

Appeal Decision

Site visit made on 27 October 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/X1165/W/22/3298229
131, Torquay Road, Paignton TQ3 2SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr David Watts against the decision of Torbay Council.
 - The application Ref P/2021/0968, dated 21 August 2021, was approved on 23 March 2022 and planning permission was granted subject to conditions.
 - The development permitted is replacement of existing flat roof timber porch with large glass windows to side of house with tiled pitched roof to match those of existing garage roof along with changes to the sizing of the fenestration.
 - The condition in dispute is No 01 which states that: Notwithstanding any details indicated on the submitted or approved details, the extension hereby approved shall be formed out of timber, glass and of roof tiles matching those of the existing dwelling unless alternative materials are previously agreed in writing with the Local Planning Authority. The materials shall be retained for the life of the development.
 - The reason given for the condition is: In the interest of visual amenity and in accordance with Policies SS10, DE1, DE3 and DE5 of the Adopted Torbay Local Plan 2012-2030 (adopted 2015) and policies PNP1 (c) and PNP1 (d) of the Paignton Neighbourhood Plan 2012- 2030 (adopted 2019).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect that removing the condition would have on the character and appearance of the area, including the significance of designated heritage assets directly adjacent.

Reasons

3. The site is located within the setting of Polsham Conservation Area and the Grade II listed buildings of 4, 6 and 8 Higher Polsham Road, which are designated heritage assets. Among other things, these designated heritage assets derive some of their significance from the presence of original timber detailing.
4. Paragraph 195 of the National Planning Policy Framework sets out that decision makers should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset).

5. Paragraph 200 of the National Planning Policy Framework also sets out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
6. As such, whilst the site may be outside of Polsham Conservation Area, and notwithstanding administrative ward boundaries within the locality, the site's position within the setting of designated heritage assets is an important consideration.
7. The site in its current configuration comprises predominantly glass and timber entrance porch located to the side of the two storey dwelling¹. Consequently, the materials are consistent with and make a positive contribution to the character and appearance of the area, and the significance of the designated heritage assets. Removing the condition would mean that the proposal could come forward with inconsistent materials, and this would be harmful.
8. Whilst the Council note that replacing the existing flat roof with a pitched roof would be an improvement with respect the existing building in and of itself, there is no evidence that it should be regarded as enhancing the character and appearance of the area or significance of the designated heritage assets to the degree that harm derived from the loss of consistent materials would be overcome.
9. I acknowledge the appellant's contention that there are examples of other dwellings within the vicinity that use forms of construction other than timber, however the site in this case is in particularly close proximity to designated heritage assets, which are directly adjacent. Consequently, there is an inextricable visual link, and the extent of potential effects is more pronounced.
10. Overall, the effect of removing the condition would mean that the proposal would harm the character and appearance of the area, including the significance of designated heritage assets directly adjacent. Consequently, there would be conflict with Policies DE1, DE5 and SS10 of the Torbay Local Plan 2015 and Policy PNP1 (c) of the Paignton Neighbourhood Plan 2019.
11. Among other things, these policies reflect the statutory duties set out within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. It is something I have given considerable importance and weight in my decision.
12. Paragraph 199 of the National Planning Policy Framework is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

¹ notwithstanding some elements of uPVC elsewhere or, among other things, planning permission for uPVC dormer windows, evidence of which has not been provided in any event.

13. Due to its limited scale, any harm derived from the proposal would be less than substantial rather than substantial. Paragraph 202 of the National Planning Policy Framework sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
14. On the basis of my foregoing assessment, including the extent of possible enhancements, there are no public benefits associated with the proposal that would outweigh the identified harm. Consequently, this test is not passed, and there are no material considerations with which to take a decision otherwise than in accordance with the development plan.

Other Matters

15. Whilst I appreciate the appellant's contentions around high winds and salt water corrosion, and the availability of materials, there is no objective evidence presented that would enable me to draw such conclusions.
16. Similarly, there is limited evidence submitted about the potential for alternative finishes and styles in order to determine the potential effects and factor into my assessment on the main issue.
17. Dealings with the Council and their planning officers will have been conducted in good faith, without prejudice to any decision, and it is not for me to comment on any communications the parties have had prior to the appeal.

Conclusion

18. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR