



Appeal Decision

Site visit made on 26 September 2023

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 17.10.2023

Appeal Ref: APP/X1165/D/23/3325583

20 Cecilia Road, Paignton TQ3 1BD

- 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 Katie Vallance against the decision of Torbay Council.
 - The application Ref: P/2022/1086, dated 14 September 2022, was refused by notice dated 12 June 2023.
 - The development proposed is described as the formation of driveway to front elevation to include dropped kerb and steps.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description on the decision notice refers to the appeal proposal as 'retrospective.' Section 73A of the Town and Country Planning Act 1990 (the Act) makes allowance for the submission of a planning application for development which has been carried out before the date of the application.
3. Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use rather than the retention of works or the continuation of a use. I have revised the description of the development from the application form and the decision notice as I consider this better reflects the proposal before me, I have not included the word 'retrospective' in the description of the proposal, and I have considered the appeal on that basis.
4. Further to the above, the appellant has provided a revised plan that was not before the Council when it made its decision. The plan amends 1511AS 04 dated 03/23 and reflects the works undertaken at the site which I observed during my site visit. The revised plan indicates a larger parking area than the plans considered by the Council.
5. I consider that although the revised plan would not lead to a substantially different application, this is nevertheless a matter that those consulted on this proposal may have wished to have had the opportunity to comment on. For example, the submitted revised plan shows the parking area abutting the boundary with the neighbouring property No. 22, which was not the case with the plans considered by the Council.
6. The appeal process should not be used to evolve a scheme and in applying the *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017]

EWHC 2823 (Admin) principles I have made my decision on the basis of the plans considered by the Council, and on which interested people's views were sought.

Main Issue

7. The main issue in this case is the effects of the development on highway safety.

Reasons

8. No. 20 is situated towards the end of the cul-de-sac of Cecilia Road, which is a narrow highway with pavements with residential properties situated on either side. There are a variety of off-street parking arrangements that exist, and a number of vehicles also park on the highway itself.
9. The proposal before me relates to the provision of off-street parking on a raised section of land to No.20 itself at a level broadly consistent with the adjacent pavement. The Council in their Planning Officers report refer to the parking area as being circa 2.9m by 9.4m which appears consistent with my review of the plans that were considered by the Council.
10. The Council have set out that their concerns relate to the size of the parking area and the resultant effects of such on highway safety. In this regard, they have referred to Policy TA3 of the adopted Torbay Local Plan 2012 - 2030 (the TLP) which relates to parking requirements and states that development proposals will be expected to meet the guideline requirements as set out in Appendix F of the TLP. Under context and specifications, Appendix F explains that where parking spaces are accessed directly from the highway, as is the case here, a space shall be 3.2m by 6m (5.5m minimum where there is no door opening into the parking area) to ensure that the highway is not obstructed.
11. The constrained width and length of the parking area as set out on the submitted plans, which falls below the specifications under Appendix F, will at best, due to the proximity of the walling to the parking area, be likely to lead to even a small car being parked adjacent to the boundary of the appeal site, whereby doors from vehicles would open out across the adjacent pavement, or alternatively a small car would be likely to overlap onto the pavement to enable car doorways to be opened into the site. The constrained size of the parking spaces would also give rise to concern regarding its use by larger vehicles, which would not be able to manoeuvre or fit within the parking area, this would be likely to lead in vehicles parking across the pavement from the parking area. The pavement is not land under the control of the appellant, and the circumstances highlighted above could obstruct pedestrians with a resultant increase in conflicts between pedestrians and vehicles to the detriment of highway safety.
12. In reaching my decision, I acknowledge there are other properties with parking areas adjacent to the pavement along Cecilia Road, including the examples referred to me by the appellant. Nonetheless, I have no information as to the specific circumstances relating to these examples and in any case, I am required to determine the proposal on its own individual planning merits. As a consequence, the examples referred to me and the other parking areas I observed during my site visit have little bearing on my consideration of the

proposal. I have also taken account of the constrained nature of the driveway and garage of No.20 and that parking in the area is difficult. However, any resultant benefits to the appellant or of providing additional off-road parking spaces would not outweigh the harm I have identified above.

13. As a result, the appeal proposal would conflict with Policy TA3 of the TLP. For similar reasons the proposal would also conflict with Policies DE3, TA1 and TA2 of the TLP which, amongst other matters, confirm that development should provide satisfactory provision for off road parking, minimise conflict between road users and provide vehicular and pedestrian access to a safe standard.
14. The proposal would also conflict with Section 9 of the National Planning Policy Framework 2023 (The Framework), which amongst other matters, requires that applications for development should minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Conclusions

15. For all the above reasons, having regard to all matters raised, I conclude that the appeal should be dismissed.

J Evans

INSPECTOR