



Appeal Decision

Site visit made on 10 May 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 7 June 2022

Appeal Ref: APP/X1165/W/22/3290065

60 Thurlow Road, Torquay TQ1 3EG

- 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 Adrian Sykes, Skye Property Group Limited, against the decision of Torbay Council.
 - The application Ref 2021/0967, dated 21 August 2021, was refused by notice dated 18 November 2021.
 - The development proposed is formation of a single dwelling within the rear gardens at 60 Thurlow Road, Torquay, TQ1 3EG
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the appeal form as this more accurately describes the appeal proposal. This description is also shown on the Council's decision notice. My use of it does not fundamentally change the scheme before me, or the cases of either main party in relation thereto.
3. The Council refer to the appeal scheme providing two off street parking spaces. The design and access statement sets out that a second space was provided as part of an earlier planning application. For clarity however, the submitted plans show one parking space to be provided. I have determined the appeal on this basis.

Main Issues

4. There are three main issues. These are the effect of the proposed development on a) the character and appearance of the area; b) highway safety with specific regard to access and parking provision; and c) whether the proposed development would provide satisfactory living conditions for future occupiers with specific regard to external garden space.

Reasons

Character and Appearance

5. The appeal site is an irregular shaped and largely overgrown area of land between the rear of dwellings facing Thurlow Road and Upton Hill. It is sat on a visually prominent slope with a steep gradient, running downhill towards Upton Hill. The immediate area is characterised by conventional and mostly two storey terraced housing to the frontage of plots, in single tier depth abutting the back edge of the footway. The siting, design and scale of which lends a

structured homogeneity to the area, contributing positively to its character and appearance.

6. As a contextually small, detached and flat roofed building, the appeal scheme would noticeably jar with surrounding built form, running against the established urban grain. Its elevated position, particularly in the Upton Hill streetscene, would make these effects obvious and consequently incongruous, sitting as it would as a back land plot, without a discernible street frontage.
7. Screening and the incorporation of a green roof would assist in mitigating the visual impact of the proposal, particularly when viewed from Upton Hill and Lower Shirburn Road. However, it would be seasonal and take time to become established. In any case, reduced obviousness in the public realm would not make up for the inappropriateness of the proposed development's size, design and siting. In addition, and irrespective of whether the existing site has a 'negative' impact, what is proposed in its place would be harmful to the character and appearance of the area for the reasons I have given.
8. The proposal would therefore be contrary to Policy DE1 of the Torbay Local Plan 2012-2030 (Local Plan) (adopted 2015) and Policy TH8 of the Torquay Neighbourhood Plan (NP) (adopted 2019) which, amongst other things, seek to ensure development integrates with the existing street scene and be generally well designed and relate to the surrounding built environment in terms of scale, height, and massing. The proposal would also be contrary to the principles within Chapter 12 of the National Planning Policy Framework (the Framework) which seek good design sympathetic to the local area, in particular with paragraph 134 which supports the refusal of development that is not well designed.

Highway Safety

9. Since the proposal is for a single bedroom dwelling and it would be located close to the town centre, one parking space would be sufficient having regard to the requirements of appendix F of the Local Plan. However, the steepness of the driveway concerns me. It would slope downhill at the side of and run a full floor lower than the front of No 60. The Council's 'Highways Development Control: Standing Advice for Minor Development Applications' states that the maximum gradient of any driveway should ideally be 1 in 20 but shall not exceed 1 in 8. The appellant does not appear to dispute the Council's calculation of the proposed driveway gradient being 1 in 4.
10. The steepness of the driveway would not only make vehicular access and egress challenging but also potentially hazardous, with rolling forward or backwards being far more likely and presenting other operational challenges such as holding stationary vehicles. Ability, confidence, and vehicular technology would no doubt play a part in whether such conditions could be safely navigated but such matters cannot be guaranteed. Furthermore, the steepness of the slope would be a potential barrier to some users, most notably the less physically capable, disabled residents and people with children. The fact that part of the access is already in use for vehicles does little to suitably allay my concerns and allow me to agree that it should be used to serve future development.
11. With this in mind, future occupiers are more likely to park on the street. Thurlow Road has on street parking available on both sides, which reduces the

usable carriageway to a single lane. Whilst a snapshot in time, I observed parking on both sides of the road at my visit. There was limited additional capacity. Some vehicles, to maximise the usable width in the carriageway, had parked partly on the footway, which inhibits the free flow of pedestrians. Adding to this problem, even at a limited capacity given the scale of the proposal, would impinge on the free flow of traffic and pedestrians to the detriment of highway safety.

