
Appeal Decision

Site visit made on 21 February 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2023

Appeal Ref: APP/X1165/D/22/3303708

9 Miranda Road, Paignton TQ3 1LE

- 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 Mark Pease against the decision of Torbay Council.
 - The application Ref P/2022/0385, dated 23 March 2022, was refused by notice dated 13 May 2022.
 - The development proposed is described as 'Adding a double garage to the north side of the property facing Southfield Avenue'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, and on highway safety having particular regard to visibility.

Reasons

Character and appearance

3. The appeal site is within an established residential area of Paignton where the sloping landform is an important factor in the street scene. The built form in the immediate vicinity comprises predominantly of single storey or chalet style detached bungalows set within reasonably generous plots. Their mostly low profile hugs the landform. Properties along Southfield Avenue display a regular set back from the road as they follow its winding alignment, with those on the south side being elevated due to the rising land. Low boundary walling to frontages gives an open aspect and feeling of spaciousness. The presence of planting in front gardens combined with street trees has an attractive softening effect. Overall, these factors result in an ordered, spacious, suburban character and appearance.
4. The appeal property is a detached dwelling located on a corner plot at the junction of Miranda Road and Southfield Avenue. Although the building line is less obvious in Miranda Road, the position of no.9 observes a set back with garden space adjacent to both roads. It is noticeably elevated relative to Southfield Avenue, which combined with the corner position gives it prominence in the street scene. Overall, it respects and reinforces the distinctive qualities of the area described above.

5. The proposal would introduce a large, detached garage incorporating a roof top terrace with a 2m high privacy screen facing Southfield Avenue. The structure would be partly set into the rising area of garden presently adjacent to Southfield Avenue. Its proximity and direct presentation onto the road would abruptly interrupt the established building line. Furthermore, its notable height, massing and boxy functional form would harmfully erode the spacious and open qualities of the frontage. As such, rather than responding to its setting, the proposal would have an adverse and discordant impact on the character and appearance of the area. The degree of harm would be exacerbated given its conspicuous location.
6. Although the materials would largely match the host dwelling and the softening presence of nearby planting could provide some mitigation, their effect would not be sufficient to fully address the harm identified. Moreover, given the proximity of the structure to the nearby street tree in Southfield Avenue, I have concerns that its physical presence could hinder the roots and branches of the tree, with likely detrimental consequences for its balanced appearance and overall health. This could hamper the positive contribution the tree makes to the street scene.
7. Therefore, the proposal would fail to be sympathetic to local character and history, including the surrounding built environment and landscape setting as required by paragraph 130c) of the National Planning Policy Framework (the Framework). The Framework goes on to state at paragraph 134 that development which is not well-designed should be refused.
8. My attention is drawn to examples¹ of garages that have been permitted by the Council. However, all those cited are a considerable distance from the appeal site and my observations were that there were no similar developments in the immediate vicinity. Furthermore, most of the examples do not concern a corner plot of similar prominence. Even so, the developments at 32 Broadpark Road and 14 Baymount rather illustrate my concerns regarding the harmful impact that insensitive siting can have on the street scene.
9. The most similar example to the appeal proposal is at 2 Ailescombe Drive, and therefore, I give that most weight. Nevertheless, there are notable differences that distinguish it from the scheme before me as the submitted details do not show a roof terrace and associated privacy screen. Moreover, whilst I have not been provided with all of the details that led to the approval, the plans are dated 2003. Hence, the case appears to have been determined a considerable time ago. It follows that it would not have been assessed against current development plan policies adopted since 2003. Owing to these differences, it attracts limited weight in favour of the proposal.
10. The appellant also highlights that the site is not in the green belt, nor in a conservation area or setting of a listed building. Be that as it may, that does not signify that the local area does not possess qualities worthy of protection. Similarly, the absence of local representations objecting to the scheme does not amount to convincing positive evidence that the proposal is well designed and in keeping with the surroundings, which are requirements of the design policies of the development plan.

¹ Planning references P/2008/0075 2 Eden Vale Road; P/2004/1841 32 Broadpark Road; P/2007/0691 26 Winner Hill Road; P/2003/1286 14 Baymount and P/2003/0410 2 Ailescombe Drive.

