
Appeal Decision

Site visit made on 3 February 2023

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2023

Appeal Ref: APP/X1165/D/22/3309986

2 Leyburn Grove, Torbay, Paignton TQ4 5JH

- 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 Raymond Whitbread against the decision of Torbay Council.
 - The application Ref P/2022/0800, dated 6 July 2022, was refused by notice dated 26 September 2022.
 - The development is formation of off road parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Development has already been carried out, consequently the application was retrospective. I have made my decision on the basis of the plans submitted to the Council and on which planning permission has been sought.

Main Issues

3. The main issues are the effect of the development on:
 - (a) the character and appearance of the area; and
 - (b) highway safety.

Reasons

Character and Appearance

4. The site is located at 2 Leyburn Grove and formerly comprised a front garden area of attractive landscaping with appreciable verticality given the change in levels and terraced formation. Consequently, the extent and vertical nature of the landscaping in conjunction with the site's position within the street means it would have been very prominent, making a positive contribution to the wider street scene.
5. I acknowledge that other front garden areas have been subject to engineering operations to create parking provision, however I agree with the Council's assessment that this is largely confined to dwellings opposite and further along the road without significantly raised gardens and not in such visually prominent positions.

6. Furthermore, it was clear from my site visit that these other garden areas still retained an appreciable degree of landscaping, and any parking provision did not take up a significant proportion of land.
7. The development has significantly eroded the extensive landscaping at the site, replacing it with a hard edged parking area which is very stark in comparison. As such and given the positive contribution that the front garden landscaping would have made, it is clear that the development harms the character and appearance of the area.
8. The appellant has attempted to soften the hard edge of the development through the use of some planting. However, it is clear that this is very limited in scope and effect and does not change the overall perception of the site, which remains prominent and stark in the street scene.
9. Overall, the development harms the character and appearance of the area and conflicts with Policy DE1 of the Torbay Local Plan 2015. Among other things, this policy seeks to ensure development is well-designed, respecting and enhancing Torbay's special qualities.

Highway Safety

10. The Council refused planning permission on the basis that two parking spaces at the site would be of substandard dimensions and would harm highway safety. However, the appellant makes clear that the site would only be used for one parking space.
11. It is not disputed that if used for one parking space it would be of appropriate dimension and would not harm highway safety. The Council did not consider that a planning condition limiting the use of the site for one parking space would make the development acceptable on the basis it would not be enforceable.
12. It is not clear why such a planning condition could not be enforced because parking spaces are generally used on a very frequent day to day basis. It would be difficult for the appellant to conceal the use of two parking spaces at the site and even ad hoc infrequent visits by the Council would reveal a breach of planning condition.
13. Overall, a planning condition could make the development acceptable in relation to highway safety and there is no conflict with Policies TA2 and TA3 or Appendix F of the Torbay Local Plan 2015. Among other things, these secure appropriate parking arrangements for dwellings and minimum dimensions for parking spaces.

Other Matters

14. I appreciate the appellant's contentions that they carried out the development with the best intentions and to the best of their understanding at the time during the pandemic about whether planning permission was required.
15. However, notwithstanding, planning permission was required, and I have made my decision in accordance with the development plan and any other material considerations.

16. I acknowledge the appellant has sought to evolve the development through various applications and my decision relates to the most recent application, which has removed railings and added additional planting.

Conclusion

17. Whilst a planning condition could make the development acceptable in terms of highway safety, there would still be harm in relation to character and appearance and conflict with the development plan as a whole. Consequently, for the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR