



Appeal Decision

Site visit made on 4 April 2022

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/X1165/W/21/3287455

Land to the rear of 147 Fore Street, Watcombe, Torquay, Devon, TQ2 8DN.

- 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 Stuart Vass against the decision of Torbay Council.
 - The application ref. P/2021/0295, dated 11/3/21, was refused by notice dated 21/6/21.
 - The development proposed is a single-storey dwelling with off-road parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is adjacent to the Barton Conservation Area (BCA) and Nos. 141-147 Fore Street. These houses are identified within the Council's Barton Conservation Area Character Appraisal (2005) as key buildings of architectural importance or which make a significant contribution to the townscape.
3. The Council is unable to demonstrate a five year housing land supply. The 'tilted balance' set out within the National Planning Policy Framework (the Framework) is engaged.
4. A previous appeal for a bungalow on the appeal site was dismissed in 2019 (ref. APP/X1165/W/18/3211501).

Main Issue

5. The main issue is whether any adverse impacts of the proposal, having particular regard to the effects upon: the character and appearance of the area, including the settings of the BCA and Nos. 141-147 Fore Street; the living conditions of the occupiers of Nos. 145, 147 and 149 Fore Street, with particular regard to outlook and; car parking and bin storage facilities, would significantly and demonstrably outweigh the benefits.

Reasons

Planning Policy

6. The development plan includes the Torbay Local Plan 2012-2030 (LP) and the Torquay Neighbourhood Plan (NP). The most important development plan policies to the determination of this appeal are LP policies H1 (new homes), DE1 (design), DE3 (amenity), SS10 (historic environment), TA3 (vehicle parking), W1 (waste) and NP policies TH8 (design) and TH9 (parking facilities).

Benefits

7. The proposed development would increase the choice and supply of housing within Torbay and help to address the shortfall in supply. Whilst the proposal is for a single dwelling, it is an important Government objective that adequate

land is made available for housing in order to meet the housing requirements of the community. The proposal would also entail the more efficient use of urban land for housing. It would accord with the thrust of LP policy H1. In addition, the proposal would provide some very limited support to the construction industry and increase Council Tax receipts.

Character and Appearance

8. This 0.02 ha site lies to the rear (east) of the row of houses at Nos. 141-147 Fore Street. I understand that the site was previously part of the rear garden to No. 147 and there are neighbouring garden spaces on either side (north and south). The site includes several domestic style sheds and sits below the level of Wesley Close, which runs to the east. Two outbuildings to neighbouring houses abut the western boundary of the site.
9. The appeal site lies within a residential area that contains dwellings of various types, sizes, ages and styles. The terrace at 141-147 Fore Street is a pleasing example of mid-19th century housing. Whilst, over time, various alterations have been undertaken, this row adds to the architectural interest of the BCA. It is also a record of the pattern of growth and development within this part of Torquay during the 19th century. The gardens at the rear of this terrace, including the appeal site, provide a pleasing sense of space within this residential area and to the settings of the BCA and this mid-19th century row.
10. The proposed single storey, one bedroom dwelling would be approximately 11.5 metres long x 5.5 metres wide and would include the removal of the existing sheds on the site. This new building would be much smaller and considerably lower in height than the neighbouring houses. A separate cycle store would be constructed near the boundary with Wesley Close with bin storage alongside. The proposed off-road parking spaces would be on a strip of land about 40 metres to the north of the main body of the site and currently used as bin storage for Wesley Court. This element of the proposals would not have any significant impact upon the character or appearance of the area.
11. The new dwelling would occupy virtually the full width of the plot and a sizeable part of the space at the rear of 147 Fore Street. Whilst some space would be retained between the eastern elevation of the proposed dwelling and Wesley Close, this new house and store would erode the pleasing sense of space at the rear of Nos. 141-147 Fore Street. The proposed dwelling would appear as a rather cramped and awkward addition to the rear of this terrace of attractive houses. I agree with the Council, that when viewed to the south of 141 Fore Street and from Wesley Close, the proposal would comprise an incongruous addition within this area of garden space.
12. The proposed dwelling would detract from the setting of the key buildings at 141-147 Fore Street and the contribution they make to the special architectural and historic interest of the BCA. It would have an adverse effect upon the character and appearance of the area and conflict with the provisions of development plan policies DE1, SS10 and TH8.
13. Given the housing land supply situation, the development, if approved, could also result in applications for similar proposals in neighbouring gardens. Whilst my decision does not turn on this matter, the Council would have difficulty resisting applications that could result in further (cumulative) harm to the setting of 141-147 Fore Street and the character and appearance of the area.

Living Conditions

14. The proposed dwelling would be built in close proximity to Nos. 145, 147 and 149 Fore Street. However, it would be set back an adequate distance from No.145 so as not to result in any overbearing impact for the occupiers of this neighbouring house. Whilst the proposal would alter the outlook from No.149, this existing detached dwelling is set in a generous sized plot and where the outlook from habitable rooms would remain largely uninterrupted.
15. The situation would be different for the occupiers of No.147 Fore Street. The proposal would be closer to habitable windows in this neighbouring dwelling than it would be to no.145, and unlike no.149, the outlook from no. 147 is already more constrained. Whilst the proposal would be single storey in height, the mass of the western roof slope of this new dwelling would extend almost across the full width of the appeal site. It would also project considerably above the height of the existing boundary fence.
16. The siting and mass of the proposed dwelling would intrude into the outlook from windows to the eastern facing rooms in no.147 and detract from the living conditions of the occupiers of this neighbouring house. This would conflict with the provisions of LP policy DE3.

Car Parking and Bin Storage

17. I note the findings of the previous Inspector regarding the demand for parking in the area and the narrow nature of some sections of the local highway network. I also note the Inspector's comment that "*The appeal site does not include any provision for car parking spaces.*" This is materially different to what is now before me. The appellant has now formally identified a strip of land for off-road parking, served relevant notice on the landowner and included this land within the 'red line' site area as part of this revised scheme/appeal.
18. The location of the proposed car parking spaces are not so remote from the main body of the appeal site or inconveniently sited as to be likely to deter the intended use by occupiers of the proposed dwelling. Any deficiencies in the size of these spaces when considered against the Council's technical standards would not be so significant as to justify withholding permission. These parking spaces could also be secured by way of a suitably worded planning condition.
19. The proposed parking arrangement would be likely to ensure that there was no significant interruption to the free-flow of traffic along the local road network or serious risk to highway safety interests. From what I saw during my visit, there also appears to be other space available at Wesley Court in which to relocate the displaced bin/waste storage facility.
20. The proposal would be unlikely to have any adverse effects upon car parking (free-flow of traffic and highway safety) or bin storage. There would be no conflict with the provisions of development plan policies TA3, TH9 or W1.

Other Matters

21. I understand that the previous application/appeal was accompanied by an ecological appraisal which confirmed that nature conservation interests would not be harmed. I note that this matter did not form part of the previous reasons for refusal. Whilst circumstances could have changed since 2019, it would be very surprising if this appeal site was to now be of some nature

conservation/biodiversity interest. There is nothing of substance before me to indicate any change in circumstances. In this instance, the absence of a preliminary ecological appraisal or equivalent would not be sufficient grounds for withholding permission.

22. I note the Council's concerns regarding the adequacy of the flood risk assessment and the potential for the development to disrupt an underground stream within the vicinity of the site. I also note the comments made by some interested parties in respect of underground wells and flooding, as well as the water company's comment that two public sewers pass through the site.
23. The application was accompanied by a revised Drainage Report/Statement & Flood Risk Assessment. Amongst other things, this found no evidence of any underground stream. Whilst it is possible that an underground stream does exist, the Council has not provided any cogent evidence to demonstrate this or to substantiate its concern that the proposal would increase the risk of flooding. In respect of the sewers, the water company has advised that the appellant would need to pay for the cost of diverting these if a 3 metre easement either side could not be secured. None of these matters are sufficient grounds to justify withholding permission.

Overall Conclusion

24. Given all of the above, I find that the adverse effects upon the character and appearance of the area and the living conditions (outlook) of the occupiers of No. 147 Fore Street significantly and demonstrably outweigh the benefits. The appeal should not therefore succeed.

Neil Pope

Inspector