



Appeal Decision

Site visit made on 3 February 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/X1165/W/19/3238647

Linden House, Ruckamore Road, Torquay TQ2 6HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr J Macnamara against Torbay Council.
 - The application Ref P/2019/0621, is dated 11 June 2019.
 - The development proposed is a new dwelling in the rear garden of Linden House.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved. I assessed it as such, treating drawing Refs 140/GA/02, 140/GA/03, 140/GA/04 and 140/GA/05 as illustrative only.
3. I have used the site address given within the appeal form as it most accurately reflects the extent of the appeal site.

Main Issues

4. The Council failed to give notice of its decision within the prescribed period. Despite this, six notional refusal reasons are contained within its appeal statement. On the basis of all evidence before me, and mindful of my duty under section 72(1) of the Act¹, I consider the main issues to be:
 - whether or not the proposed development would preserve or enhance the character or appearance of the Chelston Conservation Area; and,
 - the effect of the proposed development on the living conditions of neighbouring occupants, with reference to outlook and outside space.

Reasons

Conservation Area

5. Linden House is a Victorian villa, now subdivided into smaller homes. It sits between Ruckamore Road to the north and the linear public open space Ashfield Gardens to the south, which run parallel to each other, following a quite steep hill which slopes west to east. The appeal site comprises the garden and a terraced swimming pool area to the south of the building, adjacent to Ashfield Gardens, from which it can be accessed directly via a pedestrian gate.

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990

6. The proposal seeks to demolish the swimming pool area and replace it with a dwelling. The illustrative drawings suggest that the dwelling would likely be single storey, set under a mono-pitch roof.
7. The site falls within the Chelston Conservation Area (the CA), the significance of which is derived from its nineteenth century growth as a garden suburb. Much of its Victorian architecture is set in spacious, softly landscaped grounds, with streets sometimes intersected by areas of pleasant public parkland. Linden House is one of five detached villas on this side of Ruckamore Road² which occupy elevated land and preside over Ashfield Gardens. Despite the presence of some outbuildings, their generously sized south gardens offer a soft transition down to the public open space, from which they are separated by shared boundary hedgerows and low rubble walls. Within this context, Linden House's swimming pool is an innocuous feature which does not prejudice the positive contribution that the site makes to the significance of the CA.
8. The boundary hedgerow screens the site to a degree. However, views over the hedgerow are possible from the more elevated parts of Ashfield Gardens and it is likely that the upper parts of the dwelling would be visible. The presence of residential development in this location would erode the openness of the appeal site and interrupt the direct interplay it ensures between Linden House and its subservient parkland setting. This would be accentuated by the illustrated roof design, which would rise up away from Linden House at odds with the topography and the hierarchy this has established. Moreover, given the probable siting of the proposed dwelling close to the boundary hedgerow, and the absence of any arboricultural evidence to the contrary, I share the Council's concerns regarding potential damage to or loss of this important feature.
9. The appellant has identified instances in the area where dwellings or ancillary structures have been added to the grounds of buildings. However, these buildings do not appear to share the particular circumstances of Linden House and the contribution that it, along with its neighbours, makes to the CA. Given such, this matter has carried very limited weight in favour of the proposal.
10. I therefore find on this issue that the proposed development would not preserve or enhance the character or appearance of the Chelston Conservation Area. It would conflict with the heritage and design aims of Policies DE1, SS10 and C4 of the Torbay Local Plan (adopted 2015) (TLP), Policy TH8 of the Torquay Neighbourhood Plan (made 2019) (TNP) and the National Planning Policy Framework (the Framework). The harm to the CA would be less than substantial. However, any such harm merits great weight in accordance with Paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development. I return to this later in my decision.

Living conditions

11. The north west elevation of the dwelling would be near to the windows within the south east elevation of the lower ground floor of Linden House. Although the internal layout of Linden House is not before me, a number of the windows within this part of Linden House appear to offer outlook to occupants, which presently extends out over Ashfield Gardens. The likely siting and height of the proposed dwelling would cause a degree of enclosure which would unacceptably prejudice the outlook from these affected rooms.

² Each identified to be a 'key building by the Chelston Conservation Area Appraisal (adopted 2005)

12. The existing communal swimming pool area and part of the shared lawn would make way for the dwelling. Whilst some of the lawn would be retained, this area would have an intimate relationship with the proposed dwelling, likely precluding its use by existing residents within Linden House. Much else of Linden House's grounds are set aside for the parking and turning of motor vehicles. As such, the scheme would lead to a significant loss of outside space.
13. I therefore find that the proposed development would have an unacceptable effect on the living conditions of neighbouring occupants, with reference to outlook and outside space. It would conflict with the residential amenity aims of Policy DE3 of the TLP, Policy THW4 of the TNP and the Framework.

Other Matters

14. The Council has concerns regarding surface water drainage, particularly given the site's location within a Critical Drainage Area. However, the evidence suggests that any dwelling here would lend itself to having a sedum roof. It seems to me that such provision, combined with the removal of areas of hardstanding, has the potential to reduce surface water runoff from the site. On this basis, I am satisfied that this matter could be dealt with by a condition.
15. The scheme would provide two additional onsite parking spaces. Whilst these are identified within the illustrative block plan, I would question whether all spaces would be accessible in all scenarios. However, I observed that Ruckamore Road has capacity for street parking. Given the residential context of the area, I see no reason why, with people driving or parking with due care and attention, the proposal would unacceptably impair highway safety or severely compromise the efficient use of the highway network.
16. I have had regard to the appellant's comments about the Council's procedural conduct. However, these concerns are not germane to this section 78 appeal, which is confined to the planning merits of the case. Reference has also been made to a previously withdrawn proposal at the site³. However, the appeal must be assessed on its own merits, not in comparison to the previous scheme.

Planning Balance and Conclusion

17. The government is seeking to significantly boost the supply of housing and the scheme would reuse a currently disused area to contribute an energy efficient dwelling, with ecological credentials, to the local housing stock. There would likely be a small amount of job creation and a boost to businesses during the construction phase and thereafter. These public benefits attract modest weight in the balance. They would not outweigh the harm I have identified to the CA, nor the harm I have also identified to the living conditions of existing occupants.
18. The proposal would therefore conflict with the development plan when read as a whole and that there are no other considerations, including the Framework, that outweigh the conflict. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

³ Ref P/2018/0688