



Appeal Decision

Site visit made on 9 May 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 15.05.2024

Appeal Ref: APP/X1165/D/24/3339428
43 Penwill Way, Paignton TQ4 5JG

- 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 Mt Tyler Gorman against the decision of Torbay Council.
 - The application Ref: P/2023/0793 dated 11 September 2023 (validated 6 November 2023), was refused by notice dated 22 January 2024.
 - The development proposed is driveway in front garden with retaining wall about 13ft high, dropped kerb.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - a) The effect of the proposal on the street scene and
 - b) The effect of the proposal on the living conditions of the occupiers at No 41, with particular regard to loss of outlook and light.

Reasons

Issue a) Street scene

3. The appeal property is a semi-detached property on the north side of Penwill Way and within a predominantly residential area. Because of the steeply sloping land, the semi-detached pairs along this part of the road are set significantly lower than the adjoining road, with terraced front gardens leading up to the road.
4. The proposal would introduce a double hardstanding across most of the site frontage between the existing pedestrian steps leading to the front door and the shared boundary with the attached neighbour at No 41. As a result of the steeply sloping front garden, the proposed parking bays would necessitate a tall retaining wall between the front of the house and the hardstanding.
5. At my site visit, I noted that the majority of the houses in the vicinity of the appeal property and on the same side of the road have an off-street hardstanding behind a retaining wall. I note that the Council states that there does not appear to be any planning permissions relating to these parking bays

but given the number of them present, they are now part of the pattern of the development in the vicinity and therefore part of the street scene.

6. However, and with a very small number of exceptions, most of these in the vicinity of the appeal property are single parking bays and sited towards the boundary of the property and away from in front of the house. As a result, a significant part of the front garden remains to most of these properties. By comparison, the overall width of the proposed hardstanding as well as its siting in front of the house would result in a very dominant structure that would appear overly large in relation to the remaining area of front garden. This would harm the street scene.
7. I therefore conclude that the proposed double hardstanding would materially harm the street scene. This would conflict with Policies DE1 and DE5 of the Torbay Local Plan, Policy PNP1 (c) of the Paignton Neighbourhood Plan and the National Planning Policy Framework (Framework) and in particular Section 12, all of which amongst other matters seek a high quality of design which respects the local context.

Issue b) Living Conditions

8. The neighbouring attached property at No 41 is set slightly further forward of the appeal property and at a slightly lower level. Given the proposed siting of the parking bays very close to the boundary between the two properties the height and mass of the retaining wall that would be required to support the parking bays would be an overly dominant structure which would harm the outlook from the front facing windows in the neighbouring property, particularly at ground floor. This would materially harm the living conditions of the neighbours at No 41.
9. The Appellant has pointed out that there is no right to a view, which is correct. However, loss of outlook relates to where a development would have an overbearing effect that would result in an oppressive environment for existing and future occupiers. This is the harm I have found in respect of the occupiers of No 41 in relation to the proposed development.
10. There is no technical information before me in respect of the potential impact on light. However, it is my view that given the proximity of such a deep and tall structure, it would potentially have a harmful impact on light to the front facing window at ground floor at No 41. This would add to the harm to the living conditions of the neighbours at No 41.
11. I therefore conclude that the proposal would harm the living conditions of the neighbours at No 41, with particular regard to loss of outlook and loss of light. This would conflict with Policy DE3 of the Torbay Local Plan and paragraph 135 f) of the Framework, both of which, amongst other matters, seek to protect the living conditions of existing and future occupiers.
12. The Council has also raised a concern about noise nuisance given the introduction of the parking bays in the front garden area. However, given the residential nature of the immediate vicinity, with a busy road in front and parking on-street, I am not persuaded that noise nuisance from the proposal would, on its own, be a reason to withhold planning permission.

Other Considerations

13. The Appellant has referred to the very busy nature of the road, which is also a bus route, but there are no restrictions in respect of on-street parking outside of the appeal property and in the immediate vicinity. I have noted that the local Ward Councillor has been campaigning for further road safety measures, but the provision of on-site parking at the appeal property would not necessarily materially reduce the extent of on-street parking. The Council raised no concerns in terms of highway safety and from my site visit and all the information before me, I have no reason to take a different view.
14. The Appellant has also indicated why he does not consider that it would be possible to construct a hardstanding closer to the boundary with No 45, but these concerns regarding the structural stability of the land do not outweigh the harm I have concluded from the proposal before me.

Conclusion

15. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR