



Appeal Decision

Site visit made on 25 September 2024

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2024

Appeal Ref: APP/X1165/W/24/3340579

9 Ilsham Road, Torquay, Devon, TQ1 2JG

- 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 Andrew Franks against the decision of Torbay Council.
 - The application Ref is P/2023/0584.
 - The development is proposed new accommodation at rear of property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted by Mr Andrew Franks with him named as the applicant. The appeal form states that the appeal is submitted on behalf of Mr. Mick Shelley. Correspondence subsequently submitted with the appeal and signed by Mr Frank, Mr Shelley and the agent Ruth Robinson, states that an error occurred in submitting the appeal in Mr. Shelley's name. Mr Shelley is the owner of the site and this is confirmed on certificate B of the application form. The signed correspondence explains the three parties' involvement in the site. I accept that an error has occurred and that Mr Franks should have been named as the appellant. I have accepted the appeal on this basis as it does not prejudice any of the parties involved.

Main Issues

3. The main issues are:
 - The effect of the development on the living conditions of future occupiers with regard to parking, amenity space, light levels and outlook, and the living conditions of occupiers of Bellair Cottage with regard to outlook, visual intrusion and overlooking; and
 - Whether the development provides an adequate level of parking and affects highway safety

Reasons

Living conditions

4. No 9 Ilsham Road is part of a row of shops in a local shopping area. The property has residential accommodation above. At the ground floor to the rear, facing Kents Lane, are two garages. Kents Lane is a narrow road with properties fronting directly onto it. The houses are a mix of styles, some of which would have been mews houses to the larger villas behind.

5. The proposal seeks to redevelop the garages and erect a two-bedroom house with a parking area, and cycle and refuse store. Being a terrace, the appeal site is constrained on three sides. The house would essentially be single aspect as the windows within the side elevations, particularly the kitchen window, having very limited views or access to light due to the proximity of the adjacent buildings.
6. The ground floor would have a living area and kitchen/dining room. Due to the depth of the building the back section of the room would have limited access to natural light and a poor outlook despite the inclusion of a high-level side window. This would create an oppressive environment. This would be further exacerbated by the provision of only a small window at the front of the house. Given that this window is directly onto the street, for privacy reasons, occupants may choose to erect blinds or net curtains as others on the street have done which would further limit outlook and light.
7. The proposed house does not have access to any outside space. Policy THW4 of The Torquay Neighbourhood Plan (TNP) requires that new houses should have at least 20sqm of amenity space. In this instance, given the poor internal living environment, access to outside space is even more important. I accept that amenity space can be difficult to achieve on constrained brownfield sites and that there is public open space nearby. However, the lack of any amenity space for an already constrained property does not provide acceptable living conditions for future occupiers. Whilst this arrangement may be the case for others on the street many of these are historic houses where modern standards were not applicable or were approved prior to the adoption of the neighbourhood plan.
8. The front door to the proposed house would front directly onto the street, which is in poor condition and there is currently no pavement. There are other examples of similar arrangements on Kents Lane, although most houses have at least a small refuge area in front of the door. Whilst not an ideal arrangement, I do not find in this instance that the door opening onto the street would be particularly harmful. Traffic speeds along the road are likely to be slow due to the width and presence of obstacles such as parked cars and bins. Even if the surfacing of the road is poor it would not significantly affect the access to the property.
9. The lack of parking is raised as a concern for future and existing occupiers. The level of parking provision is dealt with further below. However, it is common for houses and flats in urban areas not to have direct access to parking and this is something future occupiers would need to consider. I do not find that it harms the living conditions of the occupiers. Whilst only a snapshot in time, it was noted at the site visit that cars were parked on both sides of Kents Lane. However, I do not find that the provision of one additional house would significantly worsen the situation to warrant the rejection of the appeal on this basis.
10. The side elevation of Bellair Cottage is opposite the site, the main front elevation of this property being accessed from High Erith Road. There is an obscurely glazed window at ground floor level, a small obscure window and a window with a net curtain at first floor level. There is also a further netted window set back from the main elevation. In terms of overbearing impact or visual intrusion I find that due to the obscure glazing on the lower window this

impact would be limited. Given the modest height of the proposed house, whilst the relationship would be a close one. it would not be overly oppressive on the upper floor windows.

