



Appeal Decision

Site visit made on 10 February 2025

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/X1165/D/24/3357441
24 Bella Vista Road, Brixham TQ5 8BQ

- 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 Helen Allen against the decision of Torbay Council.
 - The application Ref is P/2024/0271.
 - The development proposed is for the erection of 2no. pitched roof dormers.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 2no. pitched roof dormers at 24 Bella Vista Road, Brixham TQ5 8BQ in accordance with the terms of the application, Ref P/2024/0271, and the plans submitted with it, subject to the conditions set out below:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 Site Location Plan, HAB14 Rev01, HAB15 Rev01 and HAB16 Rev01.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matter

2. Since the planning application the subject of this appeal was determined a new version of the National Planning Policy Framework (the 'Framework') has been published (12 December 2024) and consequently amended on 7 February 2025. There has been no material change to national planning policy in respect of householder appeals and therefore I consider that it was not necessary to refer back to the parties. I have determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the appeal proposal upon the character and appearance of the area, including the setting of the Brixham Town Conservation Area; and upon protected species, specifically bats.

Reasons

Character and Appearance

4. The appeal site comprises a mid-terrace bay-fronted house in an elevated position looking towards the Conservation Area which forms part of the coastal edge of the town of Brixham. An area of privately owned green space and hardstanding intervenes and which, to some degree, provides a visual screen between properties located along Bella Vista Road and those on North Furzeham Road.
5. A high proportion of houses on these roads have undergone roof extensions with rather large box dormers having been constructed on quite a few principal elevations and this now, rather unfortunately, forms part of the character of the conservation area and its setting.
6. I note that the Brixham Town Conservation Area Character Appraisal (CACA) refers to the Furzeham Slopes Character Area, describing that it extends north from the flat centre and harbour; and that Bella Vista Road lies outside the designated area, but forms an important visual and architectural element of the townscape and should be considered for formal inclusion within it. However, I have not been provided with any evidence to suggest that that recommendation has been taken forward through the amendment of the conservation area boundary.
7. In addition, the CACA states that many of the buildings in the locality that make up the vernacular of Brixham have lost all their original features, but that by virtue of their siting, grouping and aspect, still constitute key buildings. With regard to extent of loss, damage and intrusion, it highlights that the loss of joinery and replacement by disparate forms, and addition of over-large dormers can lead to long stretches of terrace's form and rhythm of design being distorted.
8. Within this context the Brixham Neighbourhood Plan (adopted June 2019) (BNP) includes Policy BH6 concerning roofscape and dormer management and sets out a number of criteria which limits the type of dormers that will be approved in order to protect local amenity.
9. Having regard to those criteria, I consider that the pair of dormers would be modestly scaled and would appear subservient to the roofscape by being below the ridgeline and set in from the sides and eaves and would include windows that would be subordinate in size, aligned to those below. Whilst it is proposed to use powder-coated aluminium windows, in anthracite, I consider these would be far more sympathetic than the proliferation of uPVC fenestration found within the area, would ultimately be sympathetic in terms of form and expression; and would not result in a detrimental impact on neighbouring residential amenity. Further, I find no direct conflict with the other criteria as set out within that policy, I say this notwithstanding the 'cheek' windows on both sides of the dormers would render them of a more contemporary appearance, nonetheless, they would be well designed, appearing more lightweight than a standard dormer.
10. Consequently, taking the above into account as well as the site's context, I consider that the proposal would not result in unacceptable harm to the character of the row of terraces, the wider local area or the setting of the Conservation Area and, in this respect, would comply not only with BNP Policy BH6, but also BNP Policy BE1, and Policies DE1 and SS10 of the Torbay Local Plan 2012 – 2030. Together these require development to be well designed, respect and enhance Torbay's special

qualities, whilst ensuring that proposals are adaptable to future change and needs, make the best use of space in terms of ground coverage and height, be uncluttered and attractive and relate to the surrounding built environment in terms of scale, height and massing, whilst ensuring that all heritage assets are conserved, proportionate to their importance.

Ecology

11. I note that the appeal site is within a Horseshoe Bat buffer zone and Cirl Bunting wintering area, however, whilst the Ecologist's Report submitted with the application was produced in September 2022, it highlights that the loft has been previously converted to living space and no apical void remains. It highlights that the roof covering is of cement-bonded tiles and concrete ridge tiles, all of which appear relatively flush-fitting and well-bedded, and they can be seen to be underlined with a membrane and insulated under the front slope by polystyrene blocks and fibre-wool material with sealed uPVC soffits and fascias.
12. Consequently, I agree with the findings that roosting potential for bats would be negligible and whilst I have not been provided with any evidence to demonstrate why the scheme would have a detrimental effect upon Cirl Buntings, nonetheless the ecology report did highlight that in respect of nesting herring gulls, work should be timed to take place outside of the nesting period having regard to the Wildlife and Countryside Act 1981.
13. Therefore, in this instance, whilst the ecology report was over 18 months old at the time the application was submitted to the Council, in this particular case, I consider it is not necessary to carry out a further survey. I therefore find no conflict between the scheme and Policy NC1 of the TLP which requires Torbay's biodiversity to be conserved and enhanced, having regard to the Conservation of Habitats and Species Regulations 2017 and the Government Guidance entitled Bats: Advice for Making Planning Decisions.

Conclusion and Conditions

14. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should succeed.
15. The Council only stipulated that the standard time limit condition should be imposed, however I consider that in the interests of preserving the character and appearance of the area, it is necessary to require that the development be carried out in accordance with the approved plans and that the materials to be used in the construction of the dormers should match those used on the existing building.

C J Tivey

INSPECTOR