



Appeal Decision

Site visit made on 21 March 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2023

Appeal Ref: APP/X1165/D/22/3305896

Woodland, Greenway Road, Chelston, Torbay, Torquay TQ2 6JE

- 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 S Nijjar against the decision of Torbay Council.
 - The application Ref P/2022/0424, dated 1 April 2022, was refused by notice dated 8 June 2022.
 - The development proposed is the replacement of the existing conservatory and two-storey extension.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr S Nijjar against Torbay Council. This is the subject of a separate decision.

Preliminary Matters

3. At the time of my site visit internal and external renovation work was underway on the appeal property and the adjoining Cambridge Flats. Whilst extensive, with scaffolding positioned on large parts of both properties, the existing conservatory and the basement below remained.

Main Issues

4. The main issues are the effect of the proposed development on the:
 - character and appearance of the area, with particular regard to the Chelston Conservation Area (CCA) and the non-designated heritage asset; and
 - living conditions of occupiers of the adjoining Cambridge Flats, in respect of outlook.

Reasons

Character and appearance

5. As the appeal site is located within the CCA I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Chelston Conservation Area Character Appraisal (2005) (the Appraisal) also identifies the appeal property as a Key Building and is therefore a non-designated heritage asset. Whilst not afforded the same protection as a designated heritage asset, in accordance

with paragraph 203 of the National Planning Policy Framework (the Framework), the effect of the proposed development on the significance of a non-designated heritage asset should be taken into account.

6. The significance of the CCA is derived from the dominance of detached and semi-detached villas set within spacious plots defined by extensive boundary walls and positioned off an informal street layout which follows the topography of the area. Furthermore, the majority of the buildings, including the appeal property, in the CCA are identified in the Appraisal as Key Buildings given the quality of the architectural detailing and use of materials present. However, there are no listed buildings near the appeal site.
7. The significance of the appeal property is derived from its semi-detached villa form, age, the quality of the architectural detailing and use of materials reflective of its period, including painted stucco/rendered walls, stone walls, slate roof tiles and brick chimneys. Although not 'singled out' specifically within the Appraisal, other than in a photograph to illustrate the presence of prominent brick chimneys in the CCA, the appeal property makes a positive contribution to the streetscene and the significance of the CCA.
8. The proposed development comprises the replacement of the existing conservatory and basement below with an extended basement and full-width sunroom above. The overall structure would increase the footprint of the basement, extending it close to the boundary with Cambridge Flats, and the sunroom's roof height would be higher than the existing conservatory, aligning it with the first-floor level. Therefore, even though the scale and siting of the proposed development would be similar to the existing conservatory and basement, and would not extend any further into the garden, it would not be identical. Furthermore, the more solid appearance of the sunroom and the reduction in glass in comparison to the existing conservatory would result in the proposed development having the appearance of a two-storey extension.
9. In respect of the proposed fenestration, the side façade of the sunroom would reflect the proportions and glazing arrangement of the appeal property and its period. The rear façade, in contrast, would comprise a series of windows devoid of top openings and with proportions not found elsewhere on the property. As a result, the proposed development would be a jarring addition to the rear elevation of the appeal property.
10. Given the topographical changes, high boundary walls and the substantial mature trees on and near the appeal site, views of the appeal property from the surrounding streets are largely restricted to the first floor. However, even if only a single glimpse of the proposed development would be possible from the public domain, this is not sufficient reason to permit otherwise unacceptable development. Moreover, conservation areas are not only experienced from the outside but also from within the area themselves, including private spaces.
11. Therefore, I conclude that the proposed development would harm the character and appearance of the CCA and the significance of the non-designated heritage asset. In the language of the Framework, the proposed development results in less than substantial harm to the significance of a designated heritage asset on the basis that the development would harm only part of its significance. In these circumstances, paragraph 202 of the Framework states that this harm should be weight against the public benefits of the proposed development including, where appropriate, securing its optimum viable use. I have attached

great weight to the desirability of avoiding any such harmful effect. I will return to this matter below.

Living conditions

12. The proposed development would extend close to the existing boundary with the adjoining Cambridge Flats. Due to their positioning very close to the appeal property, the outlook from the windows on the rear elevation of Cambridge Flats is already partially restricted by the forward position of the appeal property's rear elevation. The proposed development would further limit the outlook from the ground floor window which, based on the evidence before me, will serve a habitable room following the completion of the renovations. Consequently, the proximity of the bulk and height of the proposed sunroom to the boundary with Cambridge Flats would result in an intrusive feature in the outlook from this window, irrespective of its small additional footprint.
13. Regardless of the ownership of the adjoining Cambridge Flats and the fact that they are included on the same Land Registry Title of the appeal property, or the relationship of the occupiers to the appellant, all occupiers should benefit from an acceptable standard of living conditions. As I have found that the proposed development would unacceptably harm the living conditions of occupiers of Cambridge Flats, with regard to outlook, an acceptable standard would not be achieved should the proposed development be allowed. Therefore, the proposed development would conflict with Policy DE3 of the Local Plan which stipulates that all development should not unduly impact the amenity of neighbouring and surrounding uses. Similarly, I find conflict with paragraph 130 of the Framework which aims to create places with a high standard of amenity for existing and future users.

Other Matters

14. Whilst I acknowledge the references to the behaviour of the Council during the determination of the appeal application and appreciate the attempts of the appellant to address the concerns of the Council in respect of a previously refused planning application¹, these are addressed specifically within my costs decision.

Planning Balance

15. As advised by paragraph 202 of the Framework, less than substantial harm should be weighed against the public benefits of the proposed development. The removal of the existing conservatory and basement structure would have a positive effect on the non-designated heritage asset and the wider CCA given its condition and limited architectural quality. High quality works which achieve good standards of energy efficiency, and the use of matching materials would also be positive benefits. I attribute modest weight to these public benefits.
16. The proposed development would provide a more efficient use of internal spaces, a better standard of accommodation and easier access to the garden for the benefit of the appellant. However, this would not amount to a public benefit that weighs in favour of the grant of planning permission.
17. In my view, the weight attributed to the benefits identified above does not outweigh the great weight to be given to the harm to the CCA and the non-

¹ Council planning application ref: P/2021/1071

designated heritage asset. As a result, the proposed development does not satisfy the requirements of the Act, paragraph 203 of the Framework and it conflicts with policies DE1, DE5 and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan 2012-2030. These policies, amongst other aspects, require all development, including domestic extensions to respect and enhance Torbay's special qualities and heritage, and not have adverse effects on the character or appearance of the area. I also find conflict with Chapters 12 and 16 of the Framework in respect of the need for new development to be sympathetic to the character and appearance of its surroundings, including the historic environment.

Conclusion

18. The proposed development conflicts with the development plan when read as a whole and material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, the appeal is therefore dismissed.

Juliet Rogers

INSPECTOR