



Appeal Decision

Site visit made on 30 April 2024

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2024

Appeal Ref: APP/X1165/W/24/3338137

1 Swincombe Drive, Paignton TQ3 3QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kye Daniel against the decision of Torbay Council.
 - The application Ref is P/2023/0600.
 - The development proposed is described as Proposed alterations to form a dwelling and alter an existing dwelling (all as drawings) (re-submission).
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Decision

1. The appeal is allowed and planning permission is granted for alterations to form a dwelling and alter an existing dwelling at 1 Swincombe Drive, Paignton TQ3 3QF in accordance with the terms of the application, Ref P/2023/0600, and subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. I have referred to the description of development within my decision only insofar as it relates to the development proposed.

Main Issues

3. The main issues are:
 - the effect of the proposed development on highway safety, with particular regard to access and parking; and
 - whether the living conditions of occupiers of the proposed development would be acceptable, with particular regard to outside space.

Reasons

Highway safety

4. Forming a corner plot, the appeal site contains hardstanding that extends around the front and side of the existing property. Reflecting what I observed on my site visit, the submitted survey plan shows that this area provides four parking bays; two at the front, parallel to Swincombe Drive, and two beside the property. With no turning space on the site, parking in those bays involves either reversing into or out of the highway.
5. The proposed development would provide the same number of bays, with two for the altered unit and two for the new dwelling (identified respectively as Nos 1 and 1A on the proposed plan). The bays would be in roughly the same position as now. However, by setting back what would be bay 2 for No 1A, a turning area for vehicles parking in No 1's bays would also be created. On this

basis, and given the submitted tracking plans, the existing situation on the site, the distance to the junction, the visibility from the site and along the highway, the width of the entrance, and the relatively quiet nature of Swincombe Road, access to the site for the development proposed would be acceptable.

6. The Council alleges that both parking areas proposed are contrary to Appendix F of the Torbay Local Plan, The Plan for Torbay: 2012 to 2030 (TLP) and that double bays should measure 10.3 by 5.6 metres. However, it is not clear where this figure originates or how it is relevant, whilst Appendix F refers to standard bays – including those not accessed directly off the highway, as would be the case here – being 2.4 by 4.8 metres. Each of the four bays would meet this.
7. The Highway Authority objected on the basis that the proposed layout does not meet the requirements of their Standing Advice (SA). Although limited details are provided as to which aspects are alleged to not meet the requirements, the objection refers to walls, parking bays next to obstructions, and the surface. With regards to the first matter, the proposed plan shows the wall which fronts the footpath on the site's western boundary as 0.65 metres high. As it has not been suggested that the footway is likely to be used by small children, this complies with the Standing Advice requirement regarding there being no obstruction to visibility above the height of 0.85 metres over footway level.
8. In relation to parking bays, the SA sets out that additional space is required where abutting a solid obstruction such as a wall. In this instance, all proposed bays would be wider than the minimum width identified in Appendix F, with both the parking bays marked on the proposed plan as '2' clearly having sufficient width. Of the other bays, No 1's would be close to the proposed cycle and bin stores and No 1A's would be adjacent to the property's side wall. However, the former would have some space between it and the stores, whilst the hedge on the other side could be cut back/kept trimmed if extra width was needed. Being next to the turning area, there would generally be open space on one side of the other bay, which would also increase in width towards the rear, allowing space between the front door and any vehicle parked there. In addition, whilst potentially resulting in awkward situations for occupiers getting in and out of their vehicles, the space available beside each of the bays would not render them unusable nor affect highway safety per se.
9. The SA sets out that the surface of a new/altered access must be consolidated or surfaced for at least the first 5 metres, as measured from the edge of the adjoining carriageway. Although the existing plan shows the drive as bonded gravel, it is not clear if all the surface within 5 metres of the highway is finished in such a fashion. I also observed on my site visit what appeared to be some loose gravel on at least part of the parking area near to the highway. However, this can be resolved by a planning condition.
10. For the above reasons, I conclude that the proposed development would not harm highway safety, with particular regard to access and parking. I therefore find that it accords with TLP Policies TA2 and TA3. Amongst other aspects, these require development to satisfy the transport and parking needs of the development, make appropriate provision for accessibility and safety, and meet the guideline requirements of Appendix F.
11. The Council also alleges a conflict with Policy TH9 of the Torquay Neighbourhood Plan. However, whilst the content of the policy is relevant to

