



Appeal Decision

Site visit made on 6 March 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2023

Appeal Ref: APP/X1165/W/22/3309776

8 Tor Close, Chelsoton, Paignton TQ4 6LB

- 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 Mrs Carrie Wells against the decision of Torbay Council.
 - The application Ref P/2022/0625, dated 25 May 2022, was refused by notice dated 30 September 2022.
 - The development proposed is described as "side and rear extension to an existing dwelling and the construction of a new dwelling in the adjacent garden".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on (i) the character and appearance of the area; and (ii) living conditions of the occupier of No 7 Tor Close (No 7) with particular regard to outlook and sunlight.

Reasons

Character and appearance

3. The appeal site is on undesignated land within a leafy suburban area. The site and cul-de-sac within which it lies is characterised by detached properties set within generous plots that are identified in the Brixham Peninsula Neighbourhood Development Plan Policy Document 2012-2030 (NDP) (which includes the Broadsands Village Design Statement) as emulating historic architectural layouts found nearby. I note the appellant's reference to some nearby properties that have been extended up to two storeys in height, though their generous plots have allowed for the air of spaciousness between dwellings to be retained in the most part. Furthermore, the presence of trees and vegetation to the side and rear of properties creates a noticeable punctuation in built form adding to the overall quality of the area.
4. The proposed new dwelling would be reflective of the scale, mass, height, proportions, fenestration, roof pitch, design and finished materials of nearby properties. Additionally, appropriate levels of parking, bin and bike storage, internal living and external garden space would be provided for each of the properties. Despite skirting around its ground floor, the subservient and sustainably designed extensions to the host property would improve the functionality of layout without, in itself, harmfully affecting the immediate or surrounding setting.

5. However, despite the proposed new dwelling being detached and within an unusually wide plot, the proposal would nevertheless significantly reduce the punctuation in built form found in the estate. Although the proposed extensions to the host property would provide some separation between properties at the upper floor level, there would still be uncharacteristically narrow gaps when viewed from the street. Additionally, the parking areas would be tightly arranged and, as a result, the proposal as a whole would introduce a proportionally dense and cramped arrangement of additional built frontage that would be uncharacteristic to the area. As such, this would significantly and harmfully disturb the open and spacious qualities of generous plots within the street scene.
6. Therefore, I conclude on this main issue that the proposal would cause significant harm to the character and appearance of the area. As such, the proposed development would be in conflict with Policy DE1 of the Torbay Local Plan 2012 to 2030 (TLP) and Policy BH5 of the NDP which amongst other things seek to develop and respect distinctive character in Torbay's townscape. In respect of this issue, the proposal would also conflict with paragraph 130 of the Framework which, amongst other things, says that decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of layout, and sympathetic to local character.

Living conditions

7. The proposed single storey rear extension to the host property would project a short distance alongside the boundary with No 7 which has generous rear gardens. Its eaves height would match that of the existing garage, which would result in a small increase in the height of the boundary wall above the current fencing. Views out from the patio area of No 7 are available towards its generous garden and are not restricted solely, amongst other things, in the direction of the proposal site. For this reason, the modest increase in height along a short section of the boundary would not cause a harmful enclosing effect on the outlook of occupiers of No 7.
8. At my mid-morning visit I was able to observe the bright and open nature of the extensive rear garden and patio area of No 7, where natural light was plentiful. There is a dispute between both main parties as to whether the proposed extensions would be Permitted Development (PD). Regardless of whether or not the extensions could be considered as PD, their modest scale and increased height would not harmfully affect levels of sunlight reaching No 7. Furthermore, I have not been provided with any substantive evidence to demonstrate the proposal would be unacceptable in this regard.
9. For the above reasons, I conclude on this main issue that the proposal would not cause unacceptable harm to the living conditions of the occupiers of No 7 with particular regard to outlook and sunlight. As such, the proposal would not conflict with Policy DE3 of the TLP which seeks to ensure a good level of amenity for residents. In respect of this issue there would also be no conflict with paragraph 130 of the Framework which, amongst other things, says that decisions should ensure developments create places with a high standard of amenity for existing and future users.

Other Matters

10. I note that the appellant suggests the appeal site is previously developed land. Even if I were to consider it to be such land as set out within the Framework where there would be benefits in terms of making efficient use of land, this would not outweigh the harm I have identified in relation to the character and appearance of the area.
11. I understand that the development was originally recommended for approval by Council officers and that the decision to refuse planning permission was taken by members at planning committee. However, this is part of the democratic process and does not affect the weight I place on the issues identified in this case.
12. The Council has identified that the site falls within the Sustenance Zone and Landscape Connectivity Zone of the South Hams Special Area of Conservation (SAC) for the greater horseshoe bat, and the primary zone of influence of calcareous grassland within the Berry Head to Sharkham Point component of the SAC.
13. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the European designated sites. In that context, I would have looked at the appropriateness of the appellant's financial contribution towards mitigating recreational pressure on the SAC through their submitted Unilateral Undertaking.
14. However, as I am dismissing the appeal for other reasons, there is no requirement or need for me to consider this matter in any further detail or to conduct an AA.

Planning balance

15. In the context of the development plan, I have found that the proposal would not cause unacceptable harm to the living conditions of the occupiers of No 7 with particular regard to outlook and sunlight. However, this does not deflect from the significant harm that I have found would be caused to the character and appearance of the area and conflict with policy DE1 of the TLP and policy BH5 of the NDP. In this respect, I have found these policies to be generally consistent with the relevant aims of the Framework. Therefore, I give the conflict to these policies substantial weight.
16. The proposal would provide well located, sustainable, energy efficient, flexible and functional homes that would make a positive contribution to the supply of housing, particularly in light of the Government's objective to significantly boost the supply of homes and the extent of the shortfall in housing land supply, albeit the benefits of one additional dwelling would be very modest. It would also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. Despite these modest benefits and the proposal being in compliance with Policy DE3 of the TLP, the conflict I have found with other policies in respect of the

first main issue means that the proposal would not accord with the development plan when considered as a whole.

17. The appellant states that as at June 2022 the Council has a serious shortfall in housing land supply with a figure of 2.75 years' worth of housing land supply. This has not been disputed by the Council, and I have no substantive basis to consider otherwise. Therefore, the presumption in favour of sustainable development set out within paragraph 11 of the Framework applies. I have already found that there would be modest economic and social benefits through a contribution to a shortfall in housing supply and the construction and occupation of the development.
18. However, against these benefits I need to balance the adverse impacts. Achieving well-designed places is an important consideration and one which is embedded in the Framework. The harm arising to the character and appearance of the area would run contrary to the social and environmental objectives of sustainable development.
19. Consequently, even if I had undertaken an AA and found no adverse effect on the SAC, thereby triggering paragraph 11dii of the Framework, the harm caused by the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

20. 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.

J Hills

INSPECTOR