



## Appeal Decision

Site visits made on 3 November 2021 and 15 February 2022

**by Matthew Jones BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 February 2022**

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**Appeal Ref: APP/X1165/W/21/3279255**

**23 Oxlea Road, Wellswood, 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 Mrs Julie Rutland against the decision of Torbay Council.
  - The application Ref P/2021/0219, dated 17 February 2021, was refused by notice dated 20 May 2021.
  - The development proposed is second storey extension and internal alterations.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on (i) the living conditions of the occupants of 19 and 21 Oxlea Road, with reference to light, outlook and privacy, and (ii) the character and appearance of the area.

### Reasons

#### *Living conditions*

3. Oxlea Road turns back on itself, with the houses on the inside curve of the bend angled together into a quite intimate backland setting. Hence, No 23 shares its rear garden boundary with several properties, notably Nos 21 and 19 directly to the immediate east and northeast respectively.
4. No 21 has a relatively small, private outside space to its rear, directly to the side of the part of No 23 proposed for first floor enlargement. This space is already quite heavily shrouded by No 23 and by No 21 itself, and therefore has limited access to light, an issue which would be exacerbated by the proposal.
5. This issue has been analysed in the appellant's Neighbouring Daylight and Sunlight Study (2021). It identifies that 7% of the space would be affected on 21 March, which is an accepted date from which to benchmark the effects of a proposal. In my view, this would not be so significant so to be unacceptable. Similarly, although there would be a degree of loss of outlook, this would not greatly impact the level of confinement already experienced within the space.
6. However, the scheme would provide a Juliette balcony close to and above the boundary with Nos 21 and 19. Whilst overlooking from the balcony to No 21 would be fairly oblique, it would still be possible and would be highly invasive. This is because the space it would overlook is currently quite private, has the greatest access to light, and is therefore where the outdoor seating is concentrated. Overlooking towards No 19 would be more direct. I observed

that No 19 has a deck area at the back of its garden which, it seems to me, would be right in the line of sight of residents stood at the Juliet balcony, resulting in the deck being unacceptably overlooked.

7. I accept that there is a degree of mutual overlooking between these properties already, and that it is possible to look from No 23 towards its neighbours from a large rear window at first floor level. However, this window serves the landing and does not provide the same closeness or directness that I would associate with the proposed balcony. Likewise, looking out from the fanlight within the bathroom nearest Nos 19 and 21 is not really a realistic or likely proposition.
8. The appellant has referred to a 2009 permission for a scheme at the site which I am led to believe was similar<sup>1</sup>. However, given the decision was made some time ago now, and in a different local and national planning policy context, it has had little influence on my reasoning.
9. Consequently, I conclude on this issue that, whilst the scheme would have an acceptable effect on the living conditions of neighbouring occupants with reference to light and outlook, it would have an unacceptable effect with reference to privacy. In this regard, the scheme would conflict with Policies DE3 and DE5 of the Torbay Local Plan 2012-2030 (adopted 2015) (TLP) and the National Planning Policy Framework (the Framework).

#### *Character and appearance*

10. Oxlea Road is characterised by large, detached dwellings in a variety of styles. Many exhibit balconies at first floor level, and dormers and/or gables breaking the eaves are commonplace. I do not find the street scene to be especially spacious, because the houses are set in a tight formation, which is most acutely the case for the houses on the inside of the bend. Within this context, the proposed extension would be a suitably proportioned and designed addition. No 21's single storey garage would prevent any notable terracing effect.
11. The proposal would therefore have an acceptable effect on the character and appearance of the area. In this regard, it would accord with the relevant design aims of Policies DE1 and DE5 of the TLP, Policy TH8 of The Torquay Neighbourhood Plan (made 2019) and the Framework.

#### **Conclusion**

12. The proposal would conflict with the development plan when read as a whole. The other considerations put forward in support of the scheme, including its potential social and economic benefits, would not outweigh this conflict.
13. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

*Matthew Jones*

INSPECTOR

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<sup>1</sup> Ref P/2009/0552