11. In respect of overlooking, there would be a very close relationship between the first-floor windows. Although there are other examples of similar distances many of these are historic and the adjacent site recently redeveloped previously accommodated two dwellings. Whilst the current occupier might be supportive of the development, I can only give this limited weight and the living conditions of future occupiers need to be considered. I find that a loss of privacy would result from the close proximity of the windows in the proposed dwelling.
12. In conclusion, I do not find that the lack of parking or the position of the front door would be harmful to the living conditions of future occupiers. However, the development would not create an acceptable living environment due to access to natural light, outlook and lack of outdoor amenity space. Neighbouring occupiers living conditions would also be harmed by a loss of privacy despite the development not being considered to have an oppressive impact.
13. The proposals would therefore be contrary to policies DE3 of the Torbay Local Plan which, amongst other things, protects living conditions and THW4 of the TNP which provides outdoor amenity space standards.

Parking and Highway Safety

14. The appeal site currently includes two garages which theoretically could be used for parking. These are claimed not to be in use and at the time of the site visit there were building materials in front of them and vegetation growing around the doors.
15. The proposal would retain a parking bay for the existing flat. The proposed house would have no designated parking space. The site is in a highly sustainable location close to a range of shops and services on Ilsham Road. As well as being in close proximity to bus stops.
16. Policy TA3 of the Torbay Plan requires development to provide appropriate cycle and car parking and will be expected to meet the guideline parking requirements. The standard required is 2 spaces, however, the notes with the guidance states that in locations such as town centres where there is a greater choice of transport this standard may be reduced. Further to this Policy TH9 the TNP states that developments must meet the guidelines required in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking or, the development is within the town centre and an easy walk of a public car park.
17. The proposal, whilst not in the town centre, has good access to shops and services as well as public transport. It is also not significantly far from the main centre of Torquay. Future occupants could reasonably live at the property without owning a car.
18. Parking in Kents Lane is already restricted, and whilst potentially adding to demand within the lane there are already few options available. As a result, parking would need to take place on surrounding streets. There are daytime restrictions outside the shops but other unrestricted parking is available in the

area. I do not find that the lack of parking would lead to any severe highway safety impacts.

19. In terms of the safety of the proposed parking bay. Although this may have reduced visibility it is in the same location as the existing garage which could be bought back into use at any time. I therefore do not find that the proposed situation is any worse.
20. I therefore conclude that whilst the development would not provide any additional parking it is close to shops and services location and would therefore not conflict with the requirements of Policies TA2 and TA3 of the Torbay Local Plan or Policy TH9 of the TNP.

Other Matters

21. The appeal site is within the Lincombes Conservation Area (CA) and Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. I note that harm to the CA was not cited as a reason for refusal.
22. According to the Lincombes Conservation Area Character Appraisal the significance of the CA is formed by the 19th century terraces and villas against a backdrop of steep hillsides covered in lush vegetation. Examples of such properties can be seen within the vicinity of the site. Kents Lane as a back street has a less grand appearance with modest properties, although there are still examples of characterful architectural detailing which reflect the surrounding villas.
23. The appellant considers that the proposals are a positive benefit to the CA and that this is acknowledged in the officer report. However, the officer report concludes that the development would be acceptable in 'visual terms', they do not go so far as to state that it is an improvement. The proposals would alter the appearance of the site creating a two-storey building on the plot. Whilst the current building would benefit from some tidying up it has a neutral impact on the CA. The alterations would result in the site maintaining a neutral impact on the character and appearance of the CA and as such the CA would be preserved but not enhanced.
24. The development of the adjacent site is noted however this scheme was for two replacement dwellings and is not therefore directly comparable.
25. Reference is made to the development of Palace Gardens nearby in respect of relationships between buildings and internal layouts. However, I do not find this to be comparable as it relates to a much larger development where the overlooking distances are between new dwellings rather than in an existing context.
26. Support for the development from a neighbouring property is acknowledged. Reference is also made to resurfacing part of the lane; however, this is outside of the application site and no evidence has been provided to demonstrate that this could be secured as part of the development.

Planning Balance

27. Torbay Council currently has a housing land supply of less than three years, consequently, the presumption in favour of sustainable development in paragraph 11 d) ii. of the Framework is engaged by virtue of footnote 8. Therefore, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework taken as a whole.
28. In its favour the proposal would deliver one new house in an accessible location, which could be built out quickly and would reuse land and make more efficient use of the site. It would boost housing supply albeit only by one dwelling where there is a significant shortfall.
29. However, the proposal would provide unsatisfactory living conditions for future occupiers as well as harm the living conditions of neighbouring properties. Therefore, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

30. Even though I have found no harm in respect of parking and highway safety and the proposed development would preserve the CA, due to the poor living conditions that would be provided for future occupiers and the impact on neighbouring properties, the proposed development would conflict with the development plan, when read as a whole. There are no other material considerations, including the provisions of the Framework, that outweigh this finding. For the reasons given the appeal should be dismissed.

H Faulkner

INSPECTOR