



Appeal Decision

Site visit made on 13 November 2024 by S Indermaur

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2025

Appeal Ref: APP/X1165/D/24/3351134

8 Berry Avenue, Torbay, Paignton TQ3 3QN

- 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 and Mrs B & E Roe against the decision of Torbay Council.
 - The application Ref is P/2024/0431.
 - The development proposed is described as the formation of off-road parking.
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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.

Background and Main Issues

3. The appeal scheme is part retrospective insofar as the front garden has been excavated with a rendered retaining wall installed. I am unsure as to whether it is being used as a parking area. Prior to this, the front garden sloped to the road with a low boundary wall at the back edge of the footway. Similar to the rest of the terrace. Planning permission was previously refused for the formation of a parking area and subsequently dismissed at appeal. The scheme before me represents some changes to that proposal. The main issues for which are its effect on a) the character and appearance of the area; and b) highway safety.

Reasons for the Recommendation

Character and Appearance

4. The appeal building is one of a terrace of four elevated two storey dwellings set back from and facing the road. They all, bar the now altered appeal site, retain their landscaped and distinctly sloped front gardens which terminate with a low brick or other hard boundary treatment with occasional pillar features. Along with their similar design and scale, the houses, gardens and front boundary treatment lend a pleasant and verdant consistency to the street scene that contributes positively to the character and appearance of the area.
5. The removal of a substantial amount of the front garden to accommodate the parking area has diluted the quality of the street scene. It has been replaced by a tall and hardened stark void, the contrast of which unacceptably jars with the rest of the terrace. The elevated nature of the terrace, even though the parking area would

be at street level, emphasises the visual effect of the garden's loss. This, and the removal of the lower boundary wall at the back edge of the footway, has reduced the pleasantness of the area's consistency and originality. The inclusion of a brick face to the taller retaining wall, whilst a welcome change to the contextual harshness of the render due to the new wall's size, would not be sufficient to make the appeal scheme acceptable.

6. Several other local front gardens have been subject to similar works. Some appear more historic than the appeal site and the narrowness of others makes them less prominent. I am also unaware of their planning status. In any event, they are the exception rather than the norm and have a disrupting influence on the visual qualities of those more original features of the street scene. They do not therefore justify the proposal.
7. It may also be possible to remove the existing wall without the need for express planning permission. Be this as it may, I remain to be convinced that a timber fence, for example, would be structurally capable of retaining the substance of the garden. There are some examples of render to low front boundary walls in the street so an alternative hard structure to the previous wall might be visually appropriate but there is no such scheme before me. In any case, it is the totality of the works proposed in the appeal scheme which are for me to consider in regard to this main issue, on which my above findings stand.
8. The scheme would therefore unacceptably harm the character and appearance of the area. This would mean conflict with Policy DE1 of the Torbay Local Plan 2012 to 2030 (Local Plan) and Policy PNP1(c) of the Paignton Neighbourhood Plan. Together, and amongst other things, these policies seek to ensure development respects the character of Torbay's built environment and that it is in keeping with the surroundings respecting design, landscaping, colour and materials. There would also be conflict with the National Planning Policy Framework (Framework) which seeks to ensure development is of good design that is sympathetic to local character.

Highway Safety

9. The appeal property is located on an inclined no through road, close to a junction. Most houses located on this road have deep front garden areas and a few have parking areas to the front. Most of the parking is located on one side of the street.
10. Appendix F of the Local Plan sets out that where parking spaces are accessed directly from the highway, a space shall be 3.2 metres by 5.5 metres where there is no door opening into the parking area. This is to ensure that the highway is not obstructed. As the proposal would meet the length requirement, a parked vehicle is unlikely to obstruct the highway and therefore not cause harm to highway safety through either inhibiting the free flow of traffic or pedestrians. Although the proposal would not meet the width required, this would not be a highway safety issue and would be for the user to grapple with on how to get a vehicle in the proposed space and allow for it to be accessible in this particular case.
11. The proposal would not therefore conflict with Policies TA2 and TA3 of the Local Plan which together seek to provide vehicular and pedestrian access to a safe standard that meets guideline requirements. There would neither be conflict with

the Framework which seeks, in regard to this main issue, to prevent development that would have an unacceptable impact on highway safety.

Other Matter

12. The addition of one off-street parking space would not significantly relieve parking stress (on which I have no compelling data) on this road enough to outweigh the harm identified. If it did relieve any documented stress on the highway, it would provide no more than a single space which would make a limited difference in the grand scheme.

Conclusion and Recommendation

13. I have found for the appellant in regard to the second main issue, but this would be a lack of harm which would be neutral and thus not weigh in favour of the appeal scheme. In this instance, material considerations do not indicate a decision other than in accordance with the development plan with which there would be conflict arising out of the harm I have found on the first main issue. For this reason, I recommend that the appeal is dismissed.

S Indermaur

APPEAL PLANNING OFFICER

Inspector's Decision

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

John Morrison

INSPECTOR