

Report to Development Management Committee on Recent Planning Appeal Decisions

May 2012

Since the last appeal report in May, there have been 6 appeal decisions made. All but one of these were dealt with by the Written Representation method, the other was a Public Inquiry. 5 Of the appeals were lodged against a refusal to grant planning permission by Torbay Council, the remaining appeal was against an enforcement notice. Of the 6 appeal decisions reported here, 5 were dismissed and 1 was allowed, this results in a percentage dismissed of some 83%.

There now follows a brief summary of the appeals dismissed, followed by the details of those appeals allowed. If Members require any greater detail on any specific appeal case, then please contact the Case Officer.

Appeals Dismissed (5)

Site:- 79 Stanley Gardens, Paignton, Devon TQ3 3NX

Case Officer:- Jamie Staples

LPA ref:- P/2010/1365/HA

Ward:- Clifton With Maidenway

Proposals:- Fencing to boundary wall adjacent to Marldon Road, Paignton.

Council's decision:- Enforcement Notice for removal of fence

Issues:- The main issue is the effect of the development on the character and appearance of the host property and the wider area.

Site:- 52 Broadstone Park Road, TORQUAY, TQ2 6TZ

Case Officer:- Alexis Moran

LPA ref:- P/2011/1031/HA

Ward:- Cockington With Chelston

Proposals:- The development proposed is the siting of a greenhouse on a raised platform

Council's decision:- Delegated refusal

Issues:- The first is the impact of the development on the living conditions of people nearby, particularly in relation to privacy and outlook. The second is its effect on the character and appearance of the area.

Site:- 25 Dartmouth Road, Paignton, Devon TQ4 5AD

Case Officer:- Robert Pierce

LPA ref:- P/2011/0489/PA

Ward:- Roundham With Hyde

Proposals:- Alterations and formation of roof extension to form office.

Council's decision:- Delegated Refusal

Issues:- The first is the impact of the development on the character and appearance of the Old Paignton Conservation Area. The second is its effect on the living conditions of the occupants at No 25..

Site:- 21 Clifton Grove, PAIGNTON, DEVON, TQ3 3LH

Case Officer:- Alexis Moran

LPA ref:- P/2011/0874/HA

Ward:- Clifton With Maidenway

Proposals:- Decking to rear (retrospective)

Council's decision:- Delegated refusal

Issues:- The first is the impact of the development on the living conditions of neighbours, particularly in relation to light, outlook and privacy. The second is the effect of the development on the character and appearance of the area.

Site:- 31 Marine Drive, Paignton, TQ3 2NS.

Case Officer:- Helen Addison

LPA ref:- P/2011/0847/PA

Ward:- Preston

Proposals:- Demolition of the building and reconstruction of a semi-detached building to include 7 residential apartments.

Council's decision:- Committee refusal in line with recommendation

Issues:- These are (i) whether the scheme, by reason of its design, scale and height would be overbearing in relation to the attached semi-detached property no. 29 and the resultant effect of the scheme on the character and appearance of the locality and (ii) whether the requirements of the Council to provide infrastructure contributions are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development

The Inspector concluded that the appeal should be dismissed, but did not fully support the Council's justification in relation to 106 obligations.

Appeals Allowed (1)

Site:- Scotts Meadow, Torquay

Case Officer:- Ruth Robinson

LPA ref:- P/2010/1388/MOA

Ward:- Shiphay With The Willows

Proposals:- Residential development to construct up to 155 dwellings with associated vehicular and pedestrian access, landscaping and public open space (In Outline)

Council's decision:- Committee refusal against officer recommendation

Issues:- Principle of development on Greenfield site designated as Urban Landscape Protection Area, extent and scale of development in the policy context. Extent of available and deliverable housing sites (5 year land supply).

Decision:- The Inspector considered that the site's designation did not preclude its development and that the appropriate scale of development was proposed (the proposal included public open space and a restriction on the extent of the development footprint). The Inspector concluded that Torbay does not have a 5 year supply of available and deliverable housing land and in those circumstances came to the view that the development should be allowed as it would assist in delivering new housing in Torbay.

During the proceedings the developer tabled a revised s106 offer and this has resulted in the scheme being allowed without a full policy compliant sustainable transport contribution or the Council's preferred detailed clauses in relation to the control of the affordable housing. The offer at Inquiry is demonstrably less than that which was put forward to the committee back in October 2011 at the time the application was determined.