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# Appeal Decision

Site visit made on 14 May 2024

**by R Kent BA (Hons) MTP DipM MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 June 2024**

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**Appeal Ref: APP/X1165/D/24/3341228**

**Lavender Lodge, Dashpers, Brixham, Torbay TQ5 9LJ**

- 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 James Vandenbrouck against the decision of Torbay Council.
  - The application Ref is P/2023/0636.
  - The development proposed is construction of timber summer house and decking.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. At the time of my site visit there was a structure on the site in the position of the proposed summer house shown on application drawing reference XY 02/06/18 rev.PO2 dated August 2023. That plan also shows the 4 proposed summer house elevations. The Council's first reason for refusal states that the plans are inconsistent with the form of development on the site and the planning permission cannot be granted as a consequence. I have determined the appeal on the basis of the proposed plan and elevations on the application drawing as that is the development for which planning permission is sought. I have not based it on the structure as built.
3. The National Planning Policy Framework (NPPF) was revised in December 2023, before the Council made its decision. The Officer Report refers to wording of paragraphs 126 and 134, but the text quoted is found in paragraphs 131 and 139 of the revised NPPF. I have had regard to this in my decision and I am satisfied that this has not prejudiced any party, particularly as there have been no alterations to the wording within the renumbered paragraphs.

## Main Issue

4. The main issue is the effect of the proposed summer house on the character and appearance of the site and its surroundings.

## Reasons

5. Lavender Lodge is a rendered two storey pitched roof house facing the junction of Dashpers and Cross Park. It has a front wall, shrubs and substantial hedge along its frontage. At the time of my site visit a pitched roof structure was being constructed between the house and its southern boundary. The character of the area immediately around the appeal site is one of predominantly detached and semi-detached properties with open front gardens set behind low walls. There is a mix of two storey houses, bungalows and chalet bungalows.

Although some of the properties lower down Dashpers from Lavender Lodge have higher means of enclosure along the road frontage, the front gardens and generally low boundary walls elsewhere give the surroundings of the site a largely open appearance. The properties on the opposite side of the road to the appeal site are at a higher level with front gardens above a stone retaining wall. They too contribute to the open character and appearance of the road frontage.

6. The proposed summer house would be a rectangular, flat roofed timber structure. It would be out of character in its design and materials with both Lavender Lodge and the adjoining properties. Whilst it would be sited behind the mature hedge which runs along part of the front boundary, it would nevertheless be visible above the side boundary fence which separates the site from the adjoining terrace. That terrace, in common with the other properties in the vicinity, has open frontages and forms a strong building line with Lavender Lodge. The timber structure would project forward of the building line and be a discordant feature, harmful to the open character created by those frontages. Even if landscaping could be introduced between the structure and the fence, this would not overcome the harm caused to the character of the road. In addition, Dashpers is on a slope which rises away from the appeal site. The structure would be prominent in the view of the road from the higher level. With the proposed decking, it would close the space between the adjacent front wall of the house, the side boundary fence, and the hedge and wall along the road frontage. As such, whilst the house is on a reasonably large plot with space to the rear and side, it would give the front corner of the site a more cramped appearance when viewed from the higher part of Dashpers than those properties opposite and adjoining the site.
7. I am referred to nearby detached outbuildings which are visible from the highway. Each scheme must be considered and determined on its individual merits and I am not aware of the planning status of those buildings. However, none of those referred to have the adverse impact on the character and appearance of their surroundings that the appeal proposal would. They are less prominent in the street scene and do not harm the openness of the frontage to Dashpers in the same way as the proposal.
8. The appellant has challenged the relevance of Torbay Local Plan 2012-2030 (TLP) policies DE1 and DE5. DE1 is a general policy seeking to promote good design. Whilst it makes reference to major developments, it is clear that the design considerations set out in the policy are intended to apply to all development proposals. Although the summer house would be sited close to the main house, it would not be attached to the house and would not be a physical extension to it. DE5 applies to domestic extensions, so is not relevant in this instance.
9. For the reasons given, I conclude that the summer house would have an adverse effect on the character and appearance of the site and its surroundings. This would conflict with policies DE1 of the TLP and BH5 of the Brixham Peninsula Neighbourhood Plan 2019 which seek to ensure that development integrates with the street scene and respects the character and appearance of the surrounding area. It would also conflict with the requirements of paragraphs 131 and 139 of the NPPF which seek to achieve well designed places.

### **Other Matters**

10. Reference is made to the manner in which the planning application was handled by the Council. This is a matter which should be pursued through other processes. It does not have a bearing on my consideration of the appeal.

### **Conclusion**

11. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

*R Kent*

INSPECTOR