



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: 16 February 2023

Appeal Ref: APP/X1165/W/22/3304122

35 Higher Street, Brixham, Devon TQ5 8HL

- 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 Dr David Wilson against the decision of Torbay Council.
 - The application Ref P/2021/1169, dated 4 October 2021, was refused by notice dated 4 July 2022.
 - The development proposed is replacement uPVC windows to front elevation.
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Decision

1. The appeal is allowed and planning permission is granted for replacement uPVC windows to front elevation at 35 Higher Street, Brixham, Devon TQ5 8HL in accordance with the terms of the application, Ref P/2021/1169, dated 4 October 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P2021-1169-5 1:1250 Site Location Plan, BBMS 221.2, P2021-1169-1 Specification.
 - 3) The external colour of the window frames and cladding between the windows shall be dark grey to match the colour of the existing slate roof and thereafter retained as such.

Preliminary Matter

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. However, I have removed reference to those elements that are not acts of development.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the appeal building and Brixham Town Conservation Area (CA) and, on the setting of nearby listed buildings.

Reasons

Character and appearance

4. The appeal property forms a flat within the roof of a three-storey building. The lower levels of the building being known as 4 The Quay. The whole building

forms part of a prominent terrace of properties located within the Brixham Town CA.

5. The CA is characterised by its terraced houses clustered and developed around the harbour and its associated fishing industry. The area is also characterised by its built development that steps up the hillsides forming the valley and by the variety of design of properties and their dormer windows.
6. Whilst the timber windows to the lower floors of the appeal property are recessed and form a design feature of the building, the windows to the dormer are white uPVC and flush. In light of this, and given the slate cladded finish to the dormer, it is of a contrasting appearance to the original front elevation of the appeal building. The appeal property does however make a positive contribution to the area by reason of its design detailing, scale, and prominent position.
7. The Brixham Town Conservation Area Character Appraisal March 2016 (BTCA) acknowledges that dormer windows form part of the built form to the town. It states that within the CA many properties have had their timber windows replaced with uPVC. It also identifies a number of dormer window developments and use of uPVC windows that are particularly damaging to the character of individual properties and to the related street scene. The BTCA does not identify the white uPVC glazed dormer to the appeal property as being harmful.
8. On my site visit I observed that there are widely available close and distant views of the appeal property from surrounding streets, around the harbourside and from the opposite side of the valley.
9. Within the local area there are a variety of window and dormer styles, including the use of white and dark coloured uPVC materials. From the information before me the existing uPVC windows have been in situ since the 1970's. Given the presence of existing uPVC windows, the proposed windows being of a similar profile would neither read as unsympathetic nor visually intrusive additions to the host building or wider area. The dark grey external colouring, set against the slate roof, would ensure that the windows would be less visually prominent and noticeable than the existing white uPVC, particularly when viewed from around the harbourside, across the valley and in association with the nearby listed buildings.
10. Despite being of a different tilt and turn configuration, the design and colour of the windows would sufficiently reflect the form of the existing windows and respect the character and appearance of the host building and the CA. On this basis and given that the replacement windows would be elevated above street level and viewed at a distance, I find that the proposal would enhance the visual appearance of the building and its associated dormer and reduce its prominence. As a result, the need to use timber sash windows is not justified in this instance.
11. Accordingly, and for the above reasons, the appeal proposal would not cause harm to the character and appearance of the appeal building or to the significance of the CA as a designated heritage asset. I have given great weight to the conservation of the heritage asset. The proposal would preserve the character and appearance of the Brixham Town CA as a whole in accordance with Section 72 (1) of the Planning (Listed Building and Conservation Areas)

Act 1990 (1990 Act). I therefore find that the proposal accords with Policies DE1, DE5 and SS10 of the Torbay Local Plan, The Plan for Torbay: 2012 to 2030 and Policies BE1, BH5 and BH6 of the Brixham Peninsula Neighbourhood Plan 2012-2030 (NP). Amongst other aspects, these require development to be of a high-quality design, respect the character and appearance of the area, and sustain and enhance the character and appearance of the CA. The proposal would also be consistent with the provisions in the National Planning Policy Framework (the Framework) in relation to achieving well-designed places and conserving and enhancing the historic environment.

12. I acknowledge that Policy BH6.1 of the NP states, amongst other things, that dormers will only be approved where windows align with those below. However, the proposal is not for a new dormer window but for replacement windows within an existing dormer. In light of this I do not find this part of Policy BH6.1 to be applicable to the proposal.

Setting of Listed Buildings

13. The appeal building is in the centre of a row of Grade II listed buildings forming 1, 2, 3, 5, 6, 7 and 8 The Quay, and close to 76 Middle Street, and Fishmonger Shop and Tourist Information Centre, The Strand. The buildings form a tight-knit urban townscape along The Quay and Middle Street and the buildings rising up the hillside as well as the harbour. This allows the buildings to be appreciated around the harbour, across the valley and from nearby streets. Thereby their significance and special interest is the buildings' relationship to the harbour and nearby streets.
14. Given my findings above that the proposal would enhance the appearance of the appeal building it follows that the setting of nearby listed buildings would not be harmed by the proposal. In this regard the proposal would preserve the setting of these designated heritage assets, in accordance with S66 (1) of the 1990 Act. The proposal therefore accords with Policies DE1 and SS10 of the LP and Policy BH1 of the NP. Amongst other aspects, these require development to respect and enhance the special qualities of buildings of historic interest and sustain and enhance heritage assets.

Conditions

15. I have had regard to the tests in The National Planning Policy Framework and the Planning Practice Guidance in relation to conditions. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty. A condition is also necessary to ensure that the external colour of the windows and any cladding between them are dark grey as detailed in the Design and Access Statement and Heritage Assessment. This is in order to preserve the character and appearance of the appeal property, the CA, and the setting of nearby listed buildings.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

C Rose

INSPECTOR