



Appeal Decision

Site visit made on 25 June 2019

by S A Whitehead LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/X1165/D/19/3227672

Trevadlock, St Lukes Road North, Torquay TQ2 5PD.

- 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 and Mrs A Baker against the decision of Torbay Council.
 - The application Ref P/2018/0997, dated 29 September 2018, was refused by notice dated 18 February 2019.
 - The development proposed is the formation of a raised hardstanding and vehicular access.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have had regard to the revised National Planning Policy Framework (NPPF) issued in February 2019 in reaching my decision. In respect of the main issue, the revised NPPF has not changed national policy. Consequently, no party has been prejudiced by the revision.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Belgravia Conservation Area, with particular reference to its effect upon a boundary wall and protected tree.

Reasons

Character and appearance

4. The appeal site is located in the Belgravia Conservation Area (the Conservation Area), an area of villas and hotels constructed in the 19th and early 20th centuries. Besides the significance attributable to the architecture and historical interest of these buildings, the Council's Belgravia Conservation Area Character Appraisal (2006) (BCACA) highlights the presence of walls and trees as features of special importance in the Conservation Area, identifying 'the large number of visually important mature trees, as street features, and those which act as a foil to historic buildings, either as background or foreground landscape features' and 'prominent limestone boundary walls which greatly enhance the townscape.'
5. Moreover, with particular regard to St Lukes Road North, the BCACA advises that 'Those [properties] in St Luke's Road North preserve in the main much more authentic period detail, including their doors and windows, in a setting of

street trees and characteristic local limestone rubble walls, which still conveys the atmosphere of a Victorian inner suburb.'

6. The appeal property comprises a two storey semi detached dwelling which, the appellants advise, was constructed in the early 20th century. The appeal proposal would involve the removal of a section of the limestone wall currently fronting the property to create a new vehicular access and hardstanding. An existing pedestrian gate in this wall would be blocked up using matching materials.
7. The Council's concerns are twofold, relating to the loss of part of the limestone wall and the possible impact of constructing the hardstanding on a tree situated close by, albeit within a neighbouring garden.
8. Whilst I note that many properties in St Lukes Road North and neighbouring roads are fronted by limestone rubble walls, these walls incorporate apertures and gates of various widths; many of similar width to the gate that forms part of the appeal proposal. Indeed, although it is not referenced in the Planning Officer Report, I note that an 'Interim Heritage Response' was provided by email by the Council's Assistant Director of Planning & Transport which makes similar observations, stating 'I note that it is a mix of walls, pedestrian and vehicular gates and as such the proposal will preserve the wider character of the Conservation Area. Therefore, I have no objections to this proposal.' I am also conscious that the proposal includes the blocking up of the existing pedestrian gate with limestone and, taking this into account, that the new aperture in the wall would only be several metres wider than the existing pedestrian gate. The proposed gate would also retain the sense of enclosure currently provided by the boundary wall. Finally, the provision of further off-street parking offers the opportunity for a car that would otherwise likely park on-street to park more discreetly, and therefore cause less harm to the character and appearance of the street scene.
9. Taking all these matters into account, I find that the removal of the section of boundary wall and its substitution with a vehicular gate would accord with Policy DE1 of the Torbay Local Plan 2012 – 2030 (TLP) insofar as it would acknowledge local character and integrate with the prevailing street scene. It would also comply with Policy SS10 of the TLP, which seeks to sustain and enhance features that make an important contribution to Torbay's built and natural setting and heritage, and conserve and enhance the distinctive character of Torbay's conservation areas whilst allowing sympathetic development within them. For the same reason, this element of the proposal would comply with Chapters 12 and 16 of the NPPF. It would similarly be compliant with Policy TH8 of the draft Torquay Neighbourhood Plan.
10. Turning to consider the effect of the proposal on a protected tree, the tree in question is not identified by species or location in the Council's reason for refusal. The Planning Officers Report, repeating the Arboricultural Officer's consultation response, merely states that 'the adjacent tree is overhanging and in falling distance of the site.'
11. Based on my site inspection, only one tree overhangs the site of the proposed hardstanding; a tree situated in the neighbouring garden of Mount Hermon, close to the stone wall that marks the boundary with the appeal site. This tree is described in the appellants' Appeal Statement as a 'self seeded Ash tree.'

12. The appellants note that the tree should be removed in any event due to its closeness to the stone wall, and also state that the tree is in very poor condition and is 'more of a bush that has been considerably coppiced in the past.'
13. However, no professionally produced tree report accompanied the original planning application, or this appeal, and no professional assessment of the health or condition of the tree has been carried out. I therefore have no other evidence before me to support the appellants' assertion that the tree is in poor condition. From my own observation albeit limited to views of the tree's canopy gained from the appellants' garden and views gained from the street, I have no reason to reach this conclusion. Similarly, in the absence of a tree report, the likely effects of the proposal on the health and amenity value of the tree cannot be accurately assessed. From my own observation, it is clear that the canopy of this tree extends over a large part of the area of the proposed hardstanding and, on this basis, it can be surmised that the roots of the tree may pass under the raised patio area currently situated in this area. However, in the absence of a tree report, I cannot accurately assess the likely effects of constructing the hardstanding on the health of the tree or take into account any possible mitigation.
14. The tree was in full leaf at the time of my site inspection and forms part of an attractive group of trees prominent in views gained from the street, in particular looking south-east along St Lukes Road North from points towards its junction with St Lukes Road, and thus positively contributes to the pleasant leafy character of the area.
15. In addition to the importance placed upon trees in the BCACA, Policy C4 of the TLP advises that development will not be permitted where it would seriously harm protected trees, and advises that where the loss of trees is considered acceptable as part of development, replacement and other mitigation measures will be required. For the reasons given, and in the absence of a tree report, I cannot find that the proposal would not seriously harm, or result in the loss of, a tree that positively contributes to the character of the area, or consider any options for mitigation. I therefore find that the proposal would conflict with Policy C4 of the TLP.
16. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in accordance with the statutory duty set out in section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990. Whilst I find no harm would result from the loss of the section of wall, based on the evidence before me and from my own observations, I am unable to conclude that the hardstanding would not harm a protected tree that positively contributes to the character and appearance of the area. For this reason, I cannot conclude that the proposal as a whole would preserve or enhance the character or appearance of the Conservation Area.

Conclusion

17. For these reasons, and having regard to all matters raised, the appeal should be dismissed.

Sandra Whitehead

INSPECTOR