



Appeal Decision

Site visit made on 12 July 2022 by R Dickson BSc (hons) MSc

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2022

Appeal Ref: APP/X1165/D/22/3296414

8 Hill Park Road, Torquay TQ1 4LD

- 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 Bodnar against the decision of Torbay Council.
 - The application Ref P/2021/0754, dated 21 June 2021, was refused by notice dated 29 March 2022.
 - The development proposed is for a raised deck to the rear of property.
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Decision

1. The appeal is allowed and planning permission is granted for a raised deck to the rear of property at 8 Hill Park Road, Torquay TQ1 4LD in accordance with the terms of the application, Ref P/2021/0754, dated 21 June 2021.
2. No conditions are necessary, as the development has already been completed.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

4. This appeal is for a retrospective application, and the works have been carried out and completed in accordance with the submitted plans.
5. The description of development has been shortened from the original application form for clarity and to leave out the superfluous description.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the occupiers of 6 and 10 Hill Park Road with particular regard to outlook and privacy.

Reasons for the Recommendation

7. The appeal site is set in the middle of a terrace of properties on Hill Park Road, which have gardens sloping away from the main house. There is a high degree of overlooking between properties to the rear, in part due to the orientation of the gardens, and due to the low boundary walls on either side of the appeal site.
8. Given the low boundary walls between the properties on either side of the appeal site, which could be seen during the site visit, the amount of mutual

overlooking is similar to the amount of mutual overlooking prior to the installation of the decking, taking into account the overall length and height of the decking, and its projection into the garden.

9. 10 Hill Park Road has erected their own fence on the boundary between the appeal site. The fence installed by the appellant is a similar height to the fence erected by no 10, and therefore I do not consider the decking structure to be overbearing or overly dominant to the occupiers of no 10. The fence is higher than the wall between the appeal site and 6 Hill Park Road, however I do not find that the difference in height is significant enough to have an overbearing impact on the occupiers of no 6.
10. The fence around the decking is stepped in height, with the higher part of the fence closer to the property. This has maintained a sense of privacy within the appeal site, as well as maintaining the level of privacy to the neighbouring properties.
11. The garden of 6 Hill Park Road, which is the more enclosed of the two neighbouring properties, has retained a sense of openness, outlook and light, despite the erection of the decking in the appeal site. The garden of no 10 is more open than that of no 6, and the development on the appeal site has not decreased the outlook or light of no 10. This is also due to the fact that the gardens slope away from the properties. For this reason, I do not find that the development has decreased the outlook or light for either no 6 or no 10.
12. Accordingly, the proposal is in accordance with Policy DE3 of the Torbay Local Plan - Plan for Torbay: 2012-2030, in so far as the proposal maintains living conditions, with specific regard to outlook and privacy.

Conditions

13. As this appeal is for retrospective works, the standard commencement condition is not necessary. I also do not find that a condition requiring the accordance with plans to be necessary, as the development has already been completed to the plans specified.
14. The Local Planning Authority have suggested a condition requesting a revised flood risk assessment, however this is not necessary as the decking is semi-permeable.

Conclusion and Recommendation

15. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

R Dickson

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the recommendation. On that basis the appeal is allowed.

L McKay

INSPECTOR