



Appeal Decisions

Site visit made on 15 February 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/X1165/W/21/3279437

38A Warberry Road West, Torquay, Devon TQ1 1NT

- 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 Patrick Ward against the decision of Torbay Council.
 - The application Ref P/2020/1239, dated 23 November 2020, was refused by notice dated 17 June 2021.
 - The development proposed is provision of on-site parking, taking down wall and forming parking bay with new gates.
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Appeal Ref: APP/X1165/Y/21/3279442

38A Warberry Road West, Torquay, Devon TQ1 1NT

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Patrick Ward against the decision of Torbay Council.
 - The application Ref P/2020/1240, dated 23 November 2020, was refused by notice dated 17 June 2021.
 - The works proposed are provision of on-site parking, taking down wall and forming parking bay with new gates.
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Decisions

1. The appeals are dismissed.

Main Issue

2. The building 36 and 38, Warberry Road West, constructed in the nineteenth century as a pair of semidetached houses, is listed at Grade II and located within the Warberries Conservation Area (the CA). In that context, the main issue to be considered is the effect of the proposal on the special architectural and historic interest of the listed building and, linked to that, whether it would preserve or enhance the character or appearance of the CA.

Reasons

3. The listed building and its adjacent neighbours are set in a row with accesses from the rear, off Pennsylvania Road. Given the recent subdivision of No 38 into two residences to the front and back, Pennsylvania Road now provides the principal access to No 38A Warberry Road West.
4. The rear boundaries of the listed building are formed of rubblestone walling, with arched stone pedestrian gateways, sections of which have been removed or altered, mainly through the introduction of garaging. At No 38A, the garage has been latterly converted, and the affected area of wall aside its retained aperture is heavily altered; it appears to have been raised as the original

capping can be seen within the wall, above which are alien materials, such as tarmac, and it is now topped by the modern roofs of the converted garage.

5. However, No 38A also has a comparatively well-preserved, original wall section, incorporating the arched gateway and with its original height and capping visible. These attributes lead this section of walling to make a modest but positive contribution to the special interest of the listed building. Given that robust, historic stone walls are evidently also a key feature of this hilly CA¹, this wall section also makes a similar contribution to the significance of the CA.
6. The new opening would remove much of the original wall. The parking bay, set partially behind the gateway, would diminish its status as an historic pedestrian entrance into the curtilage of the listed building, a relationship which would appear particularly anomalous when the bay would be occupied. The appellant considers that any harm would be more than compensated for by reusing the stone to infill the garage opening and by repairing and repointing the retained wall section. However, this would not be the case, as the wall would still appear altered from its original form, albeit less so than is the case now. I further note that there would be a small reduction in the length of boundary wall overall. The net result would be harm, though modest, to the listed building and the CA.
7. Given the relatively limited impact of the works/development, I would quantify the harm to both designated heritage assets affected as less than substantial. Paragraph 199 of the National Planning Policy Framework (the Framework) explains that great weight should be given to the conservation of designated heritage assets. Paragraph 202 goes on to require decision makers to weigh any less than substantial harm to a designated heritage asset against the public benefits of the scheme, including securing its optimum viable use.
8. That balancing exercise must take place in the context of s.16(2), s.66(1), and s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which set a strong presumption against a grant of planning permission, or listed building consent, for development or works that would cause harm to the special interest of a listed building and fail to preserve or enhance the character or appearance of a conservation area.
9. If the parking bay were to be of a permeable surface, this may improve surface water drainage in the locale, but I am not aware of any significant drainage problem that this would address. Any reduction in parking congestion around the site would be inherently modest. As such, the weight I attach to these benefits falls well short of justifying the harm that would be caused; harm that must be given considerable importance and weight in the balancing exercise.
10. Moreover, that conclusion brings the proposal into conflict with Policies DE1, HE1 and SS10 of the Torbay Local Plan 2012-2030 (adopted 2015) and Policies TH8 and TH10 of the Torquay Neighbourhood Plan (made 2019), that together seek the design of proposals to protect the historic environment generally, conservation areas, and listed buildings.
11. I am told that the Council has already authorised the wall's replacement in relation to previous applications at the site. However, very little detail of this matter has been put to me, including the terms and extent of the wall replacement. This matter has therefore had little influence on my assessment.

¹ As set out in the Warberries Conservation Area Character Appraisal (2006)

Other Matters

12. The Council has raised separate concerns with regard to potential highways safety issues related to the use of the parking bay. However, this street is punctuated by similarly narrow vehicular access points and parked vehicles. It has a clear place function, lends itself to the slow and considered movement of vehicles, and its absence of pavements means that there is a long-established sharing of the carriageway between vehicles and pedestrians. I have no evidence that this has resulted in any significant conflict between the two. Within this context, I am satisfied that the new access point would have an acceptable impact upon the safety of the highway network adjacent to the site.

Conclusion

13. For these given reasons, and taking all other matters raised into account, I conclude that the appeals should be dismissed.

Matthew Jones

INSPECTOR