



Appeal Decision

Site visit made on 12 November 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2019

Appeal Ref: APP/X1165/W/19/3235186

443 Babbacombe Road, Torquay, TQ1 1HW

- 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 Toni Keech against the decision of Torbay Council.
 - The application Ref: P/2019/0320 dated 26 March 2019, was refused by notice dated 14 June 2019.
 - The development proposed is demolition of garage and erection of replacement building to contain garage, annexe accommodation and office.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would preserve or enhance the character and appearance of the Warberries Conservation Area;
 - the effect of the proposed level of off-street parking on vehicle manoeuvring and highway safety;
 - the effect of the proposed development on living conditions of future occupiers, with particular regard to internal and external space; and
 - the implications of the proposed development with regard to the risk of flooding.

Reasons

Character and appearance

3. Number 443 Babbacombe Road (No. 443) is located within the Warberry Villas character area within the Warberries Conservation Area (WCA). The Warberries Conservation Area Character Appraisal 2006 (WCACA) identifies this area as overwhelmingly dominated by large Italianate-style villas dating from the 1840-60s. No. 443 along with Saville House and No. 441 form part of a subdivided villa considered to have survived well despite its subdivision which make a positive contribution to the WCA. To the rear and in an elevated position above the appeal site, there is a large, modern three-storey block of flats, Fonthill, built in a traditional style. Directly west of the appeal site on Babbacombe Road, there is a large contemporary block of flats, Sunset Villa.

4. The existing single-storey garage building dates back to the 20th century and is in poor repair. It is located at the top of the driveway to No. 443 with Fonhill in an elevated position behind it, and some distance from the host property which is positioned at the far end of the garden. As it is directly opposite the entrance gate it is clearly visible from the street. It is a building of no architectural merit and does not make a positive contribution to the WCA.
5. The proposed building would occupy the space of the existing garage, although it would have a larger footprint and be taller. It would be a two-storey, simple building, purposely designed to be contemporary, utilising modern materials including a grey rendered finish to the ground floor, larch cladding to the upper floor with a very shallow pitched zinc roof and large windows to its front and west facing side elevations.
6. The proposed building, like the existing one, would be lower than surrounding buildings. However, due to its elevated position at the top of the driveway, in combination with its increased height and width, it would be significantly more prominent than the existing garage. The choice of materials, whilst selected to blend into the surrounding landscape and reduce ongoing maintenance, would not reduce its prominence due to the large size of the building. Whilst it would be positioned away from the host building and surrounding Italianate-style villas which are predominantly on the opposite side of Babbacombe Road, it would be viewed against the backdrop of Fonhill with its more traditional style and design, bay windows and cream painted render typical of properties within the WCA. However, its contemporary appearance and proposed materials, whilst deliberately distinct, would be in stark contrast to this, against which it would appear as a jarring element within the streetscene.
7. My attention has been drawn to other contemporary developments constructed from similar modern materials both within the WCA and elsewhere within Torquay. I note however, that these developments would not appear to be viewed directly adjacent to neighbouring development in an entirely different style as is the case in the scheme before me. They are therefore not directly comparable to the appeal scheme.
8. Nevertheless, I accept that contemporary buildings can and have successfully integrated within the conservation area. In this regard, the proposed building would not be out of character with the adjacent contemporary development at Sunset Villa. However, Sunset Villa is further from the proposed development than Fonhill against which I have found it would have a visually discordant appearance. The replacement tree planting to the front boundary, whilst softening the boundary of the site, would not overcome the harm to the street scene I have found from the proposed building against the more traditional style of Fonhill.
9. The proposed building would be harmful to the significance of the conservation area through the addition of an incongruous element within the street scene. The harm to the significance of the conservation area would be less than substantial because the building, whilst visible from the street, would not be prominent within the conservation area as a whole. Due to this harm, it is necessary, in accordance with paragraph 196 of the National Planning Policy Framework (the Framework), to consider any public benefits from the proposal.
10. The appellant is investing in the renovation of the existing property and the replacement of the existing rundown garage is part of this scheme. The

replacement of this garage in a prominent location, with a well-designed, energy efficient building could, in principle, improve the overall appearance of the property. The appellant considers it would, through reflecting modern architectural designs and practices, tell the story of how the area has developed over time. Whilst these are benefits of the scheme, I do not consider that these would be public benefits that would outweigh the harm that the proposal would cause to the character and appearance of the conservation area to which I give considerable weight.

11. I therefore conclude that the proposed development would not preserve or enhance the character and appearance of the WCA. It would conflict with Policies DE1 and SS10 of the Torbay Local Plan 2015 (TLP) and Policy TH8 of the Torquay Neighbourhood Plan 2019 (TNP). These policies, together and amongst other things, require development to be well-designed and to respect the local character and to conserve and enhance the district's conservation areas. It would also not comply with the historic conservation objectives of the Framework.

Highway safety

12. The appeal site is accessed off Babbacombe Road which is a classified road within the highway network. The existing vehicular access would be maintained. Policy TA3 of the TLP requires parking to be provided in accordance with Appendix F. This sets out that two spaces should be provided per dwelling/house. It also states that ancillary buildings to a residential unit should also provide one space per 2-bedrooms.
13. The existing house provides two spaces, one on the drive the other within the existing garage. The Council considers three spaces should be provided to serve the existing and proposed development. However, the proposed building is indicated on the plans to provide one bedroom and would therefore fall below the threshold set out within Appendix F. As such it appears that maintaining the existing provision of two spaces on the site would be acceptable. The proposed development meets this requirement.
14. Even if a third space were to be required, the appellant, as part of her statement has provided a drawing demonstrating that a turning head could be provided with parking space for three cars. This would enable cars to enter and exit the existing driveway in forward gear and would enable safe access onto the highway to be provided. I note that the Council's highway officers have raised no objection providing turning and parking requirements can be met.
15. The Council considers the proposal could provide a separate dwelling and that, in the absence of a signed legal agreement to secure the accommodation as ancillary accommodation, it would not meet the Council's parking requirements. However, the appellant did not apply for planning permission for a separate dwelling and the proposed scheme must be assessed on the basis of what was applied for which is ancillary accommodation. If, at a later date, the appellant were to seek to create a separate dwelling then this would require a separate planning permission. Should the appeal be allowed, I recognise there is a possibility of a condition to restrict the use of the proposed building to ancillary accommodation to the main dwelling. However, as I am dismissing for other reasons this has not been necessary.

16. I conclude that the proposed development would provide adequate parking without harm to highway safety. It would therefore accord with Policies TA2 and TA3 of the TLP and Policy TH9 of the TNP. These policies together require development to provide safe access and an appropriate amount of parking.

Living conditions

17. The Council has raised a concern that the proposed accommodation would not provide adequate internal space or outdoor garden space for what appears to be a self-contained dwelling but has provided no details of the extent of any shortfall.
18. For reasons I have already set out, I must deal with the development as applied for. As this would be ancillary accommodation to the main house, future occupiers would have access to the existing outdoor space of the host property. Furthermore, as the proposed development is essentially an extension of the living accommodation for the existing dwelling, the internal space standards for a new dwelling would not apply.
19. This leads me to conclude that the proposed development would not harm the living conditions of future occupiers with particular regard to internal and external space. It would therefore accord with Policy DE3 of the TLP which requires all development to provide a good level of amenity for future residents.

Drainage

20. The appeal site lies within Flood Zone 1 which is land that has a low probability of flooding. Footnote 50 to paragraph 163 of the Framework sets out that a site-specific flood risk assessment (FRA) should accompany all proposals within Flood Zone 1 for land which has been identified as having critical drainage problems. Policy ER1 of the TLP sets out the Council's approach to flood risk. It states that Torbay has been designated as a Critical Drainage Area where all developments require a basic FRA. With catchments within Torbay typically small, steep and in the most part highly developed in nature, the FRA would help to ensure that development provides adequate drainage and does not lead to flooding downstream.
21. The appellant did not provide a FRA but submitted one as part of the appeal. This sets out that the surface water would be disposed of by infiltration using a soakaway or other sustainable drainage system which would be designed in accordance with BRE Digest 365 for the critical 1 in 100 year storm event plus 30 per cent for climate change.
22. The provision of a soakaway or other sustainable drainage system would meet the requirements of the policy and the precise details for its provision could be secured through the imposition of a suitable condition should the appeal be allowed.
23. I therefore conclude that the proposed development would not be likely to increase the risk of flooding. It would therefore comply with Policy ER1 of the TLP which, amongst other things, seeks to ensure that development maintains or enhances the prevailing water flow regime on-site and does not increase flooding elsewhere.

Other Matters

24. I appreciate that the appellant has felt frustrated by the actions of the Council during the application process. However, this would appear to be a procedural matter relating to the determination of the planning application and has no implications for the merits of the scheme itself.

Conclusion

25. I have found that the proposed development, as ancillary accommodation, would provide adequate car parking and living conditions for future occupiers and that any flood risk could be appropriately mitigated. However, given that I have also found that there would be harm caused to the significance of a designated heritage asset that is not outweighed by the public benefits of the scheme, the proposed development would be contrary to the development plan as a whole and that assessment is not outweighed by other material considerations.
26. Accordingly, I conclude the appeal should be dismissed.

Rachael Pipkin

Inspector