



Appeal Decision

Site visit made on 16 July 2024 by R Dickson BSc (Hons) MSc MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/X1165/W/24/3339134

2 Clifton Road, Paignton, Devon TQ3 3LN

- 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 Graham Jasper and Lee Watkins against the decision of Torbay Council.
 - The application Ref is P/2023/0704.
 - The development proposed is proposed change of use from vacant shop premises to bedsit.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The living conditions of the future occupants of 2 Clifton Road, with specific regard to internal space standards, and access to outdoor garden space.

Reasons for the Recommendation

4. The appeal site is a vacant shop premises located on a side road of a main shopping street. The site itself is a single storey shop, with a large glazed window on the front elevation, and a smaller rear obscure glazed window on the rear wall. The proposal would be open plan studio flat without a separate bedroom, but with a separate shower room.
5. Policy DE3 of the Torbay Local Plan 2012-2030 (LP) sets out the requirements for living conditions for future occupiers of developments. Point 9 of Policy DE3 sets out that adequate floorspace should be provided in residential development to achieve a pleasant and healthy living environment. The companion text for this policy states that regard will be had to the Nationally Described Space Standards (NDSS) when considering planning applications and these are set out at table 23 of the Plan.
6. The existing premises has a small footprint. The internal space associated with the proposal is significantly below the requirements set out for a one bed, one person dwelling at table 23. Although the overall standard of accommodation may be proposed to have a high-quality finish, the unit would be extremely small and its use would lead to constrained living conditions for the future

occupants. Due to its constrained size, the unit would have extremely limited storage space and living space creating a substandard form of accommodation. The size of the unit would fail to comply with the minimum standards set out in the NDSS and the LP.

7. While there are circumstances where the NDSS can be applied flexibly, this must be balanced against the overall living conditions of the future occupants to avoid an unpleasant or unhealthy living environment. This is reinforced by the supporting text for Policy DE3. In this instance, I have not been presented with substantive evidence which would outweigh the identified harm to the living conditions of future occupiers. The Council has identified that no section drawings have been provided to show that at least 75% of the floor area is over 2.3 metres in height. This requirement derives from the NDSS and is sought to ensure that spaces with low ceilings meet minimum height standards. Nonetheless, during my visit I found that the internal ceiling height would be sufficient, and therefore no sectional drawings would be required.
8. The proposal would have a small external area to be used as bin storage which would be accessed via a side gate which would be a short walk from the unit. Given that the proposal would be a flat, the fact that the refuse storage would be a short walk would be acceptable, as this is a usual situation with apartments in a taller block.
9. The proposed residential unit would not have any external garden space, and although there is a rear communal courtyard, there does not appear to be provision for this to be used by any future occupiers. As such, the absence of access to decent external space would exacerbate the identified internal space deficiencies. This would have a further negative effect on the living conditions of future occupiers.
10. Accordingly, while the bin storage area would be acceptable, the lack of external garden space and the small footprint of the unit itself would have a significant negative effect on the living conditions of the future occupiers of the proposal. As such, the proposed development is contrary to LP Policy DE3, and the requirements set out in the NDSS, which together require a high standard of living space to be provided for residential developments.

Other Matters

11. The Council cannot currently demonstrate it has a five-year Housing Land Supply (HLS). The National Planning Policy Framework (the Framework) seeks to boost the housing supply and highlights the important contribution small sites can make and supports development which makes efficient use of previously developed land.
12. The site is within the Old Paignton Conservation Area (OPCA). Its significance appears to derive from its Saxon origins which defined the predominantly Victorian shopping area, with Winner Street as the main route through the town. As the proposal seeks to retain the existing shopfront and relates to a change of use, I am satisfied that the proposal would preserve the character of the OPCA.

Planning Balance, Conclusion and Recommendation

13. The proposal would provide a modest net contribution of one additional dwelling. It would be located in a highly sustainable location, within the Town

Centre, where access to public transport and goods and services can be readily found. The scheme would generate economic activity, both during construction and through spending associated with a new occupier. The proposal would also bring a vacant shop unit back into use. However, one dwelling would make only a small contribution to the Council's HLS position, even if any shortfall in supply were significant. I attribute modest weight to this benefit.

14. In contrast, the proposal would result in a form of accommodation that would provide poor living conditions for future occupiers. The Framework requires planning decisions to create places that provide a high standard of amenity for existing and future users. I have concluded that the proposal would conflict with development plan Policy DE3 and the Framework in this respect. I give this significant weight.
15. Consequently, even if the shortfall in five-year supply is significant, the adverse impacts of the development on future living conditions would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the maximum weight that could be attached to any benefit through increasing the supply of housing would not be determinative and the presumption in favour of sustainable development does not apply.
16. For the reasons given above and having had regard to all other matters raised, I find that the proposal would not accord with the development plan, when taken as a whole, and no material considerations would outweigh the conflict found. Consequently, I recommend that the appeal should be dismissed.

R Dickson

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Ben Plenty

INSPECTOR