
Appeal Decision

Site visit made on 8 November 2017

by C J Ball DArch DCons RIBA IHBC

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

Decision date: 17 November 2017

Appeal Ref: APP/X1165/D/17/3181338

31 Loxbury Road, Torquay TQ2 6RS

- 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 & Mrs Hornabrook against the decision of Torbay Council.
 - The application Ref P/2017/0280/HA, dated 14 March 2017, was refused by notice dated 11 May 2017
 - The development proposed is a side extension to southern elevation with rear balcony; additional parking space at top driveway level and reconfigured entrance.
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Decision

1. The appeal is allowed and planning permission is granted for a side extension to southern elevation with rear balcony; additional parking space at top driveway level and reconfigured entrance at 31 Loxbury Road, Torquay TQ2 6RS in accordance with the terms of the application, Ref P/2017/0280/HA dated 14 March 2017, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Hornabrook against Torbay Council. This application is the subject of a separate decision.

Preliminary matters

3. There is no objection in principle to the provision of additional parking space or to the reconfiguration of the entrance area so I have concentrated on the side extension.

Main issue

4. The main issue in this case is the effect of the proposed extension on the living conditions of neighbours, with particular regard to over-dominance and loss of light.

Reasons

5. No.31 Loxbury Road is a detached, 2-storey dwelling at the end of a cul-de-sac. The steeply sloping plot adjoins and overlooks the Cockington valley, an Area of Great Landscape Value designated as a Conservation Area and Countryside Zone. The Council considers that the proposed extension would sit comfortably within the existing local street scene, which is of a mixed character, and would be seen against the backdrop of the existing hillside buildings when viewed from Cockington valley. I agree that the proposed extension would have limited visual impact on the wider surroundings.

6. The extension would be located on the south-eastern side of No.31, in an area of garden adjoining the boundary with its neighbour, No.29. The north-western elevation of No.29 is parallel and close to the common boundary and contains a number of windows. I saw that, on the upper floor, these side windows relate to a utility room/rear entrance and to a kitchen/dining area, although the principal window/patio doors in this area, like all the nearby houses, overlook Cockington valley. On the lower floor, the side windows serve a dressing room and a bedroom, although the bedroom too has a main window facing south-west over the valley. Thus the windows in this elevation either light service rooms or are secondary windows to habitable rooms with other main windows. That accords with the requirements of the building regulations relating to light and ventilation in regard to windows close to the boundary.
7. Although there is a tall, thick hedge on the boundary, these side windows currently overlook the side and rear gardens of No.31, affecting the privacy of the occupants. While the occupiers of No.29 may have become used to it, there is no right to light or view over the adjoining property.
8. The extension to No.31 would sit at an angle to the side elevation of No.29. At its upper, single storey end it would be about 2 metres from the boundary, not dissimilar to No.29. At its lower 2-storey end it would be about 5 metres from the boundary. I saw that this arrangement reflects the range of similar relationships between all the other houses on the lower side of the cul-de-sac, which use the full width of their steeply sloping plots. All the houses, including Nos.29 and 31, have been designed to face south-west, taking advantage of the view and receiving daylight and sunlight to principal windows. The extension to No.31 would not affect the south-west elevation of No.29 in any way. In fact, because of the splayed arrangement, it is likely that some evening sun would still reach the north-west elevation. The appellants' daylight and sunlight study shows that, with the extension in place, the levels of daylight and sunlight at these windows would accord with the guidance set out in the Building Research Establishment publication 'Site Layout Planning for Daylight and Sunlight: a guide to good practice'. I consider that there would be no significant loss of light at No.29.
9. The extension would bring built development closer to the side elevation of No.29, although it would not project further forward. No.31 is set lower into its site so that eaves and ridge heights are generally lower than those of No.29. Nonetheless, the extension would be particularly noticeable in the outlook from the secondary windows in the side elevation. It would not however affect the outlook from the principal windows in the south-west elevation. The extension would be at an angle to the boundary with No.29, allowing oblique views from the kitchen/dining and bedroom secondary windows. Because of its lower height, form and location I consider that the extension would not be so dominant in the overall outlook from No.29 that it would reduce living conditions to an unacceptable level.
10. I therefore find that, in accordance with the requirements of policies DE3 and DE5 of the Torbay Local Plan, the proposed extension would not unduly impact on the living conditions of neighbours. Planning permission should therefore be granted, subject to appropriate conditions.
11. The Council makes limited reference to suggested conditions so I have considered the matters referred to in the officer's report and at the committee

meeting. It is important that the materials used in the extension match the existing house so that it harmonises with the building and the locality. The plans show a full width balcony so it will be necessary to ensure that privacy screens at either end prevent high level overlooking. The narrow lower level window in the south-east side of the extension would be some 5 metres from the boundary, overlooking a garden area. I do not consider that, in this position, it would enable intrusive overlooking of the adjacent property so I see no need for obscured glazing.

12. The site is within a Critical Drainage Area as designated by the Environment Agency so a condition is necessary to ensure that proper provision is in place as set out in the submitted flood risk assessment. Proper landscaping of the area associated with the car parking at the front, and on the boundaries, is necessary to reflect the established landscape characteristics of the area.
13. Subject to conditions securing these requirements, for the reasons given above I conclude that the appeal should be allowed.

Colin Ball

Inspector

SCHEDULE OF CONDITIONS

Planning permission is granted for a side extension to southern elevation with rear balcony; additional parking space at top driveway level and reconfigured entrance at 31 Loxbury Road, Torquay TQ2 6RS in accordance with the terms of the application, Ref P/2017/0280/HA dated 14 March 2017, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7195P001D, 7195P002D, 7195P003D, 7195P006D, 7195P0011D, 7195P0013D, 7195P0016D.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 4) The extension hereby permitted shall not be occupied until the south-east and north-west ends of the balcony on the south-west elevation have been fitted with full height obscured-glazed screens. Details of the screens and the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the screens are installed and once installed the screens shall be retained thereafter.
- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: earthworks showing existing and proposed finished levels; landscape planting; means of enclosure and retaining structures; boundary treatments; vehicle parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; lighting, floodlighting and CCTV.

The landscaping works shall be carried out in accordance with the approved details before any part of the extension is brought into use in accordance with an agreed implementation programme.

- 6) The extension hereby permitted shall not be occupied until works for the disposal of surface water have been carried out on the site to serve the development hereby permitted, in accordance with the details set out in the submitted flood risk assessment reference P20170280-01.