



Appeal Decision

Site visit made on 6 April 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2023

Appeal Ref: APP/X1165/W/22/3304044

Tree Tops Hotel, Annexe, St Albans Road, St Marychurch, Torquay TQ1 3NP

- 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 McCarthy Contracting & Development Ltd against the refusal of Torbay Council.
 - The application Ref P/2021/1201, dated 26 October 2021, was refused by notice dated 31 January 2022.
 - The development proposed is additional storey to existing single storey annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From my site visit, I noted that works to convert the host building into five apartments, granted by way of a separate planning permission¹, were largely complete. Whilst the unit subject of this appeal may have once been an annexe, it is used as a self-contained unit of residential accommodation with a single bedroom.

Main Issues

3. The main issues are:
 - the effects of the proposal on the character and appearance of the host building, the wider streetscene and whether it would preserve or enhance the Cary Park Conservation Area;
 - the effects on the living conditions of neighbouring occupiers at Zephyrs and Flat No 4 Tree Tops, in relation to light, outlook and privacy;
 - the adequacy of the living environment that would be created for future occupiers in terms of internal floorspace and external amenity space; and
 - whether the parking provision would be sufficient to serve the proposed development.

Reasons

Character and appearance

4. The appeal building is an attached, single storey former annexe to a large, semi-detached Victorian building within the built up area of Torquay and within

¹ Reference P/2021/0060

the Cary Park Conservation Area (the CA). The host building has been converted from a former hotel use into five flats and buildings converted into flats exist either side of the appeal site.

5. As the site falls within the CA, it is my duty under S72(1) of the Listed Building and Conservation Areas Act 1990 (LBCAA) to pay special attention to the desirability of preserving or enhancing its character or appearance.
6. The Cary Park Conservation Area Character Appraisal (2005) (the Character Appraisal) sets out that Cary Park was laid out as a public space in the c.1890s and gave its name to the CA. The main built landmark is the prominent Parish Church of All Saints' which is a Grade I listed building, but otherwise, it has a rich, verdant setting with several areas of attractive open space surrounded by 19th century detached or semi-detached largely two storey villas. The CA presents a very homogenous building style with much surviving boundary features and building fabric and detailing, including both roof hips and gables under slate, rendered stacks with cornices; largely stucco or brick detailing. The significance of the CA can be attributed to its late Victorian garden suburban character and appearance.
7. The Character Appraisal dates the appeal building and a majority of others to the period between 1870 – 1915 and also sets out that it falls within an important building groups, normally of a similar date, or character of frontage detail. The host appeal building is therefore one of the character period villas which makes a positive contribution to the special interest of the CA. The Character Appraisal also notes that overly large side wing extensions are considered unfortunate where they have occurred, particularly where the original scale, proportions and architectural detailing have not been adequately taken into account.
8. The proposal is to add a storey onto the existing single storey, single bed annexe to provide a 3 bed self-contained unit with more spacious living and kitchen rooms. Whilst the existing annexe has a flat roof set behind a modest slated parapet lean-to, the proposed first floor extension would be beneath a shallow pitched roof with two flat roof dormers set within the eaves in both front and rear elevations. As per the existing annexe, the first floor extension would be built up to the boundary with the neighbouring building, Zephyrs, to the north. The external materials would include rendered walls and a slated roof. The detached single storey garage in front of the annexe is intended to be retained, this partially obscures the front elevation from St Albans Road. The rear elevation is also accessible via Churchway, which means that both front and rear elevations are publicly visible.
9. The host appeal building, its adjoining neighbour, Cary Dale Court, and the pair of adjoining villas to the north, Zephyrs and Park View House, were deliberately built as paired villas and still retain a sense of homogeneity. At least from St Albans Road, the buildings still present as two pairs of semi-detached villas, with only modest adaptations to the sides within the space between Zephyrs and Tree Tops, i.e. a lean-to conservatory to the former and single garage and annexe to the latter. Greater adaptations have occurred at the rear of the buildings, but the deliberate space between the buildings otherwise remains largely intact, particularly at first floor level.
10. The proposal would extend out to the shared boundary with Zephyrs in the order of around two-thirds of the width of the host building. Though the first

floor extension would be recessed back into the plot, it would still appear to infill much of the gap between the host building and Zephyrs and would materially erode the sense of space between the two pairs of buildings. It has been suggested that the extension would be a subservient 1.5 storey addition, but in my view, it would not read as 1.5 storeys, with its first floor windows set into the eaves at around the same height as the first floor windows in the host building. Furthermore, due to its siting and scale, it would have an awkward relationship with the host building, particularly in relation to the roof arrangement.

