



Appeal Decision

Site Visit made on 19 October 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 01 November 2021

Appeal Ref: APP/X1165/D/21/3276942

11 Ramshill Road, Paignton, TQ3 3PN

- 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 Mathew Wyatt against the decision of Torbay Council.
 - The application Ref P/2021/0116, dated 16 March 2021, was refused by notice dated 10 June 2021.
 - The development proposed is the construction of extra storey on a single storey extension to rear of property.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Mathew Wyatt against Torbay Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of 9 Ramshill Road, with particular reference to loss of outlook and loss of light.

Reasons

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
5. Policy DE3 of the Torbay Local Plan 2012-2030 (the Local Plan) seeks to ensure that development provides a good level of amenity for occupants and that proposals do not unduly impact on the amenity of nearby residents with regards to, amongst other matters, overlooking and privacy as well as outlook for neighbouring properties.
6. The appeal property is a mid-terrace two storey dwelling located within a residential area. The dwelling has a single storey extension to the rear, and which is positioned abutting the boundary with the neighbouring dwelling at 9 Ramshill Road. As I observed on my visit, the rear garden space at the appeal property includes a number of outbuildings, including a store which is also located abutting the boundary with the abovementioned neighbouring property. The appeal scheme seeks to construct a second storey addition on the existing extension to the rear of the appeal property. The proposed

extension would be constructed up to the height of the eaves of the appeal building and would include a flat roof.

7. It is apparent from the Council's decision notice and officer's report, that there is concern that the height and spread of the proposed second storey extension would have an overbearing effect on the occupiers of the neighbouring dwelling, and furthermore that the proposal would result in a significant loss of light for the rear of that neighbouring dwelling.
8. In terms of loss of light, the appeal property and its neighbour are orientated such that the rear elevations face south south-east. The neighbouring dwelling has windows to the rear at ground and first floor level in close proximity to the boundary with the appeal property. By reason of the orientation of the appeal building and its neighbour, and given the height of the proposed extension in close proximity to the windows of habitable rooms at the neighbouring property, it is likely that the proposed development would compromise the levels of light that would be available to those rooms at the rear of the neighbouring dwelling.
9. I acknowledge the Appellant's submissions regarding the communication he previously had with the Council and in respect of whether the Council employed the '45 degree rule'. However, the Council does appear to have confirmed that no such 'rule' is employed and there does not appear to be, from the evidence before me, any local or national guidelines or policies which include this as a particular standard. Rather, and as noted above, the development plan includes Policy DE3 of the Local Plan which provides that all development should be designed such that it does not unduly impact on the amenity of neighbouring uses without reference to any '45 degree rule'.
10. Notwithstanding the above, it is also clear that there are separate concerns regarding the potential for loss of outlook from the neighbouring property. In this regard, it was noted on my visit that the rear garden space at 9 Ramshill Road was very modestly sized in terms of area, and which did not extend to the depth of the rear garden space at the appeal property.
11. It seems to me that the proposal would be highly conspicuous from the ground floor and first floor windows located closest to the boundary at the neighbouring dwelling as well as from its modestly sized rear garden. By reason of its overall bulk and height, the proposal would be large and dominating. It would project well above and beyond the existing boundary and introduce a considerable mass of two storey development on the boundary.
12. As such, it would be seen at rather close quarters from the rear windows at the neighbouring dwelling and from its rear garden as an unduly tall and imposing structure that would be appreciated as an oppressive and overbearing feature. Consequently, I consider that the proposal would have an unsatisfactory enclosing effect on the garden and rear of the neighbouring dwelling and would give rise to an unacceptable loss of outlook and light for the occupiers there.
13. I therefore conclude on the main issue that the proposal would be harmful to the living conditions of occupiers at 9 Ramshill Road with particular reference to outlook and loss of light. Whilst it has not been demonstrated that the loss of light would be significant, I find for the reasons above, that the appeal scheme would appear overbearing and have a significant enclosing effect and so would

harm the outlook for residents of 9 Ramshill Road, particularly from their rear garden as well as from the habitable rooms at the rear of the property.

14. For the above reasons, the appeal proposal would conflict with Policy DE3 of the Local Plan which, as described above, seeks to ensure that development be designed such that it does not unduly impact on the amenity of neighbouring uses. Furthermore, the proposal would be at odds with paragraph 130 (f) of the National Planning Policy Framework (July 2021) which advises that decisions should ensure that developments provide a high standard of amenity for existing and future users.
15. I acknowledge that no objections from neighbours have been received in respect of the appeal scheme. However, whilst it may be that the proposed development would be acceptable to existing neighbours, this carries little weight in the determination of this appeal as the particular circumstances of occupants of that property will change over time, whereas the development would be permanent.

Conclusion

16. In light of the above, I conclude that the appeal scheme conflicts with the policies and provisions of the development plan. There do not appear to be material considerations put forward by the Appellant that would lead me to reach a determination other than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR