



Appeal Decision

Site visit made on 21 August 2025

by **Elizabeth Lawrence BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 September 2025

Appeal Ref: APP/X1165/D/25/3368622

59 Winner Hill Road, Paignton, TQ3 3BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Pam Harvey against the decision of Torbay Council.
 - The application Ref is P/2025/0151.
 - The application sought planning permission for construction of single storey side extension to form greenhouse. Existing terrace to be extended with store underneath without complying with a condition attached to planning permission Ref P/2024/0534, dated 25 November 2024.
 - The condition in dispute is No 3 which states that: Notwithstanding the approved plans, prior to the approved terrace being brought into use, a 1.8m high obscure glazed privacy screen (to a minimum of Pilkington Level 4 or similar standard) shall be erected on the terrace's southern side and shall be maintained and retained as such for the lifetime of the development. The height of the privacy screen is measured from the finished floor level of the terrace.
 - The reason given for the condition is: in the interests of adjoining amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(C) of the Paignton Neighbourhood Plan.
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Decision

1. The appeal is allowed and planning permission is granted for construction of single storey side extension to form greenhouse. Existing terrace to be extended with store underneath at 59 Winner Hill Road, Paignton, TQ3 3BT in accordance with the application Ref P/2025/0151, without compliance with condition number 3 previously imposed on planning permission Ref P/2024/0534 from original planning permission dated 25 November 2024 subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in complete accordance with the approved plans listed below:
 - 24035 09001 - (Version - PL03) - Date on plan: 17/06/2025 - OS Map/Site Location received 07.08.2024
 - 24035 01003 - (Version - PL03 (Store Plan)) - Date on plan: 17/06/2025 - Proposed Internal received 07.08.2024
 - 24035 01004 - (Version - PL03 (GF)) - Date on plan: 17/06/2025 - Proposed Internal received 07.08.2024
 - 24035 01005 - (Version - PL03 (Roof)) - Date on plan: 17/06/2025 - Proposed External received 07.08.2024
 - 24035 02003 - (Version - PL03 (N & S)) - Date on plan: 17/06/2025 - Proposed Elevations received 07.08.2024
 - 24035 02004 - (Version - PL03 (W & E)) - Date on plan: 17/06/2025 - Proposed

Elevations received 07.08.2024

24035 09002 - (Version - PL03 (Site)) - Date on plan: 17/06/2025 - Proposed
Layout received 07.08.2024

- 2) 01. The development hereby approved shall be carried out using external materials as specified on the proposed plans 24035 PL03 02003 & 24035 PL03 02004 and shall be retained as such thereafter.
- 3) This permission relates solely to the use of the development hereby approved as a storage space incidental to the use of the principal dwelling at 59 Winner Hill Road. The principal dwelling and the storage space shall be maintained as a single planning unit. The storage space shall at all times remain incidental to the residential use of the principal dwelling and for no other purpose and shall not be used for habitable or business purposes.

Preliminary matter

2. Whilst not specifically stated in condition 3, from its wording my understanding is that the privacy screen would be along the southern edge of the existing and extended part of the resultant raised terrace. The appeal has been determined on this basis.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 63, 65 and 65A Winner Hill Road (No.63, Nos.65/65A), with particular regard to privacy, and noise.

Reasons

4. Winner Hill Road is characterised by traditionally designed detached and attached dwellings that occupy varied sized plots. The dwellings on the northwest side of the road are elevated above the road level and sit behind long front gardens, whereas the dwellings on the opposite side of the road sit below street level and their back gardens fall away to the rear. This steeply sloping topography results in inter-looking between the properties. The raised terraces and balconies in the area similarly result in inter-looking.
5. The appeal and adjacent dwellings at No.57 and Nos.65/65A Winner Hill Road have staggered front and rear building lines and their rear gardens fall away steeply to the east, providing panoramic views towards the coast. Immediately to the rear of the appeal property and Nos.65/.65A are two “backland” dwellings, No.63 and 61 Winner Hill Road (No.61), which sit at a materially lower level to the appeal dwelling and the dwellings at Nos.65/65A. Access to these “backland” dwellings is from a narrow access track located between the appeal property and No.65/65A.
6. Currently there is an irregular shaped raised terrace to the rear of the appeal dwelling and a first floor balcony, which are both enclosed by low clear glass panels. To the front of the raised terrace is a flat roofed extension and steps leading down to the rear garden. The approved terrace extension would project over the flat roofed extension and the drawings show that it would be enclosed by low clear glass panels to match the existing terrace. Condition 3 requires a tall obscure glazed panel to be placed along the southern side of the extended terrace, which faces towards No.63, Nos.65/65A.

7. Together and amongst other things policies DE3 and DE5 of the Torbay Local Plan 2012-2030 (LP) seek to ensure that new development does not unduly impact on the living conditions of the occupiers of neighbouring properties due to privacy, noise, nuisance and visual intrusion.
8. As stated in paragraph 4 above, the appeal property is separated from No.63 and Nos.65/65A by an access drive that serves the existing “backland” dwellings. This access track is flanked by tall fences and there are some tall mature shrubs close to the property boundaries within their rear gardens which provide some screening between the properties.
9. The appeal dwelling projects materially beyond the rear elevation of the adjacent dwellings at Nos.65/65A. Also, there are already views into the rear garden and towards the dwellings at Nos.65/65A from the existing raised terrace. The proposed terrace extension would be sited opposite the end of the rear garden and further away from the dwellings at Nos.65/65A than the existing terrace and approved greenhouse. As such its potential for overlooking would be less than that of the existing terrace and approved greenhouse.
10. The terrace extension would similarly be sited opposite the western boundary of No.63, close to an area of garden used for access, parking and an outbuilding. The dwelling at No.63 sits at a lower level to the side garden and has a wide projecting flat roofed extension adjacent to the access drive, which is largely screened from the existing/approved terrace area by fencing and planting. The opposite side of the dwelling at No.63 is largely screened from the appeal site by an outbuilding sited immediately adjacent to the dwelling. Two small windows are visible between the rear extension and outbuilding when viewed from the existing raised terrace. They would be less visible from the approved terrace extension, due to the proximity of the rear extension at No.63.
11. The existing raised terrace can accommodate a number of people and could be used for entertaining both on its own and in conjunction with the adjacent living room. The proposed terrace extension would increase the capacity of the terrace, although it would remain domestic in size and use.
12. Due to its position along the southern edge of the approved terrace extension, the absence of a tall privacy screen would have no impact on the living conditions of the occupiers of 57 and 61 Winner Hill Road.
13. For these reasons I find that the deletion of the tall privacy screen from the approved extended terrace would not materially add to the current level of overlooking between the appeal and adjacent properties. Similarly, it would not unduly add to the level of noise likely to be generated by the use of the proposed enlarged raised terrace.
14. Finally, the raised privacy screen would be visually unattractive and would have an enclosing impact on the adjacent narrow access track and the immediate garden areas at No.63 and Nos.65/65A. It would detract from the existing openness of the rear garden environment.
15. I conclude on the main issue that the removal of condition 3 would not unduly impact on the living conditions of the occupiers of neighbouring properties due to privacy, noise or nuisance. It would therefore comply with LP Policies DE3 and DE5.

Other matter

16. I have considered the other conditions attached to planning permission ref: P/2024/0534 and find that they remain both necessary and reasonable. Condition P1 is necessary for the avoidance of doubt; condition 01 to ensure the development respects the appearance of the surrounding area; and condition 2 to protect the character of the area and the living conditions of the occupiers of the adjacent properties.

Conclusion

17. Having regard to the conclusion on the main issue and all other matters raised the appeal is allowed.

Elizabeth Lawrence

INSPECTOR