



Appeal Decision

Site visit made on 3 January 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/X1165/D/23/3329430

38 Bidwell Brook Drive, Paignton, Torbay TQ4 7NF

- 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 and Mrs Moseley against the decision of Torbay Council.
 - The application Ref P/2023/0326, dated 11 April 2023, was refused by notice dated 11 July 2023.
 - The development proposed was originally described as "2 storey extensions to front and rear with rear roof terrace".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development description in the banner heading is taken from the application form and includes reference to a two storey front extension. However, the evidence before me confirms that that part of the development was amended to a single storey extension prior to the Council's determination of the application. I shall therefore determine the appeal on the basis that planning permission is sought for the erection of a single storey front extension and a two storey rear extension with roof terrace.
3. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of occupiers of neighbouring properties, with particular regard to privacy, light and outlook.

Reasons

Character and appearance

5. The proposed rear two storey rear extension would involve an uncharacteristic alteration to the shape of the roof and an awkward and narrow projection from the rear elevation. The large roof terrace, with its substantial expanse of glazed

balustrading, would be an incongruent additional feature that would exacerbate the harm. As such, the rear extension would see a harmful change in the form of the dwelling.

6. The appeal site is part of a row of semi-detached dwellings that share a similar design and form at the rear. The rear extension would interrupt this uniform appearance, and this would be particularly noticeable from the A379 (Dartmouth Road), where the dwellings sit in a prominent position on higher ground. The rear extension would fail to positively reflect, or respond to, the design and form of the host building or its architectural relationship with the buildings either side.
7. There is also a consistency in the design and form of the front elevations of the same row of semi-detached dwellings that contributes positively to the character and appearance of the street scene. Moreover, there is also a well-defined character of open frontages forward of the principal elevation, albeit sunken below the ground level of the road. Whilst the single storey front extension would be erected on the lower ground level, the roof of that addition would be clearly visible from the public realm. The appearance of a roof rising from the lower ground level, in an area of the site that is recognisable for its open appearance and consistent design and form, would result in the front extension appearing at odds with the surrounding built form.
8. My attention has been drawn to roof terraces and balconies that have been constructed at other properties in the local area, including at No. 36 Bidwell Brook Drive (No. 36). Additionally, I understand that an extension with a balcony at No. 40 Bidwell Brook Drive (No. 40) has been approved by the Council. However, I have been provided with limited information to explain the background and context to the decisions that were made to allow those developments. Furthermore, development such as the balcony at No. 36 are considerably smaller in terms of scale and are therefore not directly comparable to the appeal proposal. In any event, the presence of these other roof terraces and balconies does not justify the harmful effect of the proposed development, and I have determined the proposal on its own individual merits based on the evidence before me.
9. For these reasons, the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would be contrary to Policies DE1 and DE5 of the Torbay Local Plan 2012 – 2030 (LP) and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012 – 2030 (NP), 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. It would also conflict with the Framework, which seeks for development to be visually attractive and to maintain a strong sense of place.
10. For the avoidance of doubt and without prejudice to my above findings, I do not identify conflict with Policy SS11 of the LP in respect of the effect on the character and appearance of the area. This is on the basis that it is a strategic policy that relates to sustainable communities, and this is not an area of concern raised in the Council's first reason for refusal.

Living conditions

11. The proposed rear extension would be constructed near to the boundary with No. 36. It would form a dominating and oppressive structure when viewed from

the easternmost windows and the garden of No. 36. The overall massing and bulk of the extension, including the non-transparent privacy screen, would also have a harmful impact on the outlook from the aforementioned windows. Additionally, the extension would result in a degree of loss in morning sunlight to the easternmost window in the lower floor of No. 36, albeit I understand that the window serves a bathroom.

12. Whilst the large window in the side elevation of the appeal property already overlooks the garden of No. 40, the privacy screen on the side of the terrace facing that property would not extend along that entire elevation. As such, someone stood on the area of the terrace furthest from the host building would be able to see into the rear windows of No. 40. These intrusive views into the internal areas of the neighbouring dwelling would result in the unacceptable loss of the privacy currently afforded to the occupiers of that dwelling.
13. Due to significant changes in ground level, the views from the roof terrace towards the properties on Cherry Brook Drive would not be materially harmful and the occupiers of those properties would not suffer an unacceptable loss of privacy.
14. For these reasons, the proposed development would result in unacceptable harm to the living conditions of the occupiers of Nos. 36 and 40 Bidwell Brook Drive. Consequently, the proposal would conflict with Policies DE3 and DE5 of the LP, which seek, amongst other things, for development to be designed to provide a good level of amenity for existing residents or occupiers. Additionally, the proposal would conflict with the Framework insofar as it seeks to ensure that there is a high standard of amenity for existing users of development.
15. For the avoidance of doubt and without prejudice to my above findings, I also do not identify conflict with Policy SS11 of the LP in respect of the effect on the living conditions of occupiers of neighbouring properties as it is a strategic policy that relates to sustainable communities, and this is not an area of concern raised in the Council's second reason for refusal.

Conclusion

16. For the reasons given above, the proposed development would conflict with the development plan, when taken as a whole. It would also conflict with the Framework and other material considerations do not indicate that I should take a decision otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal should be dismissed.

K Reeves

INSPECTOR