
Appeal Decision

Site visit made on 1 October 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/X1165/W/19/3232446

10A Channel View, Oxlea Road, Wellwood, Torquay TQ1 2HF

- 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 Ms Pam Pease against the decision of Torbay Council.
 - The application Ref P/2019/0229, dated 16 February 2019, was refused by notice dated 23 April 2019.
 - The development proposed is formation of a 2nd storey roof terrace space over an existing flat roof area.
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Decision

1. The appeal is allowed and planning permission is granted for formation of a 2nd storey roof terrace space over an existing flat roof area at 10A Channel View, Oxlea Road, Wellwood, Torquay TQ1 2HF in accordance with the terms of the application, Ref P/2019/0229, dated 16 February 2019, and the plans submitted with it, 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: 036-01; 036-02; 036-03; 036-04; 036-05; 036-06; 036-07; 036-08; 036-09.

Procedural Matter

2. After the determination of the application by the Council, and following a referendum held on 2 May 2019, the Torquay Neighbourhood Plan (the Neighbourhood Plan) was made on 19 June 2019. It is therefore now part of the Development Plan for the area. The appeal was submitted after the Neighbourhood Plan was made, so both parties have had the opportunity to comment on its change in status in their appeal submissions.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area, and whether it would preserve the significance of the adjacent Lincombes Conservation Area (the Conservation Area).

Reasons

4. 10A Channel View is part of a detached building, which has been subdivided into flats, and subject to many piecemeal alterations and extensions. It has various conservatories and porches, a flat-roofed extension that is the subject

of this appeal, and a flat-roofed detached garage. The building is set back from the road behind the frontage development and at a lower level, so it is not prominent in the street scene. The area accommodates a mixture of mainly detached, two-storey buildings, of various designs. While there is a general consistency to the pattern of detached dwellings on spacious plots, there is no overriding uniformity of character to the buildings.

5. The roof terrace would be constructed over a single storey flat-roofed garage extension, which projects from the southwestern corner of the building. The flat-roofed area can already be accessed via a door in the existing dormer above the garage. It is proposed to enclose the roof with a steel and glass balustrade to enable its safe use as an outdoor amenity area for the occupants of the flat. In view of the location of the building, behind the frontage development, I saw that the terrace enclosure would only be readily visible from part way down the private drive. It would therefore have a negligible impact on the character and appearance of the area, when viewed from Oxlea Road.
6. The appeal building lies just outside the Conservation Area, but it forms part of its setting when viewed from Lincombe Drive to the north. From here, the part of the building that would accommodate the proposed terrace is seen on higher ground, through a gap between two buildings that front Lincombe Drive. One of these buildings, Hillsborough, is part of an imposing pair of semi-detached houses that occupy a commanding position above Lincombe Drive. The pair are identified as "other key buildings and building groups of architectural importance or which make a significant contribution to the townscape" on the Conservation Area plan. The building clearly makes a positive contribution to the significance of the heritage asset.
7. The appeal building is set well back from Hillsborough, and visually recedes into the background, as Hillsborough and its partner dominate the street scene. It does not currently make a positive contribution to the setting of the Conservation Area, as the proportions of the dormer, with its large horizontal window, are not typical of the period buildings that characterise the heritage asset. Whilst the terrace enclosure would be visible from the Conservation Area, it would be partly screened by vegetation, and would form a minor part of a larger building that is already part of the setting. The alterations would not fundamentally change its overall appearance. The significance of the Conservation Area would not, therefore, be affected by the development.
8. The Council contends that the steel and glass balustrading would contrast with the distinctive wrought iron railings found on balconies within the Conservation Area. However, I did not see any balconies in the Conservation Area within the vicinity of the appeal site, and there is no Conservation Area Character Appraisal before me to demonstrate that wrought iron balconies are important to the significance of the heritage asset. I did, however, see a larger, and more prominent steel and glass balcony on the front of a building in Oxlea Road, a short distance to the east of the appeal site, which did not appear out of character in this area of mixed housing designs. The appeal proposal would, similarly, sit comfortably in its surroundings.
9. I therefore find that the development would not harm the character and appearance of the area, and that it would preserve the significance of the Conservation Area. The proposal would therefore comply with Policies DE1 and

SS10 of the Torbay Local Plan 2012 – 2030 (adopted 2015) and Policy TH8 of the Neighbourhood Plan. These policies aim to ensure that development is well-designed, respects local character, and conserves heritage assets. The proposals would also meet the aims set out in sections 12 and 16 of the National Planning Policy Framework to achieve well-designed places and to conserve and enhance the historic environment.

Other Matters

10. I have considered the other issues raised in representations. The proposed terrace is of modest proportions and is therefore unlikely to accommodate large gatherings of people. It is not therefore likely to result in any significant increase in noise disturbance to surrounding properties. In view of the distance to other buildings, the use of the terrace would not result in harmful overlooking of any spaces that are currently private.

Conditions

11. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council has not submitted any proposed conditions to cover other matters. The Officer's report suggests that the obscure glazing specified on the plans for the balustrade could be secured by a planning condition. The condition requiring compliance with the approved plans would already ensure the installation of obscure glazing. In any event, I have found that the use of the terrace would not result in any harmful overlooking, so such a condition would be both unnecessary and unreasonable.

Conclusion

12. For the above reasons, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR