



Appeal Decision

Site visit made on 25 April 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2023

Appeal Ref: APP/X1165/W/22/3307954

Garages to the rear of 123 Babbacombe Road, Torquay TQ1 3SS

- 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 Mrs Lynn Mclean against the decision of Torbay Council.
 - The application Ref P/2022/0744, dated 18 June 2022, was refused by notice dated 15 August 2022.
 - The development proposed is to add an additional storey for a one-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development as set out above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed. However, I have removed reference to ownership and current use as those elements are not proposed acts of development.

Main Issues

3. The main issues are:
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook and loss of sunlight;
 - the effect on the character and appearance of the area and on the setting of the Grade II listed building comprising No.125 Babbacombe Road;
 - whether the living conditions of future occupiers would be acceptable with particular regard to the provision of outdoor space; and
 - whether the proposal provides adequate provision for car parking.

Reasons

Living conditions

4. The appeal proposal seeks to add a floor of accommodation above the existing garages to create a residential dwelling. The existing garages are located in close proximity to the rear of No.105 Babbacombe Road but at a slightly lower

- level. Due to the difference in levels, the occupiers of No.105 have an outlook across the roof of the garages.
5. The position of the proposed additional floor would result in its upper side and rear elevations being in very close proximity with the rear boundary with No.105 Babbacombe Road. This close relationship, combined with its two-storey height, depth, mass, and level raised above the adjoining garden to No.105 would result in an overbearing impact on, and unneighbourly relationship with, the garden and rear elevation of this property.
 6. As a result of the orientation of the proposed upper floor roughly to the south of No.105 and its very close relationship, the proposal would also result in a significant loss of sunlight to windows to the rear of No.105. Given the very close relationship and orientation, this would be the case even if some windows to the rear of No.105 serve non-habitable rooms.
 7. The proposed upper floor would contain windows and be within close proximity to the rear of No.103 Babbacombe Road. However, given the distance between the windows, as they would not directly face each other, and given that the first-floor windows of No.103 are clearly visible from the adjoining car park at close distance, the proposal would not significantly harm the living conditions of the occupiers of No.103.
 8. I acknowledge that there would be no increase in footprint of the existing building and that the ground floor is already there. I also appreciate that the eaves to the proposed building would be below those of No's 103 and 105 Babbacombe Road. However, the ridge of the proposed roof would be above the eaves level to these properties. In light of this, and the very close relationship with No.105, it would be the addition of the upper floor that results in significant harm to living conditions of the occupiers of No.105.
 9. It therefore follows that I conclude that the proposal would have a harmful effect on the living conditions of neighbouring occupiers at No.105 Babbacombe Road with particular regard to outlook and loss of sunlight. Accordingly, the proposal would not comply with Policy DE3 of the Torbay Local Plan, The Plan for Torbay: 2012 to 2030 (LP), which, amongst other things, seeks to ensure that development is designed not to unduly impact upon the amenity of neighbouring and surrounding uses. This is a planning harm to which I attach significant weight.

Character and appearance

10. The appeal site comprises a row of single-storey garages used for storage with an associated frontage parking area. It adjoins a boundary wall to No.105 Babbacombe Road and a car parking area to its west that are raised slightly above the site. Beyond this are residential properties forming 91-99 Princes Street built in a crescent shape.
11. The area is tight nit in nature with mainly two-storey buildings located in close proximity on narrow roads and with limited outside space. The proposal would complement this surrounding built environment in terms of its materials, height, massing and form.
12. 125 Babbacombe Road, a Grade II listed building is located close to the appeal site. This two-storey stuccoed building with slate roof was originally one house. It comprises features including a three-bay frontage, rear wing and a number

of 12-pane sash windows. The significance of the listed building is its historic and architectural interest as a c1840 domestic property forming part of the wider townscape.

