



Appeal Decision

Site visit made on 1 November 2022

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2022

Appeal Ref: APP/X1165/W/22/3299047

62 South Furzeham Road, Berry Head With Furzeham, Brixham TQ5 8JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr & Mrs S Francis against Torbay Council.
 - The application Ref P/2021/1230, is dated 5 November 2021.
 - The development proposed is described as "Re-work existing interior layout, single storey side and rear extension in addition to roof conversion. Re-work existing rear dormers, with additional front and rear dormers and associated landscaping."
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr & Mrs Francis against Torbay Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant lodged an appeal against non-determination after the expiry of the statutory period without the Local Planning Authority (LPA) having issued a decision. The LPA has not submitted an appeal statement. However, correspondence where the LPA has outlined the basis of its objections and put forward some putative concerns has been provided. The appellant has had regard to this, and I have taken this into consideration in forming the main issues.
4. The plans submitted with the planning application have formed the basis of my consideration of the appeal. However, the appellant has submitted amended plans references: SFB 15 rev2, SFB 17 rev2 and SFB19 rev2, which amend the proposals with regard to the driveway.
5. I am mindful that the appeal process should not be used as a means to progress alternatives to a scheme. However, where amendments are proposed, regard should be had to the 'Wheatcroft' principles, including whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the change proposed would be deprived of that opportunity.
6. In this case, the amendments would slightly alter the position of the wall of the dwelling next to the parking area by moving it back to provide deeper parking bays. The door to the bin store is also changed. In my view, the amendments would not materially alter the proposal. As such, I see no material conflict with

the Wheatcroft principles. Additionally, interested parties have had opportunity to comment on the appeal. Accordingly, I have taken the amended plans into consideration.

Main Issues

7. The main issues are the effect upon (i) the character and appearance of the area including Brixham Town Conservation Area (CA); (ii) the living conditions of the occupiers of the neighbouring properties, with particular regard to privacy and outlook; and (iii) highway safety, with particular regard to parking provision.

Reasons

Character and appearance

8. Brixham Town CA encompasses the historic distinct settlements of Higher Brixham, the historic manorial centre and site of the parish church, and the lower part, the Quay or more recently Brixham Town. The CA is partly characterised by the interlocking narrow winding streets. Its significance in so far as it relates to this scheme includes the prevalent and prominence of the more traditional properties in the street scene.
9. South Furzeham Road is a residential street at the edge of the CA containing a mix of houses of varying styles. There are detached traditional houses to either side of the appeal site and more modern terraced housing lies on the opposite side of the road outside the CA. Whilst there is twentieth century housing alongside the road, the scale and detailing of the traditional buildings mean they are more prominent in the street scene, and it is those buildings that contribute strongly to the character and significance of the area.
10. The appeal property as viewed from the street is a modest unadorned dwelling with an innocuous presence. In this way it does not contribute to the significance of the area. As a result, and due to its materials and proportions, it is subdued, has a neutral impact within the street and does not detract from the traditional building vernacular of the CA. In contrast the proposal would introduce a much more elaborate elevation to the street, with a wide palette of materials contributing to a fussy form, a flat roof element projecting forward of the principal elevation, an increase in the wall height of the dwelling to provide an unfamiliar eaves level, and the introduction of three roof dormers with fully glazed gables.
11. These would be noticeable changes and would present a rather conspicuous design that would fail to assimilate with the existing buildings within its setting. It would be at odds with the appearance of development in the street, draw the eye and would sit uncomfortably with the traditional character and appearance of buildings. Thus, it would erode the historic character and appearance of the CA, detracting from the dominance of the historic buildings and causing harm to its significance.
12. The appellant has referred to examples of a variety of building styles and materials in the area. Many of these are older developments and whilst they demonstrate a mix of architectural vernacular, in the absence of further details, the other examples referred to are not directly comparable with the appeal proposal in terms of the effect on the character and appearance and thereby the significance of the CA. I have considered this appeal proposal on its own

merits and these examples do not deflect from my concerns relating to the appeal scheme.

13. I have had regard to the appellant's suggestion that materials and detailing of the proposal could be changed. However, this is not the proposal before me, and I do not have plans and details to show this would overcome my concerns.
14. The harm to the CA identified above would be less than substantial. The National Planning Policy Framework (the Framework) makes clear in paragraph 202 that where a 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. I return to this in the overall planning balance.
15. I conclude that the proposal fails to preserve the character and appearance of the area including the Brixham Town CA. Accordingly, there would be conflict with policies SS10, DE1 and DE5 of the Torbay Local Plan (the LP), policies BH5, BH6 and BE1 of the Brixham Peninsula Neighbourhood Plan (the NP), which together seek to ensure that new development is well designed and conserves heritage assets and the historic character of an area.

