



## Appeal Decision

Site visit made on 17 August 2023

**by J Hills MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 September 2023**

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**Appeal Ref: APP/X1165/W/23/3316793**

**20 Gibson Drive, Torbay, Paignton TQ4 7AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Sam Thomas against the decision of Torbay Council.
  - The application Ref P/2022/1070, dated 28 September 2022, was refused by notice dated 29 November 2022.
  - The development proposed is erection of new self build 2 storey semi-detached dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of new self build 2 storey semi-detached dwelling at 20 Gibson Drive, Torbay, Paignton TQ4 7AL in accordance with the terms of the application, Ref P/2022/1070, dated 28 September 2022, subject to conditions set out in the attached schedule.

### Preliminary Matters

2. I note the appeal is made in outline with appearance and landscaping reserved for later consideration. This is reflective of the application form, appeal form and Council's decision notice. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

4. The appeal site forms part of a generous side garden to an attached, two storey property and is adjacent to a footpath that provides access into and out of the wider residential estate and a pleasant gap allowing a sense of openness. The immediate surrounding urban area is characterised by relatively dense groups of terraced and semi-detached properties, some of which include linked, flat roofed garages.
5. Whilst a corner of the side elevation of the development would be positioned relatively close to the footpath, the proposed scale and layout would bring the overall massing of the property away from it. This, together with the proposed single storey element to the scheme, would ensure a clear visual separation between footpath and property, despite the limited set back from the host property frontage. In that context, the development would be of a similar height, scale and layout to the host property it would adjoin. This would result

in a continuity and consistency of built form that would respect the existing street frontages. Additionally, the scale of the overall ground floor accommodation would sit comfortably within the wider plot. For the above reasons the development would not be cramped, overbearing or overly dominant.

6. Some longer distant views of the wider estate would be restricted by the development from certain public vantage points. However, these views would not be significantly eroded to an extent where the development would harmfully enclose the openness or pleasant gap between existing properties. Furthermore, the single storey element of the development could conceivably be progressed at the reserved matter stage with a pitched roof, though even if it were to be a flat roof, the design would maintain an unimposing façade that would not appear incongruous or untypical of the wider built up area. Accordingly, the development would be of a high quality, and would function well and add to the overall quality of the area.
7. I therefore conclude on the main issue that the proposal would preserve the character and appearance of the area. As such, it would not conflict with Policy DE1 of the Torbay Local Plan 2012-2030 or Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 adopted June 2019 which, together in this respect, seek to promote development that would relate to the surrounding built environment in terms of scale, height and massing, and respect important townscape vistas. There would also be no conflict with paragraphs 126 and 130 of the National Planning Policy Framework.

### **Conditions**

8. I have imposed standard conditions relating to the submission and timing of reserved matters applications and the commencement of development. It is necessary to require compliance with the submitted plans, but only in relation to access, layout and scale as these are not reserved matters.
9. A construction management plan condition is required in the interests of neighbouring amenity and in the interest of the convenience of highways users. Details for electric vehicle charging points, the storage of bicycles and a compliance condition relating to the delivery of a hardstanding are all required to ensure suitable provision is made for a range of transport modes. Refuse/recycling storage and landscaping details are necessary in the interests of the character and appearance of the area.
10. A drainage condition is necessary in the interests of managing flood risk. Compliance with the tree appraisal plan and a scheme to provide biodiversity net gain are needed in the interests of biodiversity.
11. I have made some amendments to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework.

### **Conclusion**

12. For the reasons given I conclude the appeal should succeed.

*J Hills*

INSPECTOR

## Schedule of Conditions

1. Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: STP 10; STP 12; STP 13; STP 14; STP 15 (but only in respect of those matters not reserved for later approval).
5. No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan should include, but not be limited to:
  - (a) the parking of vehicles of site operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials used in constructing the development
  - (d) the erection and maintenance of security hoarding, where appropriate
  - (e) wheel and/or highway washing facilities
  - (f) measures to control the emission of dust and dirt during construction
  - (g) measures to minimise noise nuisance to neighbours from plant and machinery.
  - (h) construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.The approved construction management plan shall be adhered to throughout the construction period.
6. Prior to the occupation of the dwelling hereby approved, a scheme for the insertion of one electrical vehicle charging point to be located within the site shall be submitted to and approved in writing by the local planning authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The approved electrical vehicle charging points shall be thereafter available for use, maintained and retained for the lifetime of the development.
7. Prior to the first occupation of the dwelling hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and approved in writing by the local planning authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

8. Prior to the first occupation of the dwelling hereby permitted, provision shall be made for the storage of refuse and recycling according to details which shall previously have been submitted to and approved in writing by the local planning authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.
9. The dwelling hereby approved shall not be occupied or brought into use until the hardstanding parking area detailed on approved plan 'STP 12' has been provided in full. The hardstanding shall thereafter be permanently retained for the use of parking by the dwelling.
10. Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 50% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the local planning authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be occupied or brought into use until the agreed drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.
11. The development shall not be carried out otherwise than in strict accordance with the hereby approved '22.942.1.TAP Tree Appraisal Plan'.
12. The reserved matters application/s for 'landscaping' shall be accompanied by full details of the hard and soft landscape works, including an implementation and management plan.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments and vehicle and pedestrian/cyclist circulation.

All planting, seeding, turfing or hard surfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the first occupation of the dwellings hereby approved or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.

The approved landscaping scheme shall be carried out in its entirety and shall accord with the approved details and timetable. Any boundary treatments or means of enclosure shall be carried out and installed prior to the first occupation of the new dwelling and shall be retained for the life of the development.

13. The reserved matters application/s for 'landscaping' shall be accompanied by a scheme to provide a biodiversity net gain across the application site.

The biodiversity net gain measures shall be installed/undertaken or secured prior to first occupation of the dwelling hereby approved and shall be maintained and retained in perpetuity thereafter.

Any biodiversity net gain measures including planting measures shall be carried out by the end of the first planting and seeding seasons following the first occupation of the dwelling hereby approved or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.