11. It has also been suggested that another benefit of the proposal would be the removal of an unsightly C20 façade and replacement with a Victorian aesthetic extension. However, this overlooks the fact that following the removal of the lean-to under the previously consented conversion works, a single storey garage has been built in front of the annexe and has largely obscured its, now, relatively inoffensive C20 façade. In my view, the extension would appear inelegant and blocky when compared to the existing building, which has a far greater sense of verticality through its more elegant and numerous window openings.
12. Overall, the proposal would detract from the character and appearance of the host building and the streetscene when viewed from St Albans Road by unbalancing what remains of the rhythm of the streetscene created by the paired villas. Although these effects would not be as apparent when viewed from Churchway given the greater variety at the rear, in my view, the proposal would still represent an unsuccessful addition to the host building.
13. For the above reasons, the proposal conflicts with, in particular, Policies DE1 and SS10 of the Torbay Local Plan (adopted 2015) and Policy TH8 of the Torquay Neighbourhood Plan (adopted 2019) (TNP). These Policies collectively seek to ensure that development is of good quality design, respects the local character in terms of height, scale and bulk; and reflects the identity of its surroundings.
14. As the original layout and character of the villas contribute to the built backcloth and historic evolution of the small CA, there would be some residual harm to the character and appearance of the CA as a whole. Conflict therefore also arises with Section 72(1) of the LBCAA.
15. Under the terms of the National Planning Policy Framework (the Framework), given the extent and nature of the proposed works in relation to the CA, I consider the degree of harm to the significance of the designated heritage assets would be less than substantial. In circumstances where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, Paragraph 202 of the Framework requires the harm be weighed against the public benefits of the proposal. I shall turn to this in my overall heritage and planning balance.

Living conditions of neighbouring occupiers

16. The neighbouring building, Zephyrs, appears to contain 6 flats, though I have limited details of the internal layout to determine which flat would be most affected by a change of outlook. However, I consider that existing occupiers would still retain an acceptable outlook, even with the proposed first floor extension flank wall built to the shared boundary.

17. Similarly, the evidence submitted by the appellant indicates that the proposals would not lead to overshadowing to Zephyrs. I agree with the appellant's position on this, particularly in the absence of evidence to the contrary, and it is unlikely that any material overshadowing of Zephyrs would occur as a result of the extension.
18. In terms of the impact on the occupiers of Flat 4, Treetops, there is a bedroom window in the side elevation. The front wall of the extension would be built at a right angle directly abutting the window. The secondary window for this room shown in the rear elevation plans does not appear to have been constructed either. Whilst the outlook would be restricted as a result of this awkward relationship, I am mindful of the room's function and the ability for the window to allow sufficient light into the room and provide some degree of outlook. In terms of privacy, the closest windows in the proposed extension would be an obscure glazed bathroom window and a higher level window on the stairwells, which would not present any harmful privacy issues.
19. For the above reasons, on balance, the proposal would not harm the living conditions of neighbouring occupiers at Zephyrs or Flat No 4 Tree Tops, in relation to light, outlook and privacy. It would therefore comply with Policy DE3 of the Torbay Local Plan which seeks to ensure that new development does not unduly impact upon the amenity of neighbouring and surrounding uses in terms of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

Living conditions of future occupiers

20. Policy DE3 of the Torbay Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers. The annexe has an existing residential use and, from the evidence, measures around 43 sqm internally. According to the Nationally Described Space Standards (NDSS) (referenced in Policy DE3), the existing annexe is suited to occupancy by 1 individual.
21. The proposal would increase the size of the annexe to around 86 sqm and it would contain 3 bedrooms. Whilst 5 bedspaces are shown on the floor plans, the NDSS suggests that such an area would be suited to a maximum of 4 occupants.
22. The resultant development could achieve broad compliance with Policy DE3 and the NDSS requirements provided it were for 4 rather than 5 occupiers. This would result in two of the bedrooms being single bedrooms, albeit that the plans show one slightly undersized compared to NDSS standards and the other being closer to a double bedroom size. Nevertheless, this is not a determinative factor in my decision.
23. In respect of external amenity space, Policy DE3 states that all new development should be designed to provide a good level of amenity for future residents or occupiers which shall be assessed against a range of criteria, including whether it makes provision for useable amenity space, including gardens and outdoor amenity areas. TNP Policy THW4 requires that all new houses shall have not less than 20 sqm of outside space (excluding space for cars or parking) and must have garden areas with not less than 10 sqm of space suitable for growing plants. Therefore, whilst the existing annexe could be held to be an existing residential unit and not a 'new dwelling' to which TNP

Policy THW4 could be applied, Policy DE3 of the Torbay Local Plan can be applied as it is not strictly limited to proposals for new residential development.

24. The existing annexe has a 10 sqm area between its front wall and the rear wall of the garage. Given the intention for the unit to contain 3 bedrooms and accommodate 4 people, it is likely that this would be a family unit. With a greater number of occupants would come a greater need for a proportionate external amenity space. Whilst I appreciate that the existing unit has shortcomings in terms of a limited external amenity space, increasing the number of occupiers would exacerbate these pressures and worsen the scheme's performance against the policy requirements in this regard.
25. In view of the above, the scheme would fail to provide adequate living conditions for future occupiers in terms of external amenity space. It therefore conflicts with, in particular, Policy DE3 of the Torbay Local Plan.

Parking

26. The evidence refers to an existing parking space remaining, presumably for use by the occupiers of the annexe. The plan shows a parking space to the rear, accessed via Churchway, numbered '3' on the plans, with 3 other spaces available on the site for the total 6 no residential units.
27. Policy TA3 of the Torbay Local Plan states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development and that development proposals will be expected to meet the guideline requirements as set out in Appendix F. Appendix F sets out that for domestic extensions and ancillary buildings, 1 space is needed for every two bedrooms. The proposal would not provide the requisite space for the two additional bedspaces that would be created.
28. The proposal would therefore fail to provide sufficient parking to serve the proposed development, contrary to Policy TA3 of the Torbay Local Plan.

Other Matters

29. It is alleged that the proposal would be permitted development under the terms of the Town and Country (General Permitted Development) Order 2015 (as amended) were the appeal site not in a conservation area. As the site is within a conservation area and the scheme is not permitted development for at least this reason, this matter does not attract any weight in favour of the development.

Heritage and planning balance

30. The proposal would fail to preserve the character and appearance of the Cary Park Conservation Area and consequently, would cause less than substantial harm to the significance of a designated heritage asset.
31. The main public benefit of the scheme would be the creation of a family-sized dwelling from a single bed annexe, supplementing the housing stock and increasing access to family housing in a sustainable location and through investment into an existing building. Additional economic benefits would flow from the construction phase, albeit more time limited in nature. The evidence also details that the reuse of the ground floor structure would enable an efficient use of the embodied carbon and that the proposed additional storey

would be highly insulated. Whilst there is limited detail about the specification of the build, this is a positive aspect of the scheme which attracts limited weight.

32. However, in my view, the totality of the public benefits of the scheme would not outweigh the harm to the designated heritage asset, which, whilst less than substantial, still attracts considerable importance and weight.
33. In terms of the planning balance, there would also be harm to the future occupiers from the shortfall in external amenity space and a shortfall in parking, relative to the increased occupancy of the unit. These aspects also conflict with the development plan. In my view, the aforementioned benefits of the scheme do not outweigh these harms or indicate that a decision should be taken otherwise than in accordance with the development plan either.

Conclusion

34. For the reasons set out, the appeal is therefore dismissed.

Hollie Nicholls

INSPECTOR