12. The proposal would therefore be contrary to Policies TA2 and TA3 of the Local Plan which requires development to provide vehicular access to a safe standard, to provide for safe turning and manoeuvring of vehicles within the site and to provide an appropriate provision of car parking. It would also conflict with Policy TH9 of the NP, which requires development to provide sufficient on-site parking in accordance with adopted parking standards. Paragraph 111 of the Framework supports the refusal of development where there would be an unacceptable impact on highway safety.
13. The Council refer to paragraph 108 of the Framework in the refusal reason on highway matters. However, this is related to maximum parking standards, which would not be directly relevant to this main issue.

Living Conditions

14. The proposal would provide small areas of garden space around all sides of the proposed dwelling. Whilst this piecemeal arrangement would not be ideal, there are areas which would be large enough to provide sufficient and usable external garden space for future occupiers. Furthermore, whilst Policy DE3 of the Local Plan requires 55 square metres of external amenity space as a guideline, this remains as a guide and there is no policy requirement for this to be provided in one single area.
15. With this in mind, the proposal would provide satisfactory living conditions for future occupiers, with respect to external garden space. It would therefore be in accordance with Policy DE3 of the Local Plan, the aims of which I have set out. It would also be in accordance with paragraph 130 (f) of the Framework, which states that development should have a high standard of amenity for future users.
16. The Council refer to Policy THW4 of the NP which requires development to provide no less than 20sqm of outside space and must have a garden area with not less than 10sqm of space suitable for growing plants. Whilst they have not referred to this policy in the refusal reason, the proposal would accord with Policy THW4 of the NP for the reasons I have given.

Other Matters

17. Whilst the appellant has discussed the appeal scheme at length with the Council, it is sufficiently clear from my findings that they have not gone far enough for it to be considered acceptable when assessed on its own merits and against the policies of the development plan. Whilst this may have caused some regrettable frustration to the appellant, this is not a matter to which I can ascribe weight in this decision. In addition, there is no scheme for a home office before me. Such would be an incidental or ancillary building which would have a materially different effect to a self-contained dwelling with its own access, independent function and curtilage.

18. The Council is unable to demonstrate a five-year supply of deliverable housing sites. In regard to the specifics of the appeal scheme and its situation, this would take me to the circumstances of paragraph 11 d) ii) of the Framework and where the most important policies would be out of date. I am then required to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The proposed development would give rise to harm in regard to the character and appearance of the area and the safe use of the highway. Whilst the out of datedness of any policies may reduce the weight I may ascribe to conflict with them, planning harm would remain and be unaffected. It would lead to conflict with elements of the Framework, specifically where it recognises that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment, and supports the refusal of development where there would be an unacceptable impact on highway safety. The harms would be significant and long lasting. It would accordingly attract substantial weight.
20. The proposal would make a contribution towards the housing undersupply, as well as having economic benefits in employment during the construction phase and support for local businesses. These benefits would however be limited by the scale of the appeal scheme and time limited. Accordingly, they would attract modest weight. The use of a brownfield site and the incorporation of energy efficiency measures would be beneficial but attract limited weight on their own and the fact that the appeal site would be well served by public transport, and close to employment opportunities and services would be a lack of harm in reducing the need to travel rather than a benefit. They would, in essence, likely have to be the case for the development to be acceptable in principle.
21. With the above in mind, it is sufficiently clear that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.

Conclusion

22. I have found in favour of the appellant in regard to the third main issue, but this would not make up for the appeal scheme's shortcomings in regard to the first and second. They would lead to conflict with the development plan and there are no material considerations, including the approach of the Framework and worthy of sufficient weight, that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR