



Appeal Decision

Site visit made on 3 November 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2021

Appeal Ref: APP/X1165/D/21/3278265

Capel, Summer Lane, Brixham TQ5 0DL

- 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 Ms Barbara Thomson against the decision of Torbay Council.
 - The application Ref P/2021/0411, dated 16 March 2021, was refused by notice dated 28 May 2021.
 - The development proposed is increase in ridge height, dormer roof extension to rear, French door and Juliette balcony to side.
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Decision

1. The appeal is allowed and planning permission is granted for increase in ridge height, dormer roof extension to rear, French door and Juliette balcony to side at Capel, Summer Lane, Brixham TQ5 0DL in accordance with the terms of the application, Ref: P/2021/0411, dated 16 March 2021, 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: 1542-20-001, 1542-20-020A, 1542-20-021A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no rooflights or dormer windows shall be constructed within the north east roofslope of the dwelling.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and,
 - the living conditions of the occupants of 1 Laywell Close, with particular regard to outlook, sunlight and privacy.

Reasons

Character and appearance

3. Capel is a bungalow at the corner of Summer Lane and Laywell Close. Dormers are not a characteristic of the bungalows here. However, the proposed dormer

would be of modest scale and set well back from the gable of Capel which faces Laywell Close. Given also the intervening greenery within Capel's garden, the dormer would have little public profile. It would not, therefore, unbalance the public composition of Capel nor harmfully impose itself upon the street scene.

4. Capel has a somewhat aloof presence within Laywell Close, as it is orientated differently and is set further back from the highway than the other bungalows, on higher land. For these reasons, the proposed raising of its ridge line would do little to alter its already divergent appearance. As each case must be assessed on its own merits, the scheme should not necessarily be considered to set any form of precedent for similar works within Laywell Close.
5. I therefore conclude that the proposal would have an acceptable effect on the character and appearance of the area. It would accord in this regard with Policies DE1 and DE5 of the Torbay Local Plan 2012-2030 (adopted 2015) (TLP), Policies BH5 and BH6 of the Brixham Peninsula Neighbourhood Plan 2012-2030 (made 2019) and the National Planning Policy Framework (the Framework).

Living conditions - 1 Laywell Close

6. Capel is near to the side boundary of No 1 and, as was found in relation to a previous appeal¹, No 1 is therefore sensitive to any alterations to Capel's roof profile. However, the dormer would be of modest width and scale and set clearly within the confines of the roofslope. The higher ridge would be relatively set back from the boundary. As such, any loss of outlook would be minimal.
7. Whilst there would likely be a degree of loss of sunlight, this would be confined to a limited period of the day, given the position of Capel to the west of No 1. Considering also the position of the dwellings near enough at right angles, and the height and southward aspect of the proposed Juliette balcony, unacceptable overlooking into the dwelling at No 1 and its rear garden would be avoided.
8. Consequently, I conclude on this issue that the proposal would have an acceptable effect on the living conditions of the occupants of 1 Laywell Close, with particular regard to outlook, sunlight and privacy. It would accord with the relevant aims of Policy DE3 of the TLP and the Framework.

Conditions and Conclusion

9. In addition to the standard time condition, a condition is needed to define the approved plans in the interest of certainty. In order to ensure that the scheme is developed in a manner which reflects the character and appearance of the area, a condition is necessary to ensure that the materials used in the development match the existing bungalow. To prevent unacceptable overlooking towards No 1, it is necessary to preclude the future construction of rooflights and dormer windows within the north east roofslope of Capel.
10. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR

¹ Appeal Ref: APP/X1165/D/20/3263474