
Appeal Decision

Site visit made on 1 July 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

Appeal Ref: APP/X1165/W/25/3364439

138 Newton Road, Torquay TQ2 7AD

- 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 Kalid and Ms Bibi Rujbally against the decision of Torbay Council.
 - The application Ref is P/2024/0589.
 - The development proposed is described in the application as “the clients seek to remodel and extend their existing detached dormer bungalow into two spacious houses that utilise more natural sunlight and adapt to the growing needs of the occupants. This is a minor development.”
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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 character and appearance of the area;
- the living conditions of the occupiers of 6 Littlefield Close (No 6), with particular regard to outlook and privacy; and
- whether the proposed development would provide satisfactory living conditions for future occupiers, with regard to outdoor space.

Reasons

Character and appearance

3. The single storey appeal building has a large front garden and, like other nearby properties, is set back from a busy street. House types are varied but there are nevertheless groups of properties where there is some uniformity in design, including hipped roofs. Where there are flat roof side extensions, these tend to be very modest in scale.
4. The proposed extensions would raise the overall height of the property to create a pair of 2 storey properties. To some extent, it is agreed that the cladding would break up the massing of the side extension with its more muted and recessive appearance. However, while there would be some consistency with surrounding properties in terms of facing materials, the 2-storey side extension would stand alone as an unusual design feature. Its projection would create an unbalanced frontage, lacking any symmetry. The same could be said for the rear elevation.

5. I note the various comments in respect of design guidance and agree that each case must be judged on its merits. Moreover, the document referred to is not part of the development plan and does not have the force of policy. Even so, while the side extension would match the eaves of the rest of the proposed frontage, the relatively low-profile roof design means that its overall height would appear disproportionately large. Although set further back, this would be out of place when read against the hipped roof design of the adjacent property or other smaller flat roof extensions found nearby. While the efficient use of land promoted within paragraph 124 of the National Planning Policy Framework (the Framework) is acknowledged, decisions should also ensure developments add to the overall quality of the area and are visually attractive as a result of good architecture.
6. For the reasons given, I conclude on this main issue that the proposal would have a harmful effect on the character and appearance of the area. As such, there would be conflict with policies DE1 and DE5 of the Torbay Local Plan (LP), and Policy TH8 of the Torquay Neighbourhood Plan. Together in this respect, and amongst other things, these policies seek to ensure developments evolve high quality architectural detail, relating to the surrounding built environment in terms of scale, height and massing, and respecting street frontages.

Living conditions of No 6

7. No 6 is on higher ground and is taller than the proposed scheme. It is also over 17m from it. However, even though much of the ground floor would be concealed behind boundary treatment, I agree with the Council that the rear extension would create a rather large monolithic block of built form. Despite matching roof and fenestration details, this would be in close proximity to the garden area of No 6. Consequently, it would have a moderate enclosing effect, diminishing current levels of outlook afforded to its occupants. The appellant draws comparisons with a closer extension adjacent to the appeal building, though this is not alike as it has a side-to-side relationship.
8. Turning to privacy, it is claimed that the scheme would reduce the overall capacity for overlooking towards No 6. While window heights would remain similar, the rear extension would however be brought closer to No 6 by about 1m which is not an insignificant distance. It is acknowledged that boundary fencing goes some way towards reducing the ability to directly overlook all of the garden to No 6 and that tree saplings add to overall screening. However, there may be times of the year when these are not in leaf, and in any case, the long-term reliance on such natural features cannot be guaranteed. Moreover, the proposal would introduce windows serving 2 bedrooms facing the rear garden of No 6, as opposed to 1 bedroom and a bathroom. The propensity for overlooking towards the garden or habitable rooms of No 6 would therefore be more likely with the additional bedrooms where occupants would probably spend more time. For the reasons above, current levels of privacy are likely to be reduced by the development.
9. It is claimed that the occupiers of No 6 do not object to the proposal, though the available evidence suggests otherwise. Even if they did not object, this is not a reason in itself to allow unacceptable development.
10. Overall, I conclude on this main issue that the proposed development would harmfully affect the living conditions of the occupiers of No 6, with particular regard

to outlook and privacy. As such, there would be conflict with LP Policy DE3 which, in part, requires development to have particular regard to outlook and privacy.

Future occupiers

11. The collective area of front and rear gardens would be very generous, exceeding minimum space guidelines set out in the LP. The plans show that House A would be allocated the front garden, with House B assigned the rear. Whether laid to gardens or as an outdoor 'useable amenity space or amenity area' as set out in LP Policy DE3, there is also the need in the policy to take into account potential overlooking and privacy effects. In that context, while the front garden would be useable, future occupiers would nevertheless be overlooked by neighbours either side of them. Some landscaping could help to reduce these effects, though not to an acceptable level.
12. To the rear, large sections of the outdoor space to House B would be directly overlooked by the kitchen and bedroom windows of House A. This would create an uncomfortable layout arrangement that would severely impact the quality of living conditions for the occupants of both properties. Furthermore, there is no direct access to the rear of House A to secure a well-connected private garden space. It would therefore not be appropriate to attempt to deal with this matter using a planning condition. High quality living environments sought within LP Policy H1 would not be achieved.
13. On this main issue, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers, with regard to outdoor space. As such, there would be conflict with LP policies H1 and DE3.

Other Matters

14. I have paid regard to the comments made in respect of the processing of the application. However, this has no bearing on the decision which is based on the evidence before me and my own observations.
15. There is no dispute that the appeal site is in a location with good access to services and facilities. There is however little to show that LP policies SS1, SS12, or SDT3 inevitably make the development acceptable, given their focus on supporting good design and meeting the future needs of residents in the area.

Planning Balance and Conclusion

16. The Council says that it has a significant shortfall in housing supply with the latest figure at 2.17 years. Paragraph 11 d) of the Framework indicates that where the required supply cannot be demonstrated, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. However, paragraph 11 d) ii. says that particular regard should be had to key policies (set out in footnote 9) that make efficient use of land and secure well-designed places. The quality of development, sense of place, and high standards of amenity for existing and future users are important considerations that are set out in Framework paragraph 135, which is a key policy. The identified harm would conflict with this key policy.

18. Even though the scheme would provide 1 additional dwelling, the social benefits of housing delivery nevertheless carry significant weight. Every new home contributes towards a shortfall. However, the harm arising from the effect of the development on the character and appearance of the area, and the living conditions of existing and future occupiers, would run contrary to the social objectives of sustainable development. These adverse impacts would significantly and demonstrably outweigh the benefits of the scheme. As such, the proposal would not benefit from the presumption in favour of sustainable development set out within Framework paragraph 11.
19. 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.
20. I have concluded above that the proposal conflicts with the development plan, when taken as a whole. Furthermore, even when considered cumulatively, the weight given to the other considerations would not outweigh the identified harm. Accordingly, other considerations do not therefore indicate that permission should be granted contrary to the development plan. Therefore, the appeal is dismissed.

J Hills

INSPECTOR