the main issue, the site is not within the area covered by the plan. The policy and plan have therefore not been determinative in my decision on this matter.

Living conditions

12. Although the area at the front would not provide usable outdoor space due to the bin and cycle storage and the parking bays, No 1 would have a rear garden. That area would not meet the 55 square metres for houses as referenced in the supporting text to TLP Policy DE3. However, the policy itself only refers to the provision of useable amenity space and does not require the above figure, which the supporting text references as a guideline, to be met.
13. In this instance, the section of rear garden measured by the Council at approximately 46 square metres would provide fully useable space and be of a reasonable size. Although relatively narrow, the space between the decking and hedge would also not be entirely unusable. In addition, it seems to me that No 1 could reasonably be described as a one bed flat/apartment; on this basis, its garden area would significantly exceed the guideline minimum of 10 square metres of outdoor space for such units.
14. The proposed plan identifies No 1's total garden area as 101 square metres. Although this would comfortably exceed the minimum guideline amount for such units, some of the area in question would not provide particularly functional or practicable garden space due to the hedges, fencing and sloping nature of the southern end of the site. However, even after accounting for this and the parking bay's protrusion into the area, there would be a reasonable amount of useable garden space. This would be supplemented by the proposed balcony, providing further useable outside space for occupiers of No 1A.
15. For the above reasons, I conclude that the living conditions of occupiers of the proposed development would be acceptable, with particular regard to outside space. I therefore find that it accords with TLP Policies SS11, DE1 and DE3. Amongst other aspects, these require development to meet the needs of residents, make best use of space and provide a good level of amenity for occupiers, including through the provision of useable outdoor space.

Other matters

16. The Council's Officer Report refers to overlooking and privacy issues with regards to the proposed balcony. Although overlooking of the public realm, including highway and cemetery, would not be unacceptable or unusual, the proximity of the balcony to No 1's garden could result in the loss of privacy for the occupiers of that property. However, a condition securing the provision of the obscure glazed screen shown on the proposed plan would avoid this.
17. The Council also raises concern about overdevelopment, the appearance of the proposed parking arrangement and its effect on the streetscene. However, given my findings above and on the basis that the proposed parking would be similar to the existing arrangement, the appeal proposal would not be unacceptable in relation to these matters.

Conclusion and Conditions

18. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development accords with the development plan as a whole. The appeal is therefore allowed.

19. The Council has not suggested any conditions. However, for clarity and certainty, I have imposed the standard time limit and plans conditions. Given my findings above, I have also imposed conditions relating to the finished surface of the driveway, boundary treatment along the site's western boundary and the privacy screen on the balcony. These are necessary in the interests of highway safety and privacy respectively.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Survey (Drawing No 202322/1) and Proposed alterations (Drawing No 202322/3A).
- 3) Prior to occupation of No 1A as a self-contained dwelling, the parking and turning area within 5 metres of the access to the highway shall be finished as a hard surface and contain no loose stone or gravel, and retained thereafter.
- 4) Prior to occupation of No 1A as a self-contained dwelling, the 1.7 metre high obscure glass screen on the north elevation of the balcony shall be provided in accordance with the details contained in Drawing No 202322/3A and retained thereafter.
- 5) The existing wall and proposed hedge on the site's western boundary, and any new planting or boundary treatment in its place, shall hereafter be maintained to a height of no more than 0.85 metres above ground level.

END OF SCHEDULE