



Appeal Decision

Site visit made on 28 September 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2021

Appeal Ref: APP/X1165/D/21/3281895

8 Furrough Cross, Torquay TQ1 3SE

- 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 Nick Hayman against the decision of Torbay Council.
 - The application Ref P/2021/0597, dated 23 April 2021, was refused by notice dated 28 July 2021.
 - The development proposed is first floor extension to rear.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to the effects on the occupiers of No 6 Furrough Cross, which does not appear to lie adjacent to, or to the rear of the appeal dwelling. Whilst this error is not addressed in the evidence, my decision is based on the effects of the proposal on the occupiers of the neighbouring dwellings on either side, No 15, Sara Cottage, No 10, and to the rear; No 17.

Main Issues

3. The main issues are the effects of the proposal on:
 - the character and appearance of the area, including whether it would preserve or enhance the character or appearance of St Marychurch Conservation Area;
 - the living conditions of neighbouring occupiers at Nos 15, 10 and 17 Furrough Cross, with particular regard to outlook, light and privacy.

Reasons

Character and appearance

4. The appeal proposal seeks to add a first floor extension to the rear of the mid-terraced dwelling, No 8 Furrough Cross. There is already a ground floor extension with a lean-to roof in the same position; the proposal would be built above with similar roof profile. The extension would accommodate a new bedroom and en-suite, allowing one of the existing bedrooms to become an upstairs bathroom. Externally, the bedroom would include two windows in the rear elevation and would be built of materials to match the host dwelling.
5. The site and wider surroundings are within the St Marychurch Conservation Area (CA). Under Section 72 of the Listed Building and Conservation Areas Act 1990 (LBCA Act), I am required to have regard to the desirability of preserving or enhancing the significance of the CA. From the evidence, including the

St Marychurch Conservation Area Character Appraisal (Character Appraisal) (2005), the special qualities of the CA derive from its distinctive sub-areas which are separated by function, with the commercial, retail and religious area largely separated from the residential surrounds. There is the town centre and ecclesiastical quarter; the 19th century terraced housing, and beyond that, the 19th century villas, which were built to take advantage of important outward views. It is this layered, historical and hierarchical cohesive assemblance of buildings and their well-defined layouts and attractive detailing of buildings that define the significance of the CA.

6. The appeal dwelling is part of the incidental terraced housing that falls within the town centre and ecclesiastical quarter of the CA, dating back to around 1830 – 1860s. It is a mid-terraced dwelling within a perimeter block of terraced dwellings which back onto one another. Given the limited interventions to the layout, front building lines and key features of the dwellings that make up the terraces, Furrough Cross retains much of its original charm. Whilst the tight back-to-back arrangement without rear access makes seeing through to the rear elevations more difficult, it is apparent that most dwellings retain their original rear roof slopes and chimney stacks remain a distinctive feature thereof. There are few dwellings with rear dormers or rearward extensions of two storeys. Due to the well-preserved form of the dwellings and the terraces as a whole, they make a positive contribution to the significance of the CA.
7. The extension would not be a large addition, adding only a well-proportioned room with an en-suite, but it would appear bulky in the context of the modest host dwelling and the adjoining counterparts, all of which have low roof ridge and eaves lines and multitudes of different roof profiles of rearward projections and outbuildings. Given the scale of the dwelling, the size of the plot in which it is located and this already visible degree of clutter from the numerous roofs in the small surrounding area, the addition of the appeal proposal would tip the balance towards being overly bulky and visually harmful when compared to the polite and subservient form of the existing rearward extension. These effects would be exacerbated by the clunky aspects of the proposal, such as the degree to which the new roofline would overlap with the existing eaves at a slightly different pitch, insensitive window style and positioning and features such as downpipes featuring clumsily within the centre of the elevation.
8. Though I note that extensions have been found acceptable previously on dwellings in the surrounding area, it appears that those dwellings benefit from a degree more space within their respective plots than the appeal proposal.
9. In view of the above, the proposal would harm the character and appearance of the host dwelling and surrounding area, contrary to Policy TH8 of the Torquay Neighbourhood Plan (2019) and Policies DE1, DE5 and SS10 of the Torbay Local Plan (2015) (Local Plan). Amongst other things, these Policies collectively seek to ensure development is of a good quality design, including extensions that would not dominate or have other adverse effects on the character or appearance of the original or neighbouring properties, or on the street scene in general.
10. For similar reasons, the proposal would fail to preserve the character or appearance of this small part of the CA, albeit of a low magnitude of 'less than substantial' harm considered in the context of the National Planning Policy Framework (2021) (the Framework). Paragraph 202 of the Framework requires

