



Appeal Decision

Site visit made on 30 January 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/X1165/W/22/3304511

83 North View Road, Berry Head with Furzeham, Brixham TQ5 9TS

- 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 Dr Tricklebank against Torbay Council.
 - The application Ref P/2022/0001, is dated 30 December 2021.
 - The development proposed is described in the application as replacement windows. New single storey extension to rear. Formation of fire escape. New windows & door to rear dormer elevation.
-

Decision

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

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period. The Council raises no objection to the proposal. Third party representation concerns relate to the effect of the proposal's design on the Brixham Town Conservation Area (CA) and living conditions of nearby residents, with particular regard to privacy. The appellant has had the opportunity to comment on these matters and therefore would not be prejudiced by them forming the basis for the main issues.

Main Issues

3. From the evidence before me I consider the main issues are (i) whether the proposed development would preserve or enhance the character or appearance of the CA; and (ii) whether the proposal would provide acceptable living conditions for occupants of 81 North View Road (No 81) with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site is within the CA where there is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the conservation area; and where great weight should be given to the asset's conservation. The CA is characterised by its C17 to C19 buildings and terraces of plain and simple design amongst more detailed and elaborate larger houses. The part of the CA the appeal site sits within contains inharmonious groups of flat roof front and rear dormer extensions where the use of uPVC is a ubiquitous feature of these terraces. The rear elevations tend to remain separated from the adjacent access road which is at a higher level,

and this provides a clear break in built form that helps define the legibility of the terrace's roofscape, adding to the overall quality and importance of this part of the CA.

5. The proposal would include suitable replacement windows and replacement dormer extensions that would be subservient to the roofscape and set in from the sides and eaves lines. Materials and methods of fixing would be consistent with the local character of the area. However, the proposed fire escape door leading to a new terrace with its parapet wall and glass balustrade would introduce features that would erode the separation between the rear roof tops and access road along this part of the terrace. Although there is a similar arrangement nearby, the proposal would nevertheless result in an uncharacteristic and inappropriate projecting roof feature that would be harmful to the setting of the CA.
6. The proposal would cause less than substantial harm to the CA's significance as a designated heritage asset due to the relatively small scale of the development proposed. Having regard to the harm identified as being less than substantial, it is necessary to consider any public benefits of the proposed development. Although there would be limited public benefits where a more functional home may allow the appellant to continue to reside in the area, or where there would be short-term benefits to the local economy during the construction phase, these would not be sufficient to outweigh the harm I have identified above.
7. Therefore, I conclude on this main issue that the proposal would fail to preserve or enhance the character or appearance of the CA. Consequently, the proposal would be in conflict with Policies BH5 and BH6 of the Brixham Peninsula Neighbourhood Plan Policy Document 2019 (BPNP) which amongst other things promote developments that improve local character and avoid inappropriate projecting roof features.

Living conditions

8. Much of the proposed works would make use of existing window openings where there would be no direct overlooking towards the unobscured glazed neighbouring windows of No 81. However, the proposed roof terrace would facilitate the unrestricted use of a space which would be likely to generate an unusually elevated level of activity in very close proximity to neighbouring upper floor windows. Consequently, the proposed terrace would result in an uncomfortable relationship that would harmfully erode existing levels of privacy of neighbouring occupiers. Furthermore, although the conservatory windows of No 81 are obscured glazed, the proposal would allow occupants to look directly down from the terrace towards an adjoining small external and private amenity space, which would harmfully erode the existing levels of privacy provided there.
9. For the above reasons, the proposal would result in unacceptable harm to the living conditions for occupants of No 81 with particular regard to privacy. As such, the proposal would be in conflict with Policy BH6 of the BPNP which in this respect seeks to avoid development that would have a detrimental impact to neighbouring residential amenity.

Conclusion

10. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed, and planning permission is refused.

J Hills

INSPECTOR