



Appeal Decision

Site visit made on 4 April 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st April 2023

Appeal Ref: APP/X1165/W/22/3311092

10 Lucius Street, Torquay TQ2 5UN

- 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 Duncan Richardson of Richardson Real Estate against the decision of Torbay Council.
 - The application Ref P/2022/0863, dated 25 July 2022, was refused by notice dated 8 September 2022.
 - The development proposed is extend existing flat into retail store area and create bedroom.
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Decision

1. The appeal is allowed and planning permission is granted to extend existing flat into retail store area and create bedroom, at 10 Lucius Street, Torquay TQ2 5UN in accordance with the terms of the application, Ref P/2022/0863, dated 25 July 2022, subject to the conditions in the Schedule to this decision below.

Preliminary Matters

2. In the interests of clarity, I have taken the description of development and the site address from the Council's Decision Notice. I am satisfied that no parties would be prejudiced as a result.

Background and Main Issue

3. The building is within the Tormohun Conservation Area (CA) and is identified within the Council's Conservation Area Appraisal as a Key Building that makes a significant contribution to the townscape within the CA. The Council also identifies the building as a commercial heritage asset, within a Local Centre. The proposal would reduce the size of the retail unit by converting its lower ground floor basement area into a second bedroom within an existing separate flat, number 10A.
4. The main issue is the effect of the proposal on the vitality and viability of the remaining shop unit, and therefore on the Local Centre, the Key Building and commercial heritage asset, and its setting.

Reasons

5. Policy TJ3 of the Torquay Neighbourhood Plan (TNP), adopted June 2019, requires that development within CAs should conserve commercial heritage assets and their settings. Furthermore, Policy TC4 of the Torbay Local Plan (TLP), adopted December 2015, requires that changes of retail use in Local Centres should be appropriate to the role and function of the centre and

frontage, and must not undermine the vitality, viability or character of the centre as a whole.

6. The existing shop unit is in active retail use. As such, the building and its use has significance by making a positive commercial contribution to the Local Centre and to the wider CA. There is no dispute that the physical elements of the proposal would maintain the character and appearance of the building, its setting and that of the CA.
7. The gradual erosion of the internal space available within the unit could undermine its long-term viability as a retail unit. Its loss to retail use, and the resultant dead frontage space, would have a harmful effect on the vitality and appearance of the Local Centre and of the CA. The proposal would result in the loss of the relatively small basement area. However, the shop would retain two storage areas to the rear, together with a WC and the retail floorspace itself. This contrasts with earlier planning applications¹ where the loss of the storage areas and the WC was also proposed.
8. Given the remaining space available to the retail unit, it would still be able to function and to expand if necessary. The proposal would not therefore critically diminish its future retail use, nor set an undesirable precedent. Consequently, the proposal would not undermine the vitality and viability of the shop unit or of the Local Centre, the character and appearance of the Key Building as a commercial heritage asset, or its setting. The proposal would therefore preserve the character and appearance of the CA as a whole and would comply with TNP Policy TJ3 and TLP Policy TC4.

Conditions

9. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty. A condition requiring details of the door is necessary in the interests of the character and appearance of the CA. Given the proposed increase in the number of bedrooms within the flat, a condition is necessary to secure cycle spaces, to encourage sustainable transport.
10. The existing car parking space serving the flat would be retained, and so I see no need for a condition requiring its provision. Furthermore, given that the flat to be expanded already has a refuse and recycling storage area, I see no need for a condition requiring this to be provided.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed.

O Marigold

INSPECTOR

¹ LPA references P/2017/0013 and P/2022/0413

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2022-LS07-LOC, 2002-LS07-01, 2002-LS07-02, 2002-LS07-03.
- 3) Notwithstanding the approved plans and details, prior to the installation of the new external door, broken sections at a scale of 1:1 and elevations at a scale of 1:10 of the door shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out full accordance with the approved details and shall be retained as such thereafter.
- 4) The development hereby permitted shall not be occupied until details of a cycle storage facility have been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be provided in accordance with the approved details prior to first occupation of the development hereby permitted and maintained and retained as such for the lifetime of the development.

End of Conditions