

Appeal Decision

Site visit made on 6 March 2017

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 March 2017

Appeal Ref: APP/X1165/D/17/3166753

7 St James Road, Tormohun, Torquay TQ1 4AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Steve Couzens against the decision of Torbay Council.
 - The application, Ref. P/2016/1009/HA, dated 14 September 2016, was refused by notice dated 10 November 2016.
 - The development proposed is an amended re-application for a first floor extension over the kitchen.
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Decision

1. The appeal is allowed and planning permission is granted for a first floor extension over the kitchen at 7 St James Road, Tormohun, Torquay in accordance with the terms of the application, Ref. P/2016/1009/HA, dated 14 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision;
 - 2) The development shall be carried out in accordance with the following approved plans: Drawing No. Series 15.196: Plan Nos. 01; 02 (GF); 03 (1F); 04; 06; 22 & 24.
 - 3) The materials to be used in the construction of the external surfaces of the extension shall match those of the existing building.

Preliminary Matters

2. As the appellant was not at home at the time of my visit I carried out an unaccompanied visit to observe the building and its surroundings from the rear access path.
 3. Reference is made on the planning portal file to the previous application ref. P/2016/0530. As the plans of that refused scheme do not appear on the file I have inspected them on the Council's website in order to understand the evolution of the appeal scheme.
 4. The officer's report says that the balcony area will sit above the shared access path, but my reading of Drawing No. 22 is that it is only the link between the balcony and the external staircase to the garden that does this, with the balcony confined to that part of the existing flat roof not used for the first floor extension. It would appear that this misunderstanding has arisen from
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elevation Drawing 24, which although technically correct is open to a misinterpretation of the link comprising a more extended balcony.

Main Issues

5. The main issues are (i) the effect of the proposal on the character and appearance of the existing dwelling and terrace, and (ii) the effect on the living conditions for adjoining occupiers as regards privacy, outlook and light.

Reasons

6. On the first issue the Council's appraisal of the proposal includes the terms 'unduly dominant', 'overbearing', 'feeling of enclosure', 'cluttered' and 'overextended'. However, whilst these are ostensibly valid criticisms and would normally support a refusal of permission I consider that, as the report itself in part recognises and the grounds of appeal emphasise, some of the less pejorative of these adjectives already apply to the rear of the terrace of four dwellings.
7. That said, the terrace's rear elevations and their associated curtilages are not visible from the public realm and although they comprise a random miscellany of building shapes, boundary fences, access paths, steps, railings, and garden structures / ornaments, this clutter in its context is part of the existing character, and as such not unattractive. For example, the railed balcony on the flat roof to the rear of No. 5 is particularly dominant, but despite this it is in my view perceived as a positive aspect that links the dwelling to the garden and demonstrably enhances the living conditions for the occupiers. The appeal scheme is similar in principle but has been appropriately scaled back to meet the Council's original concerns, albeit as indicated above in respect of the balcony there is a possible misunderstanding as to its extent.
8. The Council also considers that because there is no record of their approval, the balcony and stairs at No. 5 should not set a precedent. Whilst I acknowledge that precedents should often not be followed, the addition is nonetheless already there and as I have already indicated is part and parcel of the character of the terrace. I consider it difficult to argue a plausible case for a rejection of the appeal scheme when the next door house has a similar development. This is especially so because the addition to No. 5 enhances its living environment in an area heavily constrained by a lack of space, awkward land levels and restricted outlook.
9. This balance between constraints and opportunity for improvements is understood by the other residents of the terrace, with strong letters of support for the appeal scheme from the occupiers of Nos. 3, 5 and 9. Their positive attitude also applies to the second issue where the Council's view is that the proposal would adversely affect light and outlook for both No. 9 and the appeal dwelling. However, given the northerly orientation of the elevations the dwellings do not rely on the windows as an important source of natural light. In any event, given this orientation of the terrace and the position of No. 9 in relation to No. 7, I do not agree with the Council's analysis that the afternoon and evening light to No. 9 would be affected.
10. In terms of the alleged loss of privacy the proposed balcony would be less than a metre in depth, and bearing in mind the large size of the existing balcony to

the rear of No. 5, it would be unlikely to increase the overlooking of neighbours to any material extent. Again, it is clear that this point is understood and accepted by the existing residents.

11. Overall, I conclude that the proposal would not have an unacceptably harmful effect on either the character and appearance of the dwelling and terrace or on the living conditions for the occupiers. There would accordingly be no harmful conflict with Policies DE1, DE3 & DE5 of the Torbay Local Plan 2012-2030 or the core planning principles and Section 7: 'Requiring Good Design' of the National Planning Policy Framework 2012.
12. I shall therefore allow the appeal subject to a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition stipulating matching external materials for the extension will ensure that it harmonises with the host dwelling and thereby maintains visual amenity.

Martin Andrews

INSPECTOR