that less than substantial harm should be weighed against the public benefits of the proposal. I return to this matter below.

Living conditions of neighbouring occupiers

11. The proposed extension would be apparent from the rear windows of No 17 Furrough Cross which lies directly opposite the rear of the appeal dwelling. Though there is an existing rear window looking in the direction of the neighbouring dwelling, the evidence suggests that the window-to-window distances between the respective rear elevations would be reduced to approximately 14.5 metres, which is a very limited distance between facing windows, particularly when there would be an additional window when compared with the current situation. The distance falls short of the recommended 20 metres distance referred to within the Council's evidence, although only 'general design guides' are used in support of such a measurement. Nevertheless, I regard the additional harm through the decrease in distance and additional window as being materially harmful to the neighbouring occupiers of No 17 Furrough Cross, despite the absence of objections raising concerns about the same.
12. The appeal proposal would also add an obvious, elevated and bulky addition in close proximity of the adjoining terraced dwellings, No 15 (Sara Cottage) and No 10. The evidence suggests that the 45 degree rule has been considered in relation to these adjoining neighbours and the 25 degree rule to the facing neighbour to ensure that the proposal does not impede light. However, very little evidence has been submitted of this to assist with an understanding of what windows would be affected in neighbouring dwellings and to what degree. It is clear that No 15 in particular has a very modestly scaled rear yard and windows that face into it, but in the absence of satisfactory evidence to the contrary, I cannot rule out overbearing effects through loss of outlook and light to the occupiers thereof, even if the proposal would technically maintain the outlook and light ingress for the benefit of occupiers of No 10.
13. In view of the above, the proposal would be harmful to the living conditions of neighbouring occupiers, contrary to, in particular, Policy DE3 of the Local Plan, which seeks to ensure new development does not unduly impact upon the amenity of neighbours and surrounding uses.

Other Matters

14. It has been highlighted that the appeal dwelling is in close proximity of a Grade II listed building, the Furroughs Cross United Reformed Church, but more specifically its detached schoolroom building to the rear. Under Section 66 of the LBCA Act, I am also required to pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Church and schoolroom are coursed local grey limestone buildings that are more modest in scale and design than other 19th century churches in the area.
15. Notwithstanding the proximity of the appeal proposal to the Church, schoolrooms and degree of intervisibility within the streetscene, due to the separate functions of the buildings, the attributes for which it is specifically listed and the position of the extension in the rear of the terrace, I do not consider that the proposal would harm the setting or significance of the listed

building. Consequently, there would be no heritage harm in this regard, of a less than substantial magnitude or otherwise.

Conclusion

16. The proposal conflicts with the development plan for the reasons set out above, thus bringing it into conflict with the same when considered as a whole. It would also result in less than substantial harm to the CA as a designated heritage asset.
17. Taking into consideration the very limited economic contribution from the construction phase that could be counted as a public benefit of the proposal, and setting aside the private benefits of the enhanced enjoyment of the appeal dwelling by the appellant, I do not consider that the benefits would outweigh the identified harms. There are no other considerations, including the Framework, that lead me to an alternative conclusion.
18. For the above reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR