



Appeal Decision

Site visit made on 18 January 2022

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

an Inspector appointed by the Secretary of State

Decision date: 21 January 2022

Appeal Ref: APP/X1165/D/21/3281900

2 Elba Close, Paignton TQ4 7LW

- 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 Richard Smart against the decision of Torbay Council.
 - The application Ref P/2020/1304, dated 10 December 2020, was refused by notice dated 29 July 2021.
 - The development proposed is a detached single storey annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding area,
 - The effect of the proposed development on the living conditions of future occupants and on the living conditions of residents at 5 Goodrington Road; and,
 - The effect of the proposed development on highway safety.

Reasons

Character and Appearance

3. The appeal site is located within a residential area. The appeal proposal seeks to construct a detached single storey annexe in the rear external amenity area at the host property. The host dwelling is a split level detached building which provides parking to the front within Elba Close and with a pedestrian access onto Castor Lane.
4. Policy DE1 of the Torbay Local Plan (December 2015) (the Local Plan) concerns design and provides that development should be well-designed, respecting and enhancing Torbay's special qualities and further specifies the design considerations proposed development should comply with in respect of function, visual appeal and quality of public space.
5. Residential properties within the immediate surrounding area are, in part, characterised by well-proportioned external amenity areas. From the evidence before me and on observations made on my visit, it is apparent that the proposed annexe would occupy a substantial and significant portion of the

existing external amenity space to the rear of the host dwelling and, in my view, there would be insufficient space within the existing external amenity area to accommodate the appeal proposal without appearing cramped within its plot.

6. Whilst the proposed annexe would be of a modest scale, the appeal proposal would significantly reduce the amount of external space at the appeal property, and which, as a result of the proposed development, would not reflect or respect the more spacious garden areas within the locality. Given the amount of space that is available at the appeal site, the development would appear cramped in the context of the more spacious forms of development found within the surrounding area.
7. The harmful impact of the development on the character and appearance of the surrounding area would be particularly apparent given the changing ground levels at this location, resulting in a development which would be prominent in views from Goodrington Road. Whilst additional planting may assist in reducing the harmful impact described above, the proposal would remain visible from the public realm. The proposed additional planting would also have an adverse impact with regards to highway safety as described in the main issue below.
8. For the above reasons, the appeal scheme would harm the character and appearance of the surrounding area and thereby conflict with Policy DE1 of the Local Plan which seeks, amongst other things, that development integrates with the existing street scene and positively enhances the built environment.

Living Conditions

9. Policy DE3 of 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, outlook for neighbouring properties.
10. As noted above, the appeal proposal would occupy a substantial and significant portion of the external amenity area which serves the host dwelling. In this respect, the proposed development would result in there being only a very limited amount of usable external amenity space for future residents. Whilst I acknowledge that the space would be shared between the occupants of the proposed annexe and the host dwelling, in my view the resulting amount of external space would be insufficient to serve the needs of future residents.
11. The proposed development would be positioned abutting the shared boundary with 5 Goodrington Road. However, given the changes in land levels and by reason of the modest scale and height of the proposed annexe, I do not find that the appeal proposal would have a significant adverse effect on the living conditions of residents of that neighbouring property by reason of overbearing impact or loss of outlook.
12. Notwithstanding the above conclusion with regards to the effect on the living conditions for residents at 5 Goodrington Road, for the above reasons the appeal scheme would conflict with Policy DE3 of the Local Plan with regards to the provision of a good level of amenity for existing and future occupants. Furthermore, the proposal would conflict with those parts of Policy H1 of the Local Plan which concerns the creation of high quality living environments to include the protection of the amenity of all residents.

13. It is noted that the Council's decision notice and Planning Officer's report cite conflict with paragraphs 9, 17 and 57 of the National Planning Policy Framework. Having considered the submissions in this appeal, it appears that the Council have referred to paragraphs which were included within the 2012 version of the National Planning Policy Framework, and which have since been superseded. Nonetheless, paragraph 130 of the National Planning Policy Framework 2021 (the Framework) requires development to provide a high standard of amenity for existing and future users and, for the reasons given above, I find that the proposal would fail to accord with this provision of the Framework.

Highway Safety

14. Amongst other matters, Policy TA2 of the Local Plan confirms that development will be supported where it provides vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility. Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces.
15. The appeal scheme would provide a parking space and would introduce a new point of access for vehicles onto Castor Lane. The proposed point of access would be located on Castor Lane at the point where there is a junction with Goodrington Road. Whilst it has been put to me by the Appellant that Castor Lane only has a low, limited number of traffic movements, as I observed on my visit this lane serves a large number of holiday lodges which, whilst not appearing to generate a significant amount of vehicle movements as of the date of my visit, it is likely that the lane would be used more intensively during holiday periods.
16. Notwithstanding the above, the proposed point of access would be adjacent to the junction between Castor Lane and Goodrington Road, and by reason of that proximity to the junction, the proposed point of access would be located where there would be increased and significant potential for conflict between vehicles exiting the site and vehicles turning left into Castor Lane from Goodrington Road.
17. The proposed additional planting described above would be likely to further reduce visibility for vehicles exiting the site. Furthermore, given that no turning space within the site is provided, vehicles using the proposed point of access would be required either to enter or exit the site in reverse gear at a point adjacent to a road junction. By reason of the combination of the above factors, in my view the appeal scheme would not provide vehicular access to a safe standard and consequently would conflict with the provisions and aims of Policy TA2 of the Local Plan. For the same reasons, the proposal would fail to accord with paragraphs 110 and 111 of the Framework.
18. Whilst it is noted that the Council's decision notice refers to the proposed development's conflict with Policy TA3, the proposal would provide separate parking space from the host dwelling and would not result in the net loss of parking spaces overall. Consequently, I find no conflict with Policy TA3 of the Local Plan.

Other Matters

19. 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.
20. For the above reasons, the proposed development would conflict with the policies of the development plan when taken as a whole, and I attach significant weight to that conflict in the determination of this appeal. Weighed against that conflict, the proposed annexe would provide social benefits associated with the provision of additional accommodation and would provide economic benefits in terms of employment opportunities during construction. Nonetheless, the benefits of the scheme would be limited by reason of the scale of development and would not, in my view, outweigh the harm and resulting conflict with the policies of the development plan as described above.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR