

Application Number

P/2017/0904

Site Address76 Blue Waters Drive
Paignton
TQ4 6JF**Case Officer**

Gary Crawford

Ward

Churston With Galmpton

Description

Erection of ancillary self-contained unit

Executive Summary/Key Outcomes

The proposal is for the erection of an ancillary self-contained unit to the rear of No.76 Blue Waters Drive, Paignton. The unit would be occupied by the applicant's disabled daughter who is currently living at No.76 Blue Waters Drive.

The proposal is considered to be acceptable in this location and without any overriding detriment to residential amenity of neighbouring occupiers or the character or appearance of the locality. Consequently the proposal meets Local Plan policy requirements, specifically Policies DE1 (Design), DE3 (Development amenity) and DE5 (Domestic extensions).

Recommendation

Conditional approval (conditions at end of report) subject to a Section 106 legal agreement to prohibit severance of the self-contained accommodation from the main dwelling.

Statutory Determination Period

8 weeks, the determination date is 30th October 2017. Due to the number of objections received, the application is being reported to committee.

Site Details

The site, 76 Blue Waters Drive, Paignton, is a detached bungalow with an attached side garage. The host property is located within a spacious plot and there is an existing shed in the rear garden.

Detailed Proposals

The proposal is for the erection of an ancillary self-contained unit in the rear garden, approximately 13m from the main dwelling. The self-contained unit would be 8.5m in width, 4.5m in depth, 2.65m to eaves level and 3.8m in height with a dual-pitched roof. Within the unit there would be a sitting room/dining area, bedroom, bathroom, kitchen and WC. Access to the unit would be from the rear of the main dwelling house.

Summary Of Consultation Responses

Senior Environmental Health Officer: Verbally advised that he has no objections as the proposal is unlikely to result in excessive levels of noise and disturbance.

Summary Of Representations

Representations of objection from 11 households and a petition of objection containing 56 signatures have been received. Issues raised:

- Impact on local area.
- Impact on property values. Officer comment: Representations regarding the impact on property values have been noted but this does not constitute a material planning consideration.
- Loss of light.
- Loss of views. Officer comment: Representations regarding the loss of views have been noted but this does not constitute a material planning consideration.
- Increase in noise.
- Loss of privacy.
- Overdevelopment
- Sets precedent.
- Not in keeping with local area.
- Impact on parking.
- Increase in traffic.
- Impact on drainage.
- Impact on trees.
- Access for emergency services.
- The annexe could be sold or let separately as an independent dwelling.

Relevant Planning History

P/2013/0266: Alterations and extensions to existing dwelling to form new porch to front of property with pitched roof. Approved 19/4/2013.

P/2014/1204: Alterations and additions to existing dwelling. Approved 24/2/2015.

- P/2016/0558: Extension to rear of approved structure by 600mm with amendment to velux roof lights, side door to garage and French doors to rear. Approved 29/7/2016.
- DE/2016/0490: Single storey annexe. Response sent 30/1/2017.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of the development
2. Visual impact
3. Impact on amenity
4. Whether the building would remain as an annexe
5. Housing for people in need of care
6. Impact on parking
7. Drainage
8. Impact on trees

1. Principle of the development

Dwelling houses generally have permitted development rights that allow them to add extensions or outbuildings within the curtilage of the property without having to obtain planning permission. In this case, under Schedule 2, Article 3, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, an outbuilding in the rear garden of the property, is deemed to be permitted development, and therefore not requiring planning permission, providing the building does not exceed certain stipulations. The size of the proposed annex is marginally larger than the regulations allow, (as explained in more detail below). Therefore the principle of constructing an outbuilding in the rear garden is acceptable.

In this proposal, the structure would not be incidental to the house, as it results in a self-contained unit, and therefore planning permission is required. To ensure that the unit remains ancillary to the main dwelling and not used, let or sold separately as an independent dwelling, a legal agreement is required in the form of a S106 which states that the use of the annex shall remain ancillary to the main dwelling. As such, given the size of the plot, it is considered that there is scope for further development within the plot, and subject to a S106, the principle of the development is deemed acceptable.

2. Visual impact

Under Schedule 2, Article 3, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, the provision within the curtilage of a dwellinghouse of a building for a purpose incidental to the enjoyment of the dwellinghouse, is deemed to be permitted development, and therefore not requiring planning permission, providing the building does not exceed the following stipulations:

- No outbuilding on land forward of a wall forming the principal elevation.
- The outbuilding shall be single storey with a maximum eaves height of 2.5 metres and maximum overall height of four metres with a dual pitched roof or three metres for any other roof.
- Maximum height of 2.5 metres in the case of a building within two metres of a boundary of the curtilage of the dwellinghouse.
- No verandas, balconies or raised platforms. No more than half the area of land around the "original house" would be covered by additions or other buildings.

The proposed self-contained unit to the rear of No.76 Blue Waters Drive would comply with all of the above stipulations with the exception that the eaves height would be 15cm higher than the 2.5m allowed under permitted development. As such, given that the proposed building could be constructed as permitted development and therefore not requiring planning permission, providing the eaves height of the building was reduced by 15cm, it is considered that the visual impact of the proposal is acceptable. Given that a structure of the same footprint as the proposed annexe could be constructed as permitted development, it is not considered reasonable to refuse the proposal in terms of overdevelopment of the site. There is a distinct local character and pattern of development within Blue Waters Drive which is characterised by detached bungalows within spacious plots. The proposed materials of the annexe of rendered walls and a slate roof are deemed to be acceptable in terms of their visual appearance. The proposal is unlikely to be visible within the streetscene. As such, the proposal would be consistent with Policy DE5 (Domestic extensions) in the Torbay Local Plan.

3. Impact on amenity

Policy DE3 (Development amenity) of the Torbay Local Plan 2012-2030 states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding uses. Whilst the proposed structure may result in an element of overbearing and overshadowing impacts upon neighbouring rear gardens, in particular No.77, given that a structure of the same footprint and height, but with an eaves height 15cm less than the eaves height of the proposed annexe, could be constructed under the permitted development criteria, it is not considered reasonable to refuse the application on these grounds.

Although there is a window located in the north west elevation of the structure, facing towards the side boundary with No.77, this window would be situated at a high level and it is deemed that it would not result in any significantly harmful overlooking impacts upon No.77 or any detrimental intervisibility impacts between the proposed annexe and No.77. The windows in the north east and south east elevations of the proposed annexe would be located approximately 10m from neighbouring plot boundaries. Due to the distance between these windows and neighbouring plot boundaries, it is considered that the proposal would not result in

any significantly harmful overlooking or loss of privacy impacts upon neighbouring properties.

It is acknowledged that the proposed annexe may result in some noise and disturbance impacts upon neighbouring properties. However, given that the annexe would be for one person, it is considered that noise levels are unlikely to be excessive. Furthermore, much of the noise from the future occupier of the annexe is likely to be contained within the building. The sitting room of the proposed annexe, which is likely to generate the most noise e.g. from a TV, features French doors which face towards the rear elevation of the host dwelling and a window which is situated approximately 10m from the side boundary with No.75 Blue Waters Drive. As such, it is considered that proposal would not result in a detrimentally harmful impact upon neighbouring properties in terms of noise and disturbance.

The proposal is therefore deemed to have an acceptable impact upon the amenity of neighbouring properties and would comply with Policy DE3 in the Torbay Local Plan.

4. Whether the building would remain as an annexe

Representations have been received which raise concerns that the proposed annexe could be let or sold separately as an independent dwelling. The applicant has stated that the proposed annexe would be occupied by their disabled daughter who currently lives at No.76 Blue Waters Drive. The applicant has detailed that the proposed annexe would enable their daughter to develop her level of independence.

Whilst the proposed self-contained unit would be self-sufficient in terms of facilities and it would be separate from the main dwelling. There are a number of reasons why the proposed accommodation would not be suitable to be used as a separate dwelling which include; the access to the annexe and driveway would be shared with No.76 Blue Waters Drive. Whilst the rear garden of No.76 is fairly spacious, it would be difficult to achieve a workable curtilage without also having a significantly adverse effect on the setting and quality of amenity area for the host property. The shared driveway would additionally cause inconvenience for the occupiers of No.76 and with the annexe positioned to the rear of the host property, there would be potential for unacceptable levels of intervisibility between the annexe and the host property. It is considered that all these factors make an aspiration for separation less likely.

