



Appeal Decision

Site visit made on 1 July 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2025

Appeal Ref: APP/X1165/W/25/3364358

60 Washbourne Close, Brixham TQ5 9TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Howard Olivere against Torbay Council.
 - The application Ref is P/2024/0893.
 - The development proposed is described as modification of garage to establish home office.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period and the Council has highlighted what its reasons for refusal would have been, had it been determined. The Council's main concerns relate to the effect of the proposal on the character and appearance of the area and living conditions of nearby occupiers with regard to privacy. It has also provided a number of development plan policies applicable to these matters. The appellant has had the opportunity to comment and would therefore not be prejudiced by them forming the basis for the main issues.
3. The Council raises concern that the proposal would be used on a commercial basis citing uncertainties over potential associated noise or disturbance. However, the application form states clearly that the building would be used as a home office, and I have dealt with the appeal on that basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of nearby residents, with particular regard to privacy.

Reasons

Character and appearance

5. The appeal site comprises a bungalow on a cul-de-sac corner plot within a wider housing estate. House types in the immediate area are varied in design and scale, though simple pitches and single storey garages are a prevailing characteristic. The single garage that would be extended upwards to form a home office lies immediately adjacent to No 33. Its rear gable end looks out over its small back

garden and the rear elevations of several properties on lower ground than front Heath Road.

6. The proposal would include complimentary matching external materials. Although rather utilitarian in its form, the proposed external stair would be positioned between garage and the host property, reducing its prominence. However, while the overall height would be similar to that of the host, the roof design would include multiple projections. These gable pitches would create a top-heavy bulk and massing of roof that would be most unlike the hosts or designs seen on other nearby buildings. Consequently, the scheme would not be subservient and the eye would be drawn to these features as a stark and incongruous additions to the estate.
7. Moreover, the very large fenestration detailing to the front and rear would be wholly out of proportion with the small scale and simplistic opening designs surrounding it. The scheme would not add to the overall quality of the area, neither would it be visually attractive as a result of good design or sympathetic to local character as set out in paragraphs 131 and 135 of the National Planning Policy Framework (the Framework).
8. I therefore 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 Policy DE1 of the Torbay Local Plan (LP), which says, amongst other things, that development should relate to the surrounding built environment in terms of scale and massing, integrating with the existing street scene.

Living conditions

9. The fenestration serving the north west elevation would directly face a rear upper floor window of the property below. The appellant says that this would exceed recommended back-to-back distances, though the distance does seem very short from the plans and on the ground. In respect of the latter, the perception of overlooking is exaggerated by the appeal building's positioning on much higher ground than the property below. While there is currently intervening vegetation, this could be cut back at any point and cannot be relied upon to screen the development in the longer term. Close views of the private garden spaces of the aforementioned property known as Maintop and No 33 would also result. For these reasons, current levels of privacy enjoyed by nearby neighbours would be harmfully diminished by the development.
10. The proposed openings on the north west and south east elevations as shown on the plans would let sufficient light into the proposed office, even if obscure glazed. Their very large scale does not appear though to have been designed simply to allow light into this space, but rather, more likely, to take advantage of some sea views from one elevation. While it would be possible to secure obscure glazing using an appropriately worded condition, this would lead to a contrived design feature. As such, the use of a condition in this way would not be a reasonable solution to mitigate against harmful overlooking.
11. For the reasons given, I conclude on this main issue that the proposal would harmfully affect the living conditions of nearby neighbours, with particular regard to privacy. As such, there would be conflict with LP Policy DE3 which says, in this respect, that development should be designed to provide a good level of amenity for occupiers with regard to overlooking and privacy.

Other Matters

12. The appellant has referred to a number of paragraphs in the Framework that they claim support their case. These do not appear to reflect the wording within the current Framework. Moreover, references to policies from a different authority are not determinative.
13. Reference has been made to compliance with LP Policy SS10 in respect of encouraging an efficient use of land, though this policy is principally concerned with the conservation of the historic environment. In any case, the support given in Framework paragraph 129 for the efficient use of land also requires well designed places and the desirability of maintaining an area's prevailing character, which I have found there to be conflict with. The benefits of re-using a building in a location within a built-up area would not outweigh the identified harm. Additionally, whilst the advantages of a more flexible home working lifestyle are acknowledged, this should not be at the expense of the living conditions of nearby residents.
14. The Council is not concerned with the effect of the proposal on parking access arrangements. Given the ground floor garage would be retained, I find no reason to disagree. As such, there is little to show there would be conflict with LP Policy TA2. This is a neutral matter.

Conclusion

15. For the reasons given above the appeal should be dismissed and planning permission is therefore refused.

J Hills

INSPECTOR