11. Accordingly, I find that the proposal would be harmful to the character and appearance of the area contrary to policies DE1 of the adopted Torbay Local Plan 2012-2030 (LP) and PNP1(c) of the Paignton Neighbourhood Plan, made June 2019. Both policies contain design criteria against which to assess the quality of development proposals. Amongst other things, these include that the proposal should relate to the surrounding built environment, integrate with the existing street scene, strengthen local identity and protect treescape.

Highway Safety

12. The proposal would result in a new vehicular crossover from the appeal site to Southfield Avenue at a point close to the junction with Miranda Road. Both roads have a 30mph speed limit. Amongst other things, policies TA1 and TA2 of the LP require such development to improve road safety, minimise conflict between road users and provide vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility. This is consistent with paragraph 110b) of the Framework which stipulates that it should be ensured that development achieves safe and suitable access to the site for all users.
13. The Council refers to highways standing advice stating that if the location of the proposed crossing is closer than 10 metres to a road junction, it would create a serious hazard and should be refused. It further states that vehicles moving onto the highway should have a visibility splay of 43 metres by 2.4 metres to allow for safe access. This is consistent with the stopping sight distance guidance for speeds of traffic at 30mph in Manual for Streets². Paragraph 6.2.1.7 of the LP confirms that it is important that new developments provide a satisfactory standard of access to the wider highway network. For the majority of the network, visibility should accord with national guidance, for example the Manual for Streets and Design Manual for Roads and Bridges.
14. Neither party quantifies the available visibility splay of the proposal but there is no dispute that the recommended visibility splay would not be achieved, nor that the proposal would be within 10m of the junction. Given the solid walls of the garage and proximity to the road, visibility would be constrained for a driver emerging from the garage until well onto the adjacent footway. More so if the vehicle was reversed from the proposed garage.
15. I accept it is likely that vehicles joining Southfield Avenue from Miranda Road would be travelling at speeds lower than 30mph. Furthermore, vehicles emerging from the proposed garage would be likely to be manoeuvred at slow speeds. Although these are factors that could be relevant to establishing a safe visibility splay, there is an absence of substantive evidence to suggest what such an appropriate adjustment to the visibility splay might be, still less that it would be achievable. In these circumstances I have no reasonable basis to set aside the Council's specified approach that visibility should accord with national guidance.
16. In addition, neither party has expressly referred to pedestrian visibility. Given the direct relationship of the garage to the footway, the presence of a street tree that limits available pavement space and the limited visibility of a driver emerging from the proposed garage, it is foreseeable that conflict could arise between these users of the highway to the detriment of pedestrian safety.

² Table 7.1 Derived SSDs for streets

17. Taking these factors together, on the evidence before me I am not satisfied that safe and suitable access would be achieved in this case and consider that the proposal would be likely to result in harm to highway safety.
18. The appellant contends that the proposal would be safer than the existing vehicular access onto Miranda Road at the appeal site, in part due to the comparative gradients. Even if I were to accept the appellant's position in this regard, there is no suggestion that the proposal is intended to substitute the existing access. Rather it would be in addition to it, and so this would not present a sound justification for the proposal.
19. Accordingly, I find the proposal would result in harm to highway safety having regard to visibility which would be contrary to policies TA1 and TA2 of the LP.

Other matters

20. Some benefits would arise from the proposal. These include an increased garage space and a roof terrace for the appellant and future occupants of the appeal property. In addition, some economic benefit would derive from the construction of the proposal, and it may potentially have some consequences for how the property is assessed for Council tax purposes. However, such benefits would be small in extent and therefore, attract limited positive weight.
21. It is drawn to my attention that the Council did not raise an objection in relation to the principle of development, impact of the proposal on the living conditions of nearby residents, ecology or flood risk. Be that as it may, compliance with development plan policies in relation to other relevant planning issues would be an expectation and therefore, these are neutral factors rather than benefits of the proposal.

Conclusion

22. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise³. I have found that the proposal conflicts with the development plan taken as a whole, and there are no other material considerations that would outweigh that finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.