



Appeal Decision

Site visit made on 24 June 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2024

Appeal Ref: APP/X1165/W/24/3336614

Building Plot, North of 9 - 17 Greenswood Rd, Brixham TQ5 9HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Green against Torbay Council.
 - The application Ref is P/2023/0597.
 - The development proposed is a bungalow.
-

Decision

1. The appeal is allowed and planning permission is granted for a bungalow at Building Plot, North of 9 - 17 Greenswood Rd, Brixham TQ5 9HN in accordance with the terms of the application, Ref P/2023/0597, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issues

2. I have taken the description of development in the banner heading above from the application form. However as 'proposed' and '(all as drawings)' are not an act of development, I have removed these elements.
3. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has not provided, within the appeal timetable, any appeal statement outlining what their decision would have been or reasoning, had it been in a position to determine the application.
4. The Council has however provided copies of policies which it considers pertinent to the appeal from the Torbay Local Plan 2012-2030 (LP) and Brixham Peninsula Neighbourhood Plan 2012-2030 (NP). I have taken those policies into account.
5. A number of interested parties have made representations during the planning process. The appellant has had opportunity to view and respond to interested party comments within their appeal statement.
6. Noting the matters raised by interested parties, I consider the main issue to be the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility.

Reasons

7. The appeal site is an area of land located between 5 Greenwood Close and the rear of terraces of dwellings at Greenwood Road and Burton Street. The site tapers to a broadly triangular shape and is bordered by tall stone walls with public footpaths beyond.
8. 5 Greenwood Close is a single storey dwelling sited in close proximity to the boundary of the appeal site and features windows overlooking the appeal site. Although the proposed dwelling would also be in relatively close proximity to the boundary, the proposal would not feature any windows in the rear elevation and a 2m timber fence is proposed on the boundary.
9. Subsequently, whilst due to the lower site level of the appeal site some intervisibility would be available between the proposed garden areas and 5 Greenwood Close, this would be limited and would not result in a significant level of overlooking.
10. Due to the constraints of the site, there is no direct access for vehicles, or on-site parking proposed. Furthermore, the surrounding network of footpaths, which also serve the rear of nearby dwellings are narrow and enclosed and I am informed that Greenwood Close is privately maintained.
11. The constraints of the site could result in challenging construction logistics. However, any disturbance to neighbouring occupiers living conditions during the construction period would be short-term and could be mitigated by careful construction management. This is capable of being controlled by a planning condition.
12. On-road car parking in the surrounding area is in part, time restricted. Furthermore, even if the appellant does not have a vehicle, this may not be the case for future occupiers of the proposal. However, I observed at my site visit, albeit a snapshot in time, that on-road unrestricted car parking was available within a reasonable walking distance of the appeal site, and whilst was well used, could provide occasional parking.
13. I have not been provided with any policies or other evidence relating to such matters as parking standards and cycle storage in this location. Notwithstanding, cycling storage is proposed, and the appeal site is within easy walking distance to services, facilities and public transport. Future occupiers of the proposal would therefore be able to access all the services and facilities required for day to day living by sustainable transport modes without the need for private vehicles.
14. Furthermore, although a number of properties in the wider area also lack off-road parking, I have no substantive evidence that any increased pressure on on-road parking from vehicles associated with the proposal would result in any harmful effect on the living conditions of future or surrounding occupiers. Moreover, given the proximity of the appeal site to Burton Street, I have no reason to believe that emergency services or deliveries could not access the appeal site, albeit partially by foot.
15. To conclude, the proposal would not result in any significantly harmful effects on the living conditions of neighbouring occupiers with particular regard to overlooking, and disruption during the construction phase, and future occupiers with particular regard to parking provision and accessibility. As such, it would

accord with LP Policies DE1 and DE3, and NP Policy BH5. These policies seek, amongst other things, for development to be well designed, give a good level of living conditions to future occupiers and not unduly impact on neighbouring occupiers. The proposal would also accord with the provisions of the Framework in relation to providing high standards of living conditions and promoting sustainable transport.

16. Whilst the Council have also provided a copy of LP Policy DE5, this relates to domestic extensions and therefore of little relevance to the appeal proposal.

Other Matters

17. The appeal site is within the Higher Brixham Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
18. The significance of the CA is partly drawn from groups of period urban terraces with distinctive urban topography, as well as the historic settlement pattern of the area. Although the surrounding terraces of dwellings along Greenswood Road and Burton Street make a significant contribution to the townscape due to their architecture and age, the appeal site due to its size, location and relationship with adjacent modern dwellings, has a neutral contribution on the significance of the CA.
19. The proposal would introduce residential built form into a previously largely undeveloped site. However, surrounding historic stone walls would be retained, with, given the site location within the CA, an application to the Council being required if they were to be demolished. This would limit the visual impact of the proposal and retain the overall pattern of development in the area. Furthermore, the traditional roof design which would be evident from surrounding public viewpoints would be seen in conjunction with adjacent modern development. Consequently, I find that the proposal would have a neutral effect on the CA and therefore preserve the character or appearance of the CA.
20. The appeal site is located in flood zone 1, an area with a low probability of flooding, and with surface water drainage proposed via a soakaway. No substantive evidence has been provided as to why the drainage solution could not successfully be implemented. Given the size, topography and siting of the dwelling and soakaways within the appeal site, I see no reason why the drainage solution is not appropriate for the location. Foul drainage is proposed through a connection to the public sewer and no substantive evidence is before me to indicate that the public sewer system would not be able to accommodate the proposal.
21. The proposal indicates an area for the storage of bins, although given the access constraints, future occupiers would be required to wheel bins to a highway for collection. Notwithstanding, no policies have been provided to me in relation to waste storage and given the provision indicated, the proposal would incorporate appropriate waste storage.

Conditions

22. No conditions have been suggested by the Council in the event of the appeal being allowed. However, in addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
23. Further conditions are also necessary to ensure the provision and retention of cycle storage to ensure future occupiers retain access to a range of sustainable transport modes, and the submission of a Construction Method Statement in order to protect neighbouring occupiers living conditions.
24. A condition is also necessary to ensure appropriate facing materials are utilised in the interests of the character and appearance of the CA, as well as a condition restricting permitted development rights in relation to windows in the interests of neighbouring occupiers living conditions.

Conclusion

25. For the reasons given above the appeal should be allowed.

S Harrington

INSPECTOR

Schedule

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 drawings 2023 23/2R and 2023 23/3R.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding where appropriate;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) The dwelling hereby approved shall not be occupied until space has been laid out within the site in accordance with drawing no. 2023 23/3R for bicycles to be stored and that space shall thereafter be kept available for the storage of bicycles.
- 5) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed.

End of Conditions