



Appeal Decision

Site visit made on 13 November 2024

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2025

Appeal Ref: APP/X1165/W/24/3344286

8 Nut Tree Orchard, Brixham, Torbay, Devon TQ5 0AW

- 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 Miss Jodi Williams against the decision of Torbay Council.
 - The application Ref is P/2024/0121.
 - The development proposed is single storey extension to rear of property, flat roof with lantern, 3.2 m deep 4.9 m long.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey extension to rear of property, flat roof with lantern 3.2 m deep, 4.9 m long at 8 Nut Tree Orchard, Brixham, Torbay TQ5 0AW in accordance with the terms of the application, Ref P/2024/0121, and the plans submitted with it, subject to the following 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: Site Location Plan and drawing 102.

Preliminary Matters

2. In December 2024, a revised version of the National Planning Policy Framework (the Framework) was issued. The main parties have been given the opportunity to comment on any implications of the revised Framework and I have taken these comments into account as part of my assessment of the scheme.
3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission had it made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues which I set out below.
4. The Council finds the development to be acceptable in principle and would not have an adverse impact on the host dwelling or neighbouring properties. However, they raise concern regarding the accuracy of plans which relate to internal layouts. The plan submitted with the application showing the extension include a recognised scale but do not include the complete ground floor or first floor plans. For the purposes of assessing the proposals the information provided on the drawings shows floor plans and elevations of the proposed extension in the context of the dwelling. These are sufficient to consider the matters in relation to this appeal.

5. The second matter raised relates to flood risk and I have considered this as a main issue below.
6. Matters in relation to the management of the application by the Council are not for consideration at the appeal stage.

Main Issue

7. The main issue is the effect of the development on flood risk.

Reasons

8. The Council has considered the development to result in increased flood risk. The Flood Risk Assessment (FRA) submitted with the application states that the site is within Flood Zone 1.
9. Policy ER1 of the Torbay Local Plan (TLP) expects development proposals to maintain or enhance the prevailing water flow regime on site and ensure that flood risk is not increased elsewhere.
10. In terms of drainage South West Water commented on the application, they confirmed that the proposed method to discharge into the ground was acceptable and met the Run-off Destination Hierarchy. The Council dispute this as they say the Flood Risk Assessment provided states that water would be discharged into a sewer to be approved by the water company and that SWW have considered Sustainable Urban Drainage System (SUDs) to be used.
11. Even if the proposal would discharge into the sewer the property has an existing conservatory extension to the rear and adjacent to that is a concrete path and a patio. As a result, the additional area to be covered in non-permeable material is limited and I am satisfied that any increase in surface water run-off would be minimal and not result in an increased risk of flooding.
12. The updated Framework references the management of risk through sustainable drainage. It states in paragraph 182 that applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff. It also mentions the need for these to be proportionate to the scale of the proposal. In this case the increase risk is minimal and as a result it would not be proportionate to request a detailed sustainable drainage scheme.
13. As the proposal would not increase flood risk to any meaningful extent, I do not consider there to be any conflict with policy ER1 of the Torbay Local Plan.

Conditions

14. Two conditions have been requested by the Council. The first requires for the submission of accurate scale drawings. The plans that accompany the application are considered to be to scale and sufficient for the development to be built in accordance with them.
15. The Council have requested a condition that allows the application to meet the drainage hierarchy and that the site is large enough to accommodate a SUDs system. Due to my findings in respect of increased flood risk, above, I do not consider this condition to be necessary.

16. In addition, in the interests of clarity and certainty I have included the standard time limit and approved plans condition.

Conclusion

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

H Faulkner

INSPECTOR