



Appeal Decision

Site visit made on 17 January 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25th January 2023

Appeal Ref: APP/X1165/W/22/3299117

9 Chatsworth Road, Torquay, TQ1 3BJ

- 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 C Benney of Wolborough Holdings Ltd against the decision of Torbay Council.
 - The application Ref P/2021/1235, dated 10 November 2021, was refused by notice dated 4 January 2022.
 - The development proposed is extension to create residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The site address is given as 9 Chatsworth Road. This is the address that I have used above, however the proposal relates to an existing block of four garages at the northeast boundary of the plot that front onto and are accessed from Wellesley Road.

Main Issues

3. The main issues are:
 - a) Whether the size of the unit would be acceptable with regard to development plan policy,
 - b) The effect of the proposal on the character and appearance of the area,
 - c) Whether the proposal would secure adequate living conditions for future occupiers, with regard to outlook, and
 - d) The effect of the proposal on highway safety, with regard to the loss of the existing garages and the characteristics of the proposed carport.

Reasons

Size of unit

4. The proposal is for a one bedroom flat for two people. The site is within a designated community investment area, as defined by the Torbay Local Plan 2012-2030 (LP). These are areas that are experiencing significant deprivation.
5. The Council is of the view that the small size of the unit would not accord with the requirements of Policy SS11 of the LP. This seeks to resist the change of

use of small to medium sized homes (2-4 bedrooms) to HMOs and small self-contained flats.

6. The proposal is for be a small self-contained flat. However, it would not be formed by changing the use of an existing small to medium sized home and would therefore not result in the loss of such a home. Policy SS11 is very specific in this respect.
7. As such the proposal would not be contrary to part 13 of Policy SS11 of the LP, which seeks to retain small to medium sized homes.

Character and appearance

8. The appeal site is occupied by the existing garage block, which is at the rear of the plot of a large dwelling that has been divided into flats. It sits alongside various outbuildings that are arranged at the end of the adjoining plots. Although they are of a mixed appearance, they are almost all modest single storey garage buildings that abut the road edge, allowing a view of the rear of the substantial 19th century villas that front Chatsworth Road, which are at a higher level to the southwest. The garage buildings face towards a row of modest two storey terraces that are separated from the road by a pavement.
9. The proposal would see the modest garage block extended upwards. It is suggested that the design utilises the space available in a simple manner. However, the extended building would face Wellesley Road with a largely blank upper storey, which would be overly dominant and entirely contrary to the fenestration of the two storey dwellings opposite. It would present a poor outlook to those occupying the dwellings opposite and would appear over-scaled in the context of the prevailing scale of buildings along this side of the street. For these reasons it would have a harmful appearance on the character and appearance of the streetscene.
10. Once extended the building would be similarly scaled to one other building on this side of Wellesley Road to the northwest. This differs significantly however from the appeal proposal as it has a number of window openings at first floor level and thus creates some interest to the streetscene and addresses the road properly. It is also an older building with an undulating form and ad-hoc placement of openings that gives it a degree of character. In contrast, the proposal would seem to largely ignore its prominent position by turning its back to the road with a plain and visually uninteresting façade.
11. In summary, the proposal would harm the character and appearance of the area. It would be contrary to Policies DE1 of the LP, Policy TH8 of the Torquay Neighbourhood Plan to 2030 (NP) and Paragraph 134 of the National Planning Policy Framework (the Framework). Together these seek to ensure that development proposals are well designed to respect the character of the built environment in terms of scale and massing, and integrate with the existing streetscene.

Living conditions

12. The proposed unit comprises two habitable rooms. Whilst it would benefit from a good level of natural light including direct sunlight, only three of the proposed openings would give its occupants any meaningful outlook, as many of the openings are high level rooflights. These would all serve the living room.

13. Thus, the second room, which would serve as the double bedroom, would have no meaningful outlook. Given that the dwelling is small, the lack of opportunity to look out from both of its two rooms would create a poor living environment for its future occupants.
14. In summary, the proposal would fail to secure adequate living conditions for future occupiers. It would be contrary to Policy DE3 of the LP and Paragraph 130 of the Framework, which together seek to ensure that development proposals have particular regard to outlook and create places with a high standard of amenity for future users.

Highway safety

15. The proposal includes a car port and secure cycle store that would be formed in place of two of the existing garages. The Council advises that the space is too short when measured against the dimensions set out in the LP and that this could lead to parked vehicles overhanging the highway and causing an obstruction. However, the building is fronted by a small strip of land referred to as a forecourt that separates it from the highway edge. This gives adequate space to ensure that a vehicle that extends out from the carport when parked would not protrude onto the highway, and is of a sufficient depth to accord with the dimensions set out in the LP.
16. The proposal would see two existing garages lost. The information relating to how these are currently used is limited. The appellant advises that they are not in residential use but rather provide storage for building materials, and there is nothing before me to suggest that they are associated with any existing dwelling. The existing flats would appear to benefit from off road parking accessed from Chatsworth Road. I am therefore unable to conclude that the loss of the two spaces would increase on street parking in the area.
17. In summary, the proposal would not harm highway safety. It would accord with Policies TA2 and TA3 of the LP, Policy TH9 of the NP and Paragraph 108 of the Framework, which together seek to ensure that development proposals satisfy transport needs and include appropriate provision for parking.

Planning Balance

18. The proposal would conflict with Policies of the development plan, as it would be contrary to Policies of the LP and the NP which seek to ensure that development proposals are well designed to respect the character of the built environment in terms of scale and massing, integrate with the existing streetscene, and have particular regard to outlook.
19. The Council states that the tilted balance set out at Paragraph 11d) of the Framework is engaged as it is unable to demonstrate a five year supply of deliverable housing sites (5YHLS). As a result, where the policies are out of date, which would be the case where a Council cannot demonstrate a 5YHLS, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
20. The proposal would align with the Framework where it seeks to significantly boost the supply of housing. It would provide a dwelling in an accessible location with some associated economic benefits from the construction process

and from future occupants accessing local services and facilities. These benefits would however be limited by the small scale of the proposal.

21. The proposal would however fail to comply with the Framework insofar as it seeks to ensure that proposals are well designed, visually attractive, sympathetic to local character including the surrounding built environment, maintain a strong sense of place and create places with a high standard of amenity for future users. I consider the level of harm to the character and appearance of the area arising from the poor design of the building to be significant. This adverse impact is increased by the poor standard of living conditions for the future occupiers of the building. In considering these matters alongside the benefits in the context of the policies of the Framework I find that the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits.

Conclusion

22. In conclusion, the proposal would conflict with the development plan and there are no other considerations that outweigh that conflict. Therefore, the appeal should be dismissed.

A Tucker

INSPECTOR