



Appeal Decision

Site visit made on 9 December 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2021

Appeal Ref: APP/X1165/D/21/3285627

1 Dolphin Court Road, Paignton TQ3 1AQ

- 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 Nick Burnham against the decision of Torbay Council.
 - The application Ref P/2021/0788, dated 29 June 2021, was refused by notice dated 11 October 2021.
 - The development proposed is a garage and drive improvements.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the host building and area,
 - the effect of the proposal on the living conditions of the occupiers of 3 Dolphin Court Road, in particular with regard to any overbearing and overlooking, and
 - whether or not the scheme would provide satisfactory parking arrangements.

Reasons

Character and appearance

3. Dolphin Court Road, and the surrounding built up area, consists generally of a mix of single and two storey dwellings positioned facing the roads on a fairly steep hillside. There are some extensive views out over the wider settlement area to the sea.
4. 1 Dolphin Court Road is a two storey dwelling, when viewed from the road, and its appearance is fairly typical of the type and design of housing in the surroundings. The frontage is open, with a parking area, reasonably wide steps leading to the front door and with modestly sized areas available for planting. The land slopes down across the plot and the rear garden is lower than the frontage. This has allowed the incorporation of a basement area accessed from the rear. The rear of the building has been extended in the past and now has a three storey form, with an upper floor balcony area.
5. The proposal would add a fairly sizeable addition to the side of the property with a lower floor, storage area accessed from the rear garden. From the

frontage the proposed garage would extend and be angled across the width of the plot on this side of the house and abut the side boundary.

6. The width of the garage door and extension would have a generally horizontal emphasis that would contrast with the more vertical form of the house with its front gable. This somewhat awkward contrasting shape and design, together with the size of the addition with its fairly substantial area of flat roof extending up to the boundary of the site, would draw the eye and would appear as an overly dominant and unsympathetic addition to the dwelling. In this way, even taking into account the non-standard shape of the site, the scheme would result in a visually harmful addition that would not complement the existing design and form of the property. As a consequence, it would detract from the character and appearance of the building and the street scene.
7. Furthermore, the addition of the porch and timber slatted area along the front of the existing dwelling would add further development to the site. Their form, position and appearance would not be features that would contribute positively to an overall coherent design to the front gabled appearance of the property.
8. I accept that in the general area there are many other flat roofed additions to dwellings in the form of extensions and garages, although generally not of the size and extent of the appeal proposal. However, even taking account of the general built surroundings the form, size and appearance of the proposal would not add to the overall quality of the area as required by the National Planning Policy Framework (the Framework).
9. The removal of the various walls and hard surfaces, particularly those along the side of the property, may be a benefit to the occupier of the site. However, even with the soft landscaping proposals, these alterations would provide little visual benefit in public views and would certainly not outweigh the harm that would result from the proposal.
10. The Council also raise concern with the loss of the views through the site to the sea beyond. The appeal site makes a minor contribution to such views across this part of the built-up area and the loss of the glimpsed views through this private land would not be, in itself, a reason to object to the scheme.
11. Discussions have taken place with the Council as to whether an alternative design could be agreed and the appellant has raised concerns with the Council's option of a suggested design and layout. I have noted the practical and visual issues that the appellant has raised. However, that is not the scheme before me and the options for alternatives are matters of little weight when considering the acceptability of the appeal scheme which I have examined on its merits.
12. For the reasons set out above, I conclude that the proposal would cause undue harm to the character and appearance of the host building and area. Consequently, the development would conflict with Policies DE1 and DE5 of the Torbay Local Plan 2012-2030 (the Local Plan), Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 and the Framework which seek, amongst other things, that development strengthens local identity by being in keeping with the surroundings by respecting scale, design, height and density.

Living conditions

13. There is a reasonable degree of mutual overlooking between 1 and 3 Dolphin Court Road. From No 3 there are some views from its side and rear windows, and the upper floor balcony, that enable views towards the side and rear garden areas of No 1. Equally, from No 1 there are views from its side and rear garden areas, side and rear windows and the upper floor balcony towards No 3, including parts of its garden area.
14. The proposed extension would incorporate an external staircase to access the rear of the garage and this would enable views directly towards a rear section of the garden of No 3. However, this would be little different from the existing views, particularly those available from a nearby section of the garden of No 1. Furthermore, the scheme would remove the elevated access route to the side door which presently allows views towards the neighbouring property. As a consequence, the proposal would not have a materially different or adverse effect on the overlooking situation between these two properties.
15. No 3 has a fairly steep driveway that drops down within its plot and this driveway runs adjoining the side boundary of No 1. The driveway of No 3 allows access to the rear of this property, as well as to its side, pedestrian door with a nearby window, which faces the driveway. The proposed extension would incorporate a wall adjoining the side boundary with the driveway. This side wall of the extension would be quite high in places and virtually two storey towards its bottom section. It would be appreciably higher than the present stepped block wall along this boundary.
16. Notwithstanding the lack of objection from neighbouring properties, the combination of the height, position and length of the proposed side wall would result in the provision of a stark and overpowering feature which would be experienced by the occupants of No 3 when they were using their driveway and entering or leaving their side door. As a consequence, this proposed side wall of the extension would result in an overbearing effect and, thereby, would not provide the high standard of amenity for users as required by the Framework.
17. In the light of the above analysis, I conclude that the scheme would not result in an unacceptable level of overlooking but the extension would cause undue harm by reason of its overbearing effect on the living conditions of the occupants of No 3. Accordingly, for this reason the development would not accord with Policy DE3 of the Local Plan and the Framework which seek, notably in this respect, that development should not unduly impact upon the amenity of neighbouring and surrounding uses.

Parking arrangements

18. The frontage area to the dwelling provides one, possibly two, car parking spaces depending on the size of the vehicles. However, the slope of the hardstanding and width of the dropped kerb makes the arrangement quite inconvenient for users. The proposed layout would enable a decent sized garage space for a vehicle(s), parking in front of the garage and an additional space in front of the dwelling. While the spaces in front of the garage may not be to the required depth they would still be useable for some vehicles and provide an access to the garage. Together with the arrangement and size of the other spaces, the scheme would provide an modest improvement compared

with the existing situation and allow more vehicles to be parked off the highway.

19. The frontage already has areas of hardstanding, including the steps, and the alternative layout would not be materially different in its visual effect. The widening of the dropped kerb would reduce to a small extent the ability to park by the side of the carriageway. However, this would be a minor effect and the reduction in parking available within the road in front of No 1 would not materially affect the ability of residents generally to park their vehicles.
20. The reason for refusal identifies a lack of an electric vehicle charging point as an issue, however, this could be addressed by a planning condition in any approval.
21. Accordingly, I conclude that the scheme would provide satisfactory parking arrangements and there would be no substantive conflict with Policies TA2 and TA3 and the guideline requirements in Appendix F of the Local Plan and the Framework which seek, amongst other things, to require appropriate car parking spaces in all new development.

Conclusion

22. The scheme would harm the character and appearance of the host building and area, and would harm the living conditions of the occupants of the adjoining property. I attribute this combined harm substantial weight. The parking changes could provide a modest improvement, but given the extent, this benefit would afford no more than limited weight in support of the scheme. It follows that the harm which would result from the development would not be outweighed by any benefits of the proposal.
23. For the reasons given above, the harm that would be caused by the development would be such that the proposal would not comply with the development plan when considered as a whole. There are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR