



Appeal Decision

Site visit made on 3 June 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/X1165/W/25/3359444

43 Barton Avenue, Torbay, Paignton TQ3 3JG

- 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 Maxfield and Ripley against the decision of Torbay Council.
 - The application Ref is P/2024/0440.
 - The development proposed is two storey dwelling with parking and amenity area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of 43 Barton Avenue (No 43), with particular regard to the provision of internal and external space;
 - whether the proposed development would provide satisfactory living conditions for future occupiers, with regard to internal space;
 - the effect of the proposed development on the local highway network with regard to parking and waste provision; and
 - the character and appearance of the area.

Reasons

Occupiers of 43

3. The proposed 2 storey dwelling would be attached to the side of No 43, which would involve the removal of a side extension and detached garage. The loss of the attached side extension would reduce the overall internal useable space for this property. The precise amount of existing or proposed internal floorspace is not clear, though it is not disputed that it already falls short of the Nationally Described Space Standards (NDSS). Little can be done about an existing shortfall in this respect, though the scheme would exacerbate this substandard provision.
4. In that context, No 43 currently includes a more generous amount of outdoor space, with its detached garage. The proposal would sever this to create a very small private garden to the rear of No 43. While 55sqm of outdoor space is just a recommended guideline, rather than a policy requirement, it nevertheless gives a

good indication of what might be generally expected in housing developments. That said, it is important to assess the site specific circumstances.

5. Notwithstanding the appellant's assertion to the contrary, the Council has set out clearly that this development would leave less than 30sqm of garden space. Given the property contains 3 bedrooms, it is most likely suited for family accommodation. Such occupants would expect a certain amount of space for their outdoor enjoyment, including play areas for goals, swings or slides, BBQs, sitting out or for drying clothes for example. The proposed garden area for No 43 would severely restrict many of these options and would, as a consequence, harmfully reduce existing levels of external space.
6. For the reasons given, I conclude on this main issue that the proposal would have a harmful effect on the living conditions of the occupiers of No 43, with particular regard to the provision of internal and external space. As such, there would be conflict with Policy DE3 of the Torbay Local Plan (LP), which says, in part, that development should be designed to provide a good level of amenity for occupiers in respect of accommodation standards and provision for gardens.

Living conditions of future occupiers

7. There is some dispute over the total amount of new internal floorspace associated with the new build dwelling. The appellant says it is identical to the existing but does not give a figure. The Council says that the floorspace would amount to approximately 73.32sqm, which would be significantly below the expected 84sqm set out in the NDSS. While there may be some flexibility in the application of these standards, it has not been demonstrated that there is any particular reason why this minimum standard could not be achieved. For this reason, the scheme would fail to provide a good standard of accommodation for its future occupiers.
8. Despite being marginally short of recommended guidelines, the proposed outdoor space would include a side wrap around, making it spacious enough and suitable for future occupiers. Even so, this would not sufficiently mitigate against the harm caused by the provision of inadequate internal living accommodation.
9. I therefore conclude on this main issue that the proposal would not provide satisfactory living conditions for future occupiers, with regard to internal space. Accordingly, there would be conflict with LP Policy DE3.

Highways

10. The appellant says that 2 of the proposed parking spaces would have a minimum depth of 5.0m, with the other 2 provided with an acceptable 6.0m. They concede that this would be below standards required in the LP. While the plans show adequate space facing the front doors to each property, there would be very little room to park vehicles without almost touching the bay windows. This situation may be more problematic if occupiers were to own larger vehicles. I acknowledge that there are other similar arrangements in the nearby area, though the spaces would nevertheless be somewhat restricted in this regard.
11. The Council says the width of the total parking area would cover approximately 11.1m, whereas the appellant says it would be 12m. Even if it were the latter, standing highways advice is that at least 12.8m should be provided for 4 vehicles. Although it is conceivable that 4 vehicles could fit within a 12m area, there is also a

requirement that waste and recycling provisions are made for each property.

No 43 would have very little additional space left over for such provision if 2 cars were parked in its driveway. Given notable uncertainties in this regard, it would not be appropriate to attempt to deal with this matter using a planning condition.

12. Overall, the cumulative failings in respect of parking widths and depths means that the scheme would deliver suboptimal parking arrangements. As such, future occupiers would be likely to seek alternative parking on the street. This would add parking pressure to an area that I observed to be characterised by parked cars on the roads.
13. I therefore conclude on this main issue that the proposal would have a harmful effect on the local highway network with regard to parking and waste provision. As such, there would be conflict with LP policies TA3 and W1, and Policy PNP1(d) of the Paignton Neighbourhood Plan (NP). In this respect, these policies aim to provide appropriate car parking spaces and waste storage facilities.

Character and appearance

14. There is no dispute that the similarly proposed scale of the property would provide a balanced building design. There would however be no demarcation between parking areas, which would create a fairly wide and open frontage to the properties. Even so, this would not be markedly different to many of the other frontages found along the same street. It would not cover a particularly wide area and would therefore integrate well with the surrounding context as required by LP Policy DE1 and NP Policy PNP1(c). Moreover, there is little reason why some form of hard or soft landscaped boundary treatment could not be secured by way of a planning condition.
15. I therefore conclude on this main issue that the proposal would have an acceptable effect on the character and appearance of the area. It would consequently accord with LP Policy DE1 and NP Policy PNP1(c).

Other Considerations

16. The evidence shows that the appellant intends for the new dwelling to be a self-build. Conditions requiring occupation of the dwelling by the person who built it would be unlikely to pass the tests within paragraph 56 of the National Planning Policy Framework. There is no alternative mechanism before me to secure its occupation in this way. Accordingly, this part of the scheme cannot be relied upon and I give this matter little weight.
17. There would be some positive social benefits as the scheme would provide an additional home to add to the overall stock. There would also be some moderate economic benefits to the local construction industry during its development and through additional consumer spending thereafter.

Planning Balance and Conclusion

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the Framework.
19. The proposal would have an acceptable effect on the character and appearance of the area. However, this would not be outweighed by the harm identified in respect

of living conditions of existing and future occupants, and highways. The proposal therefore conflicts with the development plan when taken as a whole. Furthermore, even when considered cumulatively, other considerations are not of sufficient weight to indicate that permission should be granted contrary to the development plan. Therefore, the appeal is dismissed.

J Hills

INSPECTOR