To ensure the unit remains ancillary to the main dwelling and not used, let or sold separately as an independent dwelling, and to ensure that the proposed building does not depart from the settlement pattern of the area through the establishment of a separate dwelling, a legal agreement is required in the form of a S106 that the use of the annex remains ancillary to the main dwelling.

5. Housing for people in need of care

The provision of accommodation for a disabled person is a material consideration in this application, although it does not outweigh other planning considerations. Policy H6 (Housing for people in need of care) of the Torbay Local Plan states that the Council will support measures to help people live independently in their own homes and to live active lives within the community. The aim of Policy H6 will be achieved through a number of measures which includes all new dwellings being capable of adaptation for disabled people. Furthermore, Policy H6 details that disabled adaptations or annexes for relatives will be supported unless they significantly and demonstrably conflict with other Local Plan Policies.

In addition, Policy SC1 (Heathy Bay) of the Torbay Local Plan specifies that all development should contribute to improving the health and well-being of the community, reducing health inequalities and helping to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal. Policy SC1 outlines further that development can contribute to creating healthier communities in a number of ways, for example, by providing decent accommodation. Policy SS11 (Sustainable communities) states that development will be assessed against its contribution to improving the sustainability of existing and new communities within Torbay, and especially the way in which it closes the gap between the most and least disadvantaged neighbourhoods. Policy SS11 details further that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle. Policy SS11 is assessed against 11 criterion which includes meeting the needs of residents and enhances their quality of life.

The proposal is for an ancillary self-contained annexe for the applicant's disabled daughter which would enable their daughter to develop her level of independence and enhance her quality of life. As such, it is deemed that proposal would comply with Policies H6, SC1 and SS11 of the Torbay Local Plan.

6. Impact on parking

Appendix F (Car parking requirements) to Policy TA3 (Parking requirements) of the Torbay Local Plan details that for domestic extensions and ancillary buildings, one car parking space shall be provided per two bedroom. As the proposed ancillary self-contained unit would have one bedroom only, no additional parking spaces are required and the proposal would accord with Policy TA3. Whilst the applicant has detailed in a letter accompanying the application that additional support staff for their daughter will attend on a daily basis, given that their daughter is currently living at No.76 Blue Waters Drive, it is considered that the proposal would not result in any worse impacts on parking than the existing situation.

7. Drainage

The application site is located within a Critical Drainage Area and a Flood Risk

Assessment (FRA) has been submitted which states that surface water drainage will be dealt with by soakaways. A condition will be imposed to ensure that drainage accords with the submitted FRA. As such, the proposal would be consistent with Policy ER2 (water management) of the Torbay Local Plan.

8. Impact on trees

Representations regarding the impact of the proposal on trees on the site have been noted. However, these trees are not subject to Tree Preservation Orders and therefore could be removed without requiring permission from the Local Planning Authority.

S106/CIL

This application is for a self-contained unit which would be ancillary to the main dwelling. To ensure the unit remains ancillary to the main dwelling and not used, let or sold separately as an independent dwelling, a legal agreement is required in the form of a S106, which should be completed before planning permission is granted.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - The proposal would provide an ancillary self-contained unit for a disabled person.

Conclusions

In conclusion, the proposed development would not harm the appearance and character of the area or have an adverse effect on the amenity of nearby occupiers, therefore the proposed development is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

Condition(s)/Reason(s)

01. Drainage to accord with submitted flood risk assessment.
02. No additional openings shall be inserted into the north west elevation of the annexe.
03. The self-contained accommodation shall only be used ancillary to the main dwelling and not to be used as a separate dwelling.
04. Annexe not to be let or sold separately from the host dwelling (via Legal Agreement).

Relevant Policies

DE1 - Design

DE3 - Development Amenity

DE5 - Domestic extensions

H6LFS - Housing for people in need of care

SC1 - Healthy Bay

SS11 - Sustainable Communities Strategy

TA3 - Parking requirements

ER1 - Flood Risk

ER2 - Water Management

C4 - Trees, hedgerows and natural landscape