



Appeal Decision

Site visit made on 22 August 2023

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/X1165/W/23/3318013

36 Hartley Road, Paignton, Torbay TQ4 5PQ

- 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 Mike Roper against the decision of Torbay Council.
- The application Ref P/2022/0442, dated 8 April 2022, was refused by notice dated 1 December 2022.
- The development proposed is construction of end terrace single dwelling in side garden.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect on the character and appearance of the area; and
 - whether the proposal would provide acceptable living conditions for future occupants of the proposed dwelling, with regard to the size of internal living space and provision of parking.

Reasons

Character and appearance

3. 36 Hartley Road is an end terraced dwelling set within a residential area of Paignton. Hartley Road consists of terrace dwellings in groups of four on both sides of the road, with the exception of the two semi-detached dwellings at the opposite end of the road from the appeal site.
4. The appeal property is on the end of Hartley Road and there is a return in the building line where the fronts of the dwellings along Derrell Road are in line with the gable end of 36 Hartley Road. This is a strong characteristic of the site and the built form immediately around it.
5. The proposed dwelling would extend the row of dwellings that 36 Hartley Road is part of from four to five dwellings. It would be positioned forward of the clear building line on Derrell Road as it slopes downwards beyond the appeal site. This would result in a loss of the characteristic return in the built form from Hartley Road to Derrell Road and would harmfully interrupt a key feature of the street scene. These factors together with the loss of one of the consistent groups of four terrace dwellings along the road would cause harm to the character and appearance of the area.

6. When travelling along Derrell Road towards the rear of the appeal site, the site is on higher ground level than the properties along Derrell Road due to its sloping nature. This would lead to the proposed dwelling be a visually dominant addition to the street scene and it would accentuate its harmful position forward of the building line.
7. I acknowledge the comments that the appellant has made regarding other properties in the local and wider area being constructed nearer to a road. They have shown these properties on a map, and this includes the end terraced property on the opposite corner of Hartley Road. However, as explained above, the issues with the proposal are more extensive than its proximity to the road, and do not replicate the harm identified in terms of the incompatible visual relationship and contrast with building lines of adjacent properties that would arise from the proposal. Furthermore, the other properties have a different locational context and I have determined the appeal on its own individual merits.
8. For these reasons, I conclude that the proposed development would cause harm to the character and appearance of the area. Consequently, the proposal conflicts with Policy DE1 of the Torbay Local Plan (TLP) and Policy PNP1(c) of the Paignton Neighbourhood Plan (PNP), which collectively seek, in part, for development to be well designed, in keeping with its surroundings and integrate with the existing street scene and features.

Living conditions

9. Policy DE3 of the TLP, amongst other things, states that adequate floorspace should be provided in residential development to achieve a pleasant and healthy living environment. Table 23 of the TLP sets out that the proposed two storey three bedroom dwelling seeking to accommodate five bedspaces/persons, as indicated on the submitted plans, should have a minimum gross internal area (GIA) of 93 square metres.
10. The Council state that the GIA of the proposed dwelling is 84 square metres. The appellant has agreed that the proposal does not meet the minimum GIA required by Policy DE3. On this basis, it is not disputed that the proposal conflicts with Policy DE3 and it follows that I consider that it would not provide suitable living conditions for future occupiers of the dwelling due to inadequate internal living space for the development proposed.
11. The appellant seeks to address this policy conflict by reducing the number of bedrooms in the proposed dwelling from three to two. However, the proposal before me is for a three bedroom dwelling and the appeal process is not the correct avenue to amend schemes to address policy conflict in this respect. A condition requiring the dwelling to have two bedrooms instead of three would not meet the six tests for planning conditions in the National Planning Policy Framework (the Framework), as it would materially alter the proposal for which planning permission has been sought.
12. Policy TA3 of the TLP states that the Council will require appropriate provision of car parking spaces in all new development. Development proposals will be expected to meet the guideline requirements as set out in Appendix F, which requires two parking spaces per dwelling. Appendix F sets out that where parking spaces are accessed directly from the highway, a space shall be 3.2 metres by 6 metres (5.5 metres minimum where there is no door opening into

the parking area) to ensure that the highway is not obstructed. The Council have confirmed that the proposed drive for two parking spaces would be approximately 9.7 metres by 2.95 metres.

13. The proposed parking provision shown on the plans would not comply with the minimum dimensions for residential car parking spaces and therefore, would not provide the level of parking provision required by Policy TA3 of the TLP.
14. The appellant has suggested that the parking layout could be rearranged, and the vehicular entrance could be widened. As explained above, proposals cannot be substantively altered during the appeal process. Again, a condition requiring a wider vehicular entrance and rearrangement of the parking layout would not meet the six tests for planning conditions.
15. Based on my own observations during my visit, the parking demands of the new dwelling may be capable of being alternatively accommodated via on-street parking nearby in surrounding streets. However, allowing such a proposal that falls short of the parking guideline requirements of Policy TA3 of the TLP (as set out in Appendix F), would make it more difficult to resist further planning applications for similar developments in the local area with the cumulative effect having the potential to unacceptably impact upon local highway conditions.
16. Having regard to all of the above, the proposed development would not provide acceptable living conditions for future occupants, with regard to the size of internal living space and provision of parking. Consequently, there is a conflict with Policies DE3 and TA3 of the TLP.

Other Matters

17. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with Policies DE1, DE3 and TA3 of the TLP and Policy PNP1(c) of the PNP, with the associated conflict reflecting harm to the character and appearance of the area and the proposal not providing acceptable living conditions for future occupants. Proposed development which conflicts with the development plan should be refused unless other material considerations indicate otherwise.
18. With regard to the above, whilst the policies to which I have found conflict are consistent with the Framework, based on the evidence before me, the Council cannot currently demonstrate a five year housing supply. The tilted balance in Paragraph 11(d) of the Framework, therefore, applies. In that respect, the application of policies in the Framework that protect areas or assets of particular importance (as set out in its footnote 7) do not of themselves provide a clear reason for refusing the development proposed.
19. The proposal would make a positive contribution to housing supply via family housing within walking distance of services and facilities with associated social and economic benefits. However, the contribution of a single dwelling to meeting the shortfall of deliverable housing in Torbay and the associated benefits are limited. Consequently, in the particular circumstances of this case, I find that the adverse impact of the proposed development arising from the harm to the character and appearance of the area and failure to provide acceptable living conditions for future residents, would significantly and

demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

Conclusion

20. For the above reasons, and having regard to all other matters raised, the proposed development would cause harm to the character and appearance of the area and would not provide acceptable living conditions for future occupants of the proposed dwelling. As such, the development conflicts with the adopted development plan, when taken as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, I conclude that the appeal should be dismissed.

K Reeves

INSPECTOR