13. The listed building is positioned broadly to the north-east of the appeal site at a similar level. The listed buildings primary front elevation faces down Babbacombe Road relating in the main to the other buildings framing this road and its frontage. The rear elevation of the listed building is off set from the front of the appeal site facing, and having a direct relationship with, the side elevation of No. 105 Babbacombe Road. In light of this, I find the setting of 125 Babbacombe Road to be primarily associated with its immediate garden and relationship with the closest properties on Babbacombe Road, including the frontage of the appeal site.
14. From the appeal site frontage, the proposal would be seen in relation with the listed building. However, given the separation and off-set relationship between the sites, presence of No.105 Babbacombe Road immediately adjoining the rear of the listed building, and the tight-nit character of the two-storey built form of the area that the proposal would replicate, it would not be over-dominant or harm the setting of the listed building.
15. The additional floor would screen views of the crescent form of No's 91-99 Princes Street from the east down Babbacombe Road. However, such views are at a distance and framed by existing buildings on Babbacombe Road. Given this, and as the proposal would complement and replicate the surrounding built form and tight nit character of the area, the proposal would not dominate this streetscene and would preserve the setting of the listed building.
16. Given the above, I conclude that the proposal would not harm the character and appearance of the area or setting of the Grade II listed building comprising No.125 Babbacombe Road. As the proposal relates to the setting of a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). As a result, the proposal would not harm the significance of the listed building, satisfies the requirements of the Act, and complies with Policies DE1, SS10 and HE1 of the LP and TH8 of The Torquay Neighbourhood Plan – Adopted June 2019 (NP). Amongst other things, these seek to ensure that development is well-designed, respects local character, sustains and enhances buildings, setting and heritage and has special regard to preserving any listed building and its setting. The absence of this planning harm attracts neutral weight.

Outdoor space

17. The appellants Statement of Case includes a diagram showing that there is space for an outdoor area of 10.2sqm immediately to the front of the building. The site is also located within a short walking distance of public open space and recreation facilities at the coastal edge that occupiers would benefit from.
18. In light of this, I conclude that the proposal would benefit from adequate outdoor space. As such, it accords with Policy DE3 of the LP and Policy THW4 of the NP, which, amongst other things, state that all development should be provided with usable amenity space, including gardens and outdoor space, and that new flats should be provided with at least 10sqm of usable outdoor space. The absence of this planning harm attracts neutral weight.

Car parking

19. Two car parking spaces are proposed within the retained ground floor of the building. Whilst providing the number of spaces required by Policy TA3 of the LP as detailed in Appendix F Car Parking Requirements of the LP, they would be smaller in size than the minimum dimensions required by Appendix F.
20. However, I note that Appendix F states that for residential development, standards for the number of spaces can be reduced where there is a greater choice of transport. In this instance, the site is located in close proximity to a range of services and facilities including bus routes on Babbacombe Road within a short walking distance of the site. There would also be provision on site for secure cycle parking.
21. I note that Policy TH9 of the NP states that the parking requirements in the LP must be met. However, the Policy goes on to state that this is unless it can be shown that there is not likely to be an increase in on-street parking arising from the development. In light of the presence of the existing garages and likely demand for parking in association with their use for storage, and given their restricted size, the proposal would not be likely to increase on-site parking in the area.
22. In relation to this matter, I conclude that the site would benefit from adequate car parking facilities in accordance with Policy TA3 of the LP and Policy TH9 of the NP. Amongst other things, these seek to require appropriate car parking provision meeting the guideline requirements as set out in Appendix F of the LP. The absence of this planning harm attracts neutral weight.

Other Considerations

23. The letter of support, compliance with the Nationally Described Space Standards, additional council tax receipt, lack of harm to flood risk and drainage and adequate waste and recycling facilities carry neutral weight for the purposes of my assessment.
24. I acknowledge that residential development in this location would be acceptable in principle and provide benefits to the supply and mix of housing from a self-build detached dwelling making an effective use of brownfield land. I also acknowledge that the proposal would re-use an under-utilised site, benefit the local economy from the build and occupation of the property and provide social benefits from additional residents in the area. However, given the scale of the scheme these benefits would be small.
25. The Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of the Framework should be applied