unify the existing dormer with the bulk of the dwelling, which would significantly improve its appearance. The dormer would be inset slightly from the main bulk of the roof at both sides and from the ridge, which would help retain a level of subservience. As there are several examples of other large rear dormers along the street, the proposed development would also not be unique in this respect. Moreover, given the ridge of the roof sits below the height of the rear boundary wall, the dormer would not be readily apparent from Northfields Lane, so would not impact on the street scene in any meaningful way.
8. The proposed roof conversion would include large patio doors across a large expanse of the new dormer, opening out onto the raised terrace. Although the ground floor windows are smaller and less dominant than the new windows proposed, they cannot be seen from street level as the garden sits above ground floor. It's therefore not necessary for the new windows to have a coherent relationship with the ground floor fenestration in terms of alignment and/or subservience, as there is no clear visual relationship between the two storeys.
9. As part of the development, a large roof light would be incorporated into the front roof pitch facing out on to Lindthorpe Way. It would be located to one side of the roof, over part of the property which is stepped back from the front gable. As a result, the rooflight would assimilate with the frontage of the property without appearing excessive or dominant. Moreover, front roof lights are a common feature along Lindthorpe Way, and whilst the rooflight in this instance would be larger than those on the closest neighbouring properties, it would still be reflective of the prevailing character of numerous properties along the road.
10. The proposed conversion would incorporate contemporary materials in its external design, which would include a mixture of render, larch cladding and seam metal cladding. These would predominantly be used to the rear of the property. These materials would achieve a high-quality and contemporary design, which would be consistent with the Brixham Town Design Statement, which promotes "*innovative designs and the contemporary interpretation of*

*traditional design and construction*". Moreover, whilst these materials would depart from the more traditional materials used on the external facades of other properties along the road, given the sloping topography of the appeal site, the conversion would largely be obscured from view in any event. This means the development has greater scope to utilise a more varied palette of materials, without them appearing incongruous with the prevailing design of other dwellings along the road.

11. For these reasons, I am satisfied that the proposed development would not harm the character and appearance of the appeal property, nor of the surrounding area. The development would be consistent with Policies DE1 and DE5 of the Torbay Local Plan 2012 – 2030 (Local Plan), which requires development to achieve high quality design which integrates properly with the surrounding area. Notably, these policies promote development which would remove unsightly additions when converting existing buildings, and development which evolves high quality architectural detail with a distinctive and sensitive palette of materials. The development would also be consistent with Policy BH5 of the Neighbourhood Plan and the overarching design objectives of the Framework, each of which require new development to achieve high quality design which responds well to the character of an area. Although the development would conflict with certain dormer provisions which are set out in Policy BH6 of the Neighbourhood Plan, the development remains consistent with the overarching thrust of the Policy, which seeks to achieve attractive roofscapes which respond positively to the wider street scene.

#### *Living Conditions*

12. No. 18 Lindthorpe Way is sited to the north of the appeal site. The southern elevation of no. 18 (which faces the appeal property) has a modest window towards the rear. Due to the topography of the appeal site and the elevated position of its rear garden, there is an existing degree of overlooking between the two properties.
13. The new staircase leading up to the rear garden along the northern elevation of the appeal dwelling would potentially increase the scope for overlooking between the two properties. However, this could be adequately mitigated by the implementation of a boundary wall/fence, as proposed by the appellant. This would improve the current relationship between the two properties, by reducing the scope for overlooking between the two. This boundary treatment could be adequately secured by condition.
14. The inclusion of new patio doors at second floor level could lead to some degree of light spillage to the rear of the appeal property. However, given the stepped siting of properties along this stretch of road, as well as the ample gaps between neighbouring dwellings, I do not consider that any additional light spillage would lead to an unacceptable impact on neighbouring occupiers. In terms of the rooflight to the front of the property, I do not consider that this would have any greater effect in terms of light spillage than a large front facing window on a property's frontage, which would be commonplace of many domestic dwellings.
15. For these reasons I am satisfied that the proposed development would not harm the living conditions of the occupiers of no. 18, particularly with regard to overlooking, nor of other neighbouring occupiers with regard to light pollution. The development would therefore be consistent with Policy DE3 of the Council's

Local Plan, which requires new development to be designed in such a way as to safeguard neighbouring amenity, specifically in relation to overlooking, privacy and light pollution.

### *Flood Risk*

16. The appellant has submitted a basic Flood Risk Assessment (FRA) as part of its appeal, which confirms that any surface water arising from the development will be disposed of via infiltration using a soakaway or other sustainable drainage system. A condition can be secured requiring full details of the proposed drainage scheme to be submitted and approved by the Council prior to implementation.
17. On this basis, I am satisfied that the proposed development would make adequate provision for the mitigation of any associated flood risk. The development would therefore be consistent with Policy ER1 of the Council's Local Plan and the provisions of the Framework, each of which require new development to be implemented and managed in such a way that safeguards local flood protection and resilience.

### **Conditions**

18. I have included a standard plans condition for certainty over the development permitted. To ensure the development achieves a high-quality design, I have included a condition requiring details of external materials to be approved prior to any above ground works.
19. To ensure the development does not lead to any adverse impacts in terms of overlooking of no. 18, I have included a condition requiring the implementation and retention of appropriate boundary treatments between the two properties.
20. To ensure any biodiversity features of the site are sufficiently protected, I have included a condition which requires the recommendations set out in the appellant's ecological appraisal to be adhered to as part of the development. Finally, a condition has been secured to ensure the development makes proper provision for a sustainable drainage system.
21. The Council also suggested a condition requiring a scheme for boundary planting to be approved and subsequently implemented as part of the development. I have not included this condition, as I do not consider it necessary in this instance to make the development acceptable.

### **Conclusion**

22. For the reasons given above, and having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be allowed.

*James Blackwell*

INSPECTOR

## **Schedule**

- 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 drawings: Location Plan (10(01)); Proposed Site Plan (047-MUB (22)01); Proposed Floor Plans (047-MUB (22)02); Proposed Elevations (047-MUB (32)01); Proposed Elevations (047-MUB(32)02); and Proposed Elevations (047-MUB(32)03).
- 3) Prior to the first use of the terrace and the external staircase, the northern end of the raised terrace shall be fitted with obscure glazing to Pilkington Level 4 to a height of 1.8 metres above the level of the terrace and a solid fence shall be installed on the boundary with no. 18 Lindthorpe Way to a height of 2 metres above the level of the external access stair on that boundary. The glazing and fence shall be retained thereafter.
- 4) Prior to the commencement of any above ground works, details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
- 5) The development hereby permitted shall be implemented in accordance with the recommendations set out in the Ecological Survey Report submitted with the application (George Bemment Associates, November 2020).
- 6) Prior to the commencement of any above ground works, full details of the proposed sustainable drainage system shall be submitted to and approved by the local planning authority, which shall include a timetable for implementation. The sustainable drainage system shall be implemented in accordance with the approved details and retained thereafter.