



Appeal Decision

Site visit made on 17 September 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th September 2024

Appeal Ref: APP/X1165/W/24/3339167

36 Laura Grove, Paignton TQ3 2LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Philip Cleaver against the decision of Torbay Council.
 - The application Ref P/2023/0849 was approved on 17 January 2024 and planning permission was granted subject to conditions.
 - The development permitted is side and rear extensions, and alteration to convert 36 and 36a to single dwelling.
 - The condition in dispute is No 4 which states that: *The external finishes of the extension/development hereby permitted shall match those of the existing building (at the time prior to commencement of development) in terms of material, colour, texture and size unless otherwise agreed in writing by the Local Planning Authority. The materials shall be retained thereafter. The cladding at the second floor of the east-facing gable end shall be removed and replaced with render to match the remainder of the house within 3 months of the date of this planning permission.*
 - The reason given for the condition is: *To ensure a satisfactory form of development in keeping with character of the area in accordance with Policies DE1 and DE5 of the Torbay Local Plan 2012, Policy PNP1(c) of the Paignton Neighbourhood Plan 2019 and the National Planning Policy Framework.*
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Decision

1. The appeal is allowed and the planning permission Ref P/2023/0849 for side and rear extensions, and alteration to convert 36 and 36a to single dwelling at 36 Laura Grove, Paignton TQ3 2LR granted on 17 January 2024 by Torbay Council, is varied by deleting condition 4.

Background and Main Issue

2. Planning permission Ref P/2022/0359 was granted for side and rear extensions, and alteration to convert 36 and 36a to a single dwelling. It was subject to a number of conditions, including No 4 that required external finishes to match those of the existing building. A subsequent permission Ref P/2023/0849 was granted to vary the plans. This permission also contains a condition that deals with external finishes (No 4). However, it adds more by saying *the cladding at the second floor of the east-facing gable end shall be removed and replaced with render to match the remainder of the house within 3 months of the date of this planning permission.*
3. The appeal is made directly against the imposition of condition 4 of P/2023/0849, as the appellant wishes to retain the cladding. The Council contends that a planning condition is necessary to replace this cladding with a material of a colour to match the roof tiles (reddish brown), rather than render, as set out in the condition above.

4. I therefore consider the main issue to be the effect that varying condition 4 would have on the character and appearance of the area.

Reasons

5. The appeal site comprises an extended, mid-20th century semi-detached property. Like many other properties nearby, the appeal building's prevailing features include pale coloured render and a dark, reddish-brown roof. It is within a long residential street, where the scale and design of house types is varied.
6. In that context, the adjacent property has a large, dark grey roof that is a prominent feature in the foreground of the appeal building, when viewed from lower parts of Laura Grove. At my visit, I saw several examples of properties with side and frontage cladding in a variety of tones and colours. A property on the opposite side of the street had some gable end cladding that appeared to be of a similar, but slightly different colour, tone, and material to its roof.
7. While the cladding on the appeal building is not a reddish brown, its tonal qualities appeared very similar to those parts of its roof that were in the shade. Additionally, the building's frontage includes black mock Tudor detail that is a commonplace characteristic. These black tones are continued through to the guttering, soffits, downpipes, fascias, and front door. Even if the cladding is made of a composite material, a glossy texture was not particularly noticeable. As such, the cladding on the upper gable is sympathetically read as part of this collective and subservient detailing.
8. To replace this cladding with a reddish-brown timber, for example, would not match the other detailing. Furthermore, such a subtle change in colour and material would be unlikely to meaningfully enhance the upper gable appearance of the property. This, together with the similar design features found on the building opposite, and the predominant use of render and reddish-brown roofing, means that the building's overall contribution to the locality is complimentary, rather than harmful. The cladding consequently aligns with the Council's House Extension Design Guide, and it would not be reasonable to alter it.
9. For the above reasons, I conclude that the removal of condition 4 would not harmfully affect the character and appearance of the area. As such, there would be no conflict with policies DE1 and DE5 of the Torbay Local Plan or Policy PNP 1(c) of the Paignton Neighbourhood Plan. Collectively, and in this respect, these policies aim to strengthen local identity, avoiding adverse effects on the character or appearance of properties by making use of a sensitive palette of materials. There would also be no conflict with paragraph 135 of the Framework which says, in part, that decisions should ensure developments are visually attractive and sympathetic to local character.

Conditions

10. Having paid regard to paragraph 57 of the National Planning Policy Framework (the Framework), in the absence of harm, it would not be reasonable to impose a materials condition. In light of this, as the development has already been carried out, a new compliance condition would not be necessary. Furthermore, the condition suggested by the Council references the size of external finishes, which would not be sufficiently precise or enforceable.

11. Additionally, as the appeal is made directly against a condition imposed on a planning permission, the effect of removing the condition would not create a new separate planning permission for the development. This decision and P/2023/0849 would consequently be read together. As such, there would be no need to reimpose any other previous conditions as suggested by the Council.

Conclusion

12. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

J Hills

INSPECTOR