Living conditions

16. The proposed external terrace because of its elevation and proximity to the side boundaries would bring a presence of people much closer and at an elevated position in relation to both Albina Villa and Furzeham House. Although there are already two large windows with Juliet balconies at first floor level and two box dormers in the roof at second floor level, the terrace would lie closer to the boundaries with the side neighbours and would give rise to a greater degree of overlooking, both actual and perceived, over the rear gardens of these neighbours. Given the relative height and proximity of the proposed terrace, having regard to the evidence available, I am not persuaded that privacy screens to either end of it or alterations to the existing boundary treatments, including planting, would satisfactorily address this concern. As such, the proposal would unacceptably harm the living conditions of the occupiers of Albina Villa and Furzeham House in terms of privacy.
17. Notwithstanding that, the closeness of dwellings and the steepness of the slope means there is already some overlooking of the neighbouring occupiers of dwellings on Church Street. The proximity of the bank at the rear of those properties and between the appeal site restricts overlooking to an extent and the general outlook from the proposal would be over the roofs of those properties. Furthermore, given the arrangement of buildings and position of the appeal site to the rear of those dwellings, the proposal would not cause any harmful impact on the outlook enjoyed by the occupiers.
18. Albina Villa sits in close proximity to the side. Whilst the mass of the dwelling in proximity of Albina Villa would be increased, the side gable is devoid of windows and the position of the proposal to the east means there would be no significant or harmful loss of outlook to the occupiers of Albina Villa.
19. The proposal would extend the dwelling closer to Furzeham House. Although the development would reduce the space between the two dwellings, its extension closer to the neighbour would be single storey and subservient. Furthermore, the main outlook from Furzeham House is to the south where

there are open views across the valley towards other parts of the town. Given this, together with its position relative to the side elevation, there would be no significant or harmful loss of outlook to the occupiers of that neighbouring dwelling.

20. Nevertheless, I conclude that it would have a harmful effect upon the living conditions of the occupiers of Albina Villa and Furzeham House, with particular regard to privacy. The proposal is therefore contrary to the amenity protection aims of Policies DE3 and DE5 of the LP which amongst other things, sets out that development should not unduly impact upon the amenity of neighbouring and surrounding uses. The proposal would also be contrary to paragraph 130 of the Framework which, amongst other things, seeks schemes to create places that promote health and well-being, with a high standard of amenity for existing and future users.

Highway safety

21. I observed a vehicle parked to the front of the dwelling during my site visit, which because of the restricted depth of the parking space was overhanging the pavement and, therefore, narrowing the pathway to a degree.
22. Although the proposed development would result in the loss of the existing garage, the site has good access to facilities and services to serve day to day needs and the proposal would retain two parking spaces at the front of the dwelling. Furthermore, the front wall of the dwelling would be pulled back at the point of the parking spaces to provide deeper parking bays and enable cars to park clear of the pavement. This would likely reduce the potential for pedestrians being forced out into the road with the consequent potential for conflict with vehicles. It would therefore likely bring some benefit to existing levels of highway safety.
23. With regard to this issue, I find that the proposal would result in minor benefits to highway safety, with particular regard to parking provision. As such, the proposal would comply with policies DE3 and TA3 the LP, which amongst other things seeks to resist proposals that result in the loss of parking.

Planning balance

24. The proposal would provide the occupier of the dwelling with extra living accommodation and would improve the thermal efficiency of the dwelling. There is also the potential to incorporate biodiversity enhancement through the provision of in-built swift nest boxes. However, on a development of this scale, these benefits would be limited.
25. There would also be some minor benefit to highway safety through the provision of parking bays that would enable cars to park clear of the pavement. However, given the limited scale of the proposal and the residential nature of the street, this benefit would be of limited scope and weight in the appeal.
26. I attach considerable importance and weight to the harm that would be caused to the Brixham Town CA. As identified above there would also be harm upon the living conditions of the occupiers of Albina Villa and Furzeham House, with particular regard to privacy. The public benefits of the proposal are not of sufficient weight to outweigh that harm and the appeal proposal would fail to comply with the provisions of the Framework with regard to the conservation of designated heritage assets and in seeking schemes to create places that

promote health and well-being, with a high standard of amenity for existing and future users.

Conclusion

27. For the above reasons, the proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding and indicate that the decision should be made otherwise than in accordance with the plan. Therefore, for the reasons given, the appeal should be dismissed and planning permission refused.

J White

INSPECTOR