



Appeal Decision

Site visit made on 9 December 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2021

Appeal Ref: APP/X1165/D/21/3284434

26 Innerbrook Road, Torquay TQ2 6AQ

- 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 Keith Thompson against the decision of Torbay Council.
 - The application Ref P/2021/0445, dated 13 April 2021, was refused by notice dated 13 August 2021.
 - The development proposed is the formation of single storey extension to rear with roof terrace and privacy screen.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the host building and area, and
 - the living conditions of the occupants of 24 and 28 Innerbrook Road, with particular regard to any loss of light, overlooking, noise disturbance and/or overbearing impact.

Reasons

Character and appearance

3. 26 Innerbrook Road forms part of a reasonably long terrace of dwellings. The rear of the properties can be accessed via a pathway which is linear in form and gently slopes up, in line with the properties, from the broadly north east to the broadly south west. Each of the main, two storey parts of each dwelling has a modestly sized area to its immediate rear. Some of these rear areas have a projection from the house with a small, external courtyard while some other properties have extensions which cover the whole of this rear area.
4. The projections and extensions to the rear of the properties all appear to be single storey and generally have a flat or very shallow pitch of roof. This allows much of the first floor of the rear of the properties to be visible. In views from sections of the pathway, the long run of first floor windows with their rhythmical appearance, in combination with the associated space above the single storey projections, is a particular feature of the rear of the terrace and makes a positive contribution to the character and appearance of this area.
5. The rear of the terrace may not be open to wider public view. However, with the number of properties that back onto the pathway and, therefore, the likely number of residents that would experience the rear of the terrace, there is an

importance to ensure that any additions and alterations would be sympathetic to the local character of any host building and the terrace.

6. The single storey extensions to the rear of the various dwellings generally step up the slope alongside the pathway. However, some of the extensions are higher than others, relative to their ground level, and therefore more prominent. Next to the appeal site, the flat roofed rear extension at No 28 is, relative to the position along the slope, one of the higher rear additions. The proposed extension to No 26 would, nevertheless, step up from the adjoining extension at No 28 and would also be more apparent than some of the other extensions to the rear of the terrace.
7. In addition, the sides of the flat roof would have a raised parapet and, set in from these parapets, there would be reasonably tall, opaque glazed panels. These panels would draw the eye and appear as an intrusion into this first floor space where at present there is virtually no other addition at this height and position along the back of the terrace. These panels would also, from some locations along the pathway, interrupt a section of the rhythmical and characteristic views of the first floor windows.
8. As a result, the height, position and design of the extension, in particular the additions above the flat roof, would create a jarring and unduly conspicuous feature to the rear of this terrace. In this way, the extension would not be a sympathetic addition that complemented the character and appearance of the host building and terrace.
9. I note the case made that the extension may not significantly exceed the permitted development allowances for additions to residential properties. However, a planning application has been submitted for consideration which is required to be determined on its merits. Therefore, I afford limited weight to the case made regarding permitted development rights.
10. As a consequence of the above analysis, I conclude that the proposal would harm the character and appearance of the host building and area. Accordingly, the scheme would conflict with Policy DE1 of the Torbay Local Plan 2012-2030 (the Local Plan) which, amongst other things, sets design considerations for development, including that development should integrate with the existing street scene and features.

Living conditions

11. The side wall of the proposed extension would be constructed to a greater height than the existing side wall bounding the neighbour's courtyard garden at No 24. However, the height of the extension, and the relationship to the nearest ground floor window at No 24, would be similar to some other relationships between extensions and neighbouring windows in the terrace. The opaque glazed panels would likely allow some light to pass through and I consider that the development would not unduly affect natural light to the most affected window at No 24 or any other windows to this property.
12. No 28 already has a single storey extension across the section of its rear area where it adjoins with No 26 and therefore the appeal scheme would not materially affect natural light to the windows of that property.
13. In terms of any overlooking, the opaque glazed panels would prevent side views into the courtyard garden areas and the rear windows of both Nos 24 or

28 and, therefore, the proposed first floor balcony element of the scheme would not cause harm in this respect.

14. In terms of any overbearing effect, the side wall of the proposed extension would be an immediate feature when the courtyard garden at No 24 was being used. Even though the opaque glazed panels would be set back from this side boundary they would still add a perceptible physical presence to the top of the extension. Indeed, I consider that the combined effect of the side wall and opaque glazed panels would be clearly experienced by those using parts of this neighbouring external space such that the development would have an imposing and overbearing presence, thereby unduly increasing the sense of enclosure. This adverse impact would be to such an extent that it would detract from the reasonable enjoyment of the courtyard area and, therefore, would unacceptably harm the living conditions for the occupants of No 24.
15. In terms of any noise disturbance, I noted the many raised seating and garden areas on the other side of the pathway and which are associated with each dwelling. It is possible that if they were used, particularly in the late evening, that a noise disturbance could occur to nearby residents. However, the proposed first floor balcony area would be able to be immediately accessed directly from the dwelling and could, in my view, be likely to be more convenient and more frequently used than the raised terrace on the other side of the pathway.
16. The proposed balcony area, even with it set in from the edges of the extension, would be reasonably close to the adjoining first floor windows of the attached properties and, in particular, what appears to be a habitable room, potentially a bedroom, at No 24. While I have noted all the submissions of the appellant on this issue, the use of the balcony, particularly if used during the late evening, would in my view be likely to lead to some noise impact from its use, even taking into account any of the sound reducing qualities of the glazed screen. The use of this balcony area on those occasions would thereby be likely to have an adverse effect on the living conditions of those using, and potentially trying to sleep, in the adjoining rooms, especially at No 24.
17. The closeness of each property in the terrace means that there may be, from time to time, some mutual disturbance from residents living next to each other. However, I consider that if the balcony area was to be constructed in such proximity and elevated position to the neighbouring properties, there would be a greater likelihood of noise disturbance. There would be no reasonable ability through planning conditions to control the level of noise when the balcony was in use and it would not be reasonable, in my view, to restrict access to limited periods of the day. For all these reasons, I am not satisfied that the provision of the balcony would be acceptable.
18. Drawing all these matters together, I conclude that the scheme would not cause a material loss of light or an overlooking effect to the neighbouring properties. However, for the reasons explained, the proposal would be unacceptable in relation to the impact from its overbearing presence and the likelihood to lead to potential noise disturbance. Such impacts would unacceptably harm the living conditions of adjoining occupiers. Accordingly, the scheme would conflict with Policy DE3 of the Local Plan which seeks, notably in this respect, to ensure that all development should not unduly impact on the amenity of neighbouring and surrounding uses.

Conclusion

19. For the reasons given above, the identified harm that would be caused by the development would be such that the proposal would not comply with the development plan when considered as a whole. There are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR