



Appeal Decision

Site visit made on 24 June 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2019

Appeal Ref: APP/X1165/D/19/3226453

15 Fletcher Close, Cockington with Chelston, Torquay TQ2 6DD

- 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 Daniel Hobbin against the decision of Torbay Council.
 - The application Ref P/2019/0134, dated 30 January 2019, was refused by notice dated 2 April 2019.
 - The development proposed is 'construction of decking in rear garden. Creation of extra parking space to the front of the property with increased access to the highway'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Daniel Hobbin against Torbay Council. This application is the subject of a separate Decision.

Procedural matters

3. Since the determination of the application subject of this appeal it is noted that there has been a change in the Development Plan with adoption of the Torquay Neighbourhood Plan (NP) on 19th June 2019. I have determined this appeal in accordance with the Development Plan as updated.

Main Issues

4. The main issues are the effect of the proposed development on i) the living conditions of occupiers of 13 Fletcher Close, with particular reference to outlook and sunlight; and ii) the effect of the proposed decking on the character and appearance of the area.

Reasons

5. The appeal site is a mid-terrace dwelling within an established residential road of similar dwellings with mature trees to the east protected by a Tree Preservation Order. The gardens of the properties step downwards to the rear, resulting in much of the garden being considerably lower than ground floor level of the appeal property. There is a large window opening within the rear elevation of 13 Fletcher Close situated adjacent to the boundary with the appeal site, with decking at different levels within its rear garden. The boundary enclosure immediately to the rear of the property consists of a low block wall with a close boarded timber fence on top, that steps down after the

first panel. The parking area included as part of the appeal proposals has partially been laid to the front of the property.

Living conditions

6. The appeal development would introduce a raised decking area with a maximum depth of approximately 6 metres (inclusive of the steps) that would be enclosed by a 1.8 metre close boarded fence to both flanks. The raised deck would be accessed directly from the rear patio doors and is proposed all at the same height. As a result the decking will be approximately 2.3 metres above existing ground level at its eastern end.
7. There is an element of the raised deck serving No 13 that is at a similar height to that proposed, although this is limited in extent and set away from the boundary with the appeal site. The remainder of the deck at the neighbouring property is at a lower level than that proposed. Given the height of the proposed deck it would be significantly elevated above the majority of the existing decked area serving No 13. Noting the position of the proposed raised deck adjacent to the boundary, its depth and its height inclusive of privacy screening to its northern edge, the development would introduce a substantial mass above the existing boundary enclosure between the properties, particularly towards its eastern end. The development would be visually oppressive when viewed from the garden of the neighbouring dwelling causing a significant impact upon outlook of occupiers of No 13.
8. The existing rear garden is already significantly enclosed by the existing dwellings and the mature trees at the foot of the garden. The proposed deck and associated screening, would introduce additional mass on the southern boundary of No 13 that would, given the proposed levels difference between the decked areas, exacerbate the existing situation. Whilst I note the appellant's assertion that any increased overshadowing would be minimal, I consider that the proposals by virtue of their depth, height and proximity to the boundary would result in significant loss of light to the rear garden of the neighbouring property and this would not be outweighed by any suggested improvement of privacy.
9. The windows within the rear elevation of No 13 are at a commensurate height to those within the appeal property. Given this, the top of the proposed screen would be below the height of the top of the nearest window within the rear elevation of No 13. Whilst the screen would be visible from this opening, I do not consider that the proposals would significantly impact upon light received to this window.
10. The reason for refusal only refers to the impact of the appeal development upon the property to the north, which is No 13. Notwithstanding this, neither the inferred lack of unacceptable impact upon living conditions of No 17 from the appeal development or any benefit from reduction in overlooking of the appeal property from No 17, as contended by the appellant, outweigh the harm caused by the development upon living conditions of occupiers of No 13.
11. For the collective reasons outlined above, I conclude that the proposed development would have a significantly harmful impact on the living conditions of occupiers of 13 Fletcher Close, by reason of loss of light and outlook.

Consequently, it would not accord with the living conditions aims of policy DE3 of the adopted Torbay Local Plan 2012-2030 (LP)¹.

Character and appearance

12. The proposed deck area would be well screened from the public domain by existing development and the mature band of protected trees to the rear. Although I am not aware of the planning status of each individual case, I observed that there is a range of existing development within the rear gardens of the host row of properties including extensions, raised decks and balconies of varying forms. The proposals would not be visible from wider view nor would they result in a reduction of useable garden to serve the property. For these reasons I do not consider that the proposals would be at odds with the character and design aims of policy DE1 of the adopted LP or TH8 of the adopted NP.

Other matters

13. The application as submitted included the provision of a parking area. The Council do not raise any concern with regard to this element of the proposals and I find no reason to disagree with this assessment.

Conclusion

14. For the reasons given above, whilst I find the parking and character and appearance elements of the proposals to be acceptable, I conclude that the harmful effect on the living conditions of the occupiers of No 13 Fletcher Close indicate that the appeal should be dismissed.

Robert Lankshear

INSPECTOR

¹ Adopted December 2015