
Appeal Decision

Site visit made on 9 July 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/X1165/D/19/3228622

The Forge, 2 Western Road, St Marychurch, Torquay TQ1 4RL

- 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 Alan Bache against the decision of Torbay Council.
 - The application Ref P/2019/0115, dated 28 January 2019, was refused by notice dated 1 April 2019.
 - The development proposed is a loft conversion with rear pitched roof dormer.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on i) the character and appearance of the St Marychurch Conservation Area, and ii) the living conditions of neighbours with regard to overlooking.

Reasons

Character and appearance

3. The appeal site is occupied by an end of terrace 2-storey dwelling within the St Marychurch Conservation Area. The appeal site forms a corner plot between Western Road and Havelock Road. The rear of the property forms part of the Havelock Road street scene. To the side and rear are single storey lean-to structures and beyond the private and enclosed garden is an outbuilding, parking and vehicular access serving the terrace.
4. The St Marychurch Conservation Area Character Appraisal (Revised April 2005) states that the terrace was constructed post 1915. Furthermore, it identifies the site within the 19th Century Terraced Housing sub-area which is characterised by close knit terraces, providing an intimacy of scale and sense of enclosure. The dwelling is one of 3 properties within a neat and modest short terrace which has rendered walls and concrete tiles to the main roof. Although clearly of a later period to the characterising development of the conservation area it has an unassuming form. This mitigates its impact on the significance of the heritage asset.
5. The rear elevation of the building has a simple appearance with continuous eaves and ridge levels and an uncluttered roof slope. The only notable features are 2 chimneys that add some interest. The proposed dormer though would interrupt the roofscape inserting a large and bulky feature into the rear

- elevation. The dormer window would be set level with the ridge of the main roof and fail to align with the fenestration of the floors below.
6. Furthermore, the combination of the proposal's siting, scale and design would appear incongruous to the simplicity of the existing building's roof. It would have an unbalancing impact increasing the verticality of the dwelling, setting it distinct from the horizontal emphasis of the terrace. Therefore, the dormer window would be incongruous and harmful to the existing building.
 7. Additionally, the proposal would draw the eye and therefore raise the prominence of this terrace within the conservation area. The terrace does not positively contribute to the significance of the conservation area and eroding its unassuming form with poor design would be deleterious to the heritage asset. Furthermore, due to the corner plot nature of the site the rear elevation forms a clear part of the Havelock Road street scene and would be clearly visible.
 8. I note that the presence of trees in the street scene restricts views of the proposal when they are in leaf. However, they would not eliminate views and would provide little mitigation when the trees are not in leaf. Dormer windows are not a feature of this terrace and not a notable feature within this part of the conservation area. In the vicinity I have seen very few examples of dormer windows and none that would have the same harmful impact as this specific proposal.
 9. Additionally, I note the appellants intention to use cladding materials of a colour to be within the recommendations of the development plan. However, this would not mitigate the issues I have set out above.
 10. For these reasons, I find that the proposal would have a detrimental impact on the existing building and would neither preserve nor enhance the character and appearance of the St Marychurch Conservation Area. In the words of the National Planning Policy Framework (the Framework) (paragraph 196) the proposal would result in "less than substantial harm" to the heritage asset and no public benefits have been demonstrated that would outweigh the harm. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight.
 11. I therefore conclude that the proposals would result in harm to the existing building and fail to preserve or enhance the character and appearance of the St Marychurch Conservation Area. The scheme would conflict with the adopted Torbay Local Plan 2012-2030 policies DE1, DE5 and SS10. Furthermore, it would not conserve the heritage asset in a manner appropriate to its significance contrary to the objectives of the Framework.

Living conditions

12. The proposal would result in an additional upper floor window to a habitable room within the rear elevation of the dwelling. This would result in oblique overlooking of the neighbouring garden. This kind of overlooking is quite typical for terraced dwellings and already occurs from the existing first floor bedroom window on the same rear elevation. The property to the rear is some distance away and due to the rising topography and intervening landscape features no significant overlooking would occur.
13. The adopted Torbay Local Plan 2012-2030 policy DE3 in broad terms sets out how development should not unduly impact upon the amenity of neighbouring

and surrounding uses. Furthermore, the Framework requires new development to create a high standard of living conditions for existing and future users. Having regard to the evidence before me and for the reasons set out above, the proposal would not cause any significant overlooking over and above the existing situation. As such, there would be no significant additional impact to the living conditions of neighbours.

14. Therefore, regarding the second matter I conclude that the proposal would not cause harm to the living conditions of neighbours with regard overlooking. It would not conflict with the adopted Torbay Local Plan 2012-2030 policy DE3 or the Framework.

Conclusion

15. In conclusion, the proposal would have a detrimental impact on the existing building and would fail to preserve or enhance the character and appearance of the St Marychurch Conservation Area. The less than substantial harm to the heritage asset is not outweighed by any public benefit. The lack of harm I have found in respect of the living conditions of neighbours with regard overlooking can only be considered a neutral matter and does not mitigate the identified harm. Therefore, for the reasons given above the appeal should be dismissed.

James Taylor

INSPECTOR