



Appeal Decision

Site visit made on 29 November 2022

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/X1165/W/22/3302914

35 Polsham Park, Paignton TQ3 2AD

- 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 C Lea against the decision of Torbay Council.
 - The application Ref P/2021/1107, dated 22 September 2021, was refused by notice dated 6 June 2022.
 - The development proposed is for a lodge in the curtilage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development as set out above from the application form as neither party has provided written confirmation that a revised description has been agreed.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance and historic setting of the Polsham Park Conservation Area (Conservation Area); and,
 - The effect of the development on the living conditions of future occupiers, with particular regard to noise and disturbance.

Reasons

Character and appearance

4. Polsham Park Conservation Area (CA) is characterised by its late 19th Century architecture and layout planned by architect G.S. Bridgman. Polsham Park is a tree-lined avenue leading to Victoria Park. The original houses are large in size and significant in their collective value forming a Victorian townscape. The appeal property, in combination with other buildings forming Polsham Park, are identified as key buildings in the CA Character Appraisal 2008.
5. No 35 Polsham Park is a large semi-detached property which appear to be in use as flats. The site is located at the edge of the CA comprising part of a large open gravel drive and parking area serving the flats. The parking area was in use at the time of my site visit and did not appear under-used.

6. The proposed dwelling would be set forward of the front elevation of No 35 in the southern corner of the existing parking area. Whilst it would be partially screened by existing planting and the boundary wall to the park, parts of the building would still be visible from the park, road, and adjacent railway line. Although there have been detached developments to other properties on Polsham Park, the proposed positioning is not characteristic of the historic area.
7. Although the design and materials attempt to replicate architectural features forming part of the character and appearance of the CA, its design as a lodge to the main house in a position terminating the view down the street, does not reflect the established character of the area.
8. In addition, the single-storey dwelling would be significantly smaller in scale than the other houses in close vicinity and occupy a smaller footprint and site area. This would not be in keeping with the large scale of buildings at this end of Polsham Park. As a result, it would adversely affect the significance of these buildings and their contribution to the wider Conservation Area. I conclude on this matter that the proposal would fail to preserve the character or appearance of the CA as a whole. I give great weight to the asset's conservation.
9. Accordingly, the proposal would result in 'less than substantial harm' to the Conservation Area as a designated heritage asset. It is important to note that 'less than substantial harm' does not equate to a less than substantial planning objection. Paragraph 202 of the National Planning Policy Framework (the Framework) requires that 'less than substantial harm' should be weighed against public benefits of the proposal. Whilst I acknowledge the proposal would result in some public benefit, i.e. the provision of a new dwelling house towards the Council's Housing Land Supply, it does not outweigh the 'less than substantial harm' to the Conservation Area as a whole.
10. The proposed development is therefore contrary to Policy SS10 of the Torbay Local Plan, The Plan for Torbay 2012-2030 (LP), Policies PNP1 and PNP 1(c) of the Paignton Neighbourhood Plan 2012-2030, which, amongst other things, seeks to sustain and enhance the historic environment, and ensures development is well-designed and respects and enhances the special qualities and identity of the area. It would also be contrary to the Framework insofar as it seeks to secure well-designed places and the conservation and enhancement of the historic environment.

Living Conditions

11. The dwelling would be positioned immediately adjoining the parking area serving the other residential units forming No 35. There would be little impact upon the occupiers of the existing flats and adequate internal and external space for the dwelling is provided. I recognise the site plan shows a fence would be constructed along the boundary with the car park. However, as a result of noise from the vehicles, and activity from those accessing the other flats across the gravel car park, this would be likely to create a significant amount of noise and disturbance for the occupiers of the appeal proposal. This would include noise and disturbance from vehicle headlights, engines, and doors.
12. The site adjoins a railway line and at the time of my site visit I witnessed two trains passing the site. The dwelling is proposed in very close proximity to the

railway line with its main usable garden area adjoining it. Even with the presence of some tree planting, fencing, and landscaping between the dwelling and railway line, there would be minimal noise attenuation. Passing trains would therefore cause a level of noise and disturbance that would affect future occupants, particularly when using the garden.

13. The appellant contends that it is not unusual for residential development to be located near railway lines and roads/parking areas. However, the combined effect of the train noise and the noise and disturbance from the car parking area would be detrimental to the living conditions of future occupiers.
14. Therefore, the development would not accord with Policy DE3 of the LP which aims to secure a good level of amenity for future residents, or the Framework insofar as it seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

15. Both parties agree that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. I have found above that the proposal would cause harm to the CA with no public benefits outweighing this harm. This is contrary to the policies in Chapter 16 of The Framework that protects such heritage assets. Given footnote 7 to Paragraph 11 d) 1. of The Framework, and the harm I have identified to the asset of particular importance, there is no need for me to carry out the assessment in Paragraph 11. D) ii. in relation to assessing whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. The appellant has referred to a number of other developments in the area, including Albany Court which is opposite the appeal site. Whilst I have limited information in relation to the planning history of these other sites, from the information before me, the appeal proposal is considerably different in terms of its single-storey design and location to the side and forward of its host dwelling. This does not reflect the character of the CA which, in part, relates to the presence of dwellings of a considerable scale following an established building line. As a result, the presence of other development does not lead me to a different conclusion in relation to the impact from the appeal proposal upon the character and appearance of the area and the CA.

Conclusion

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

C Rose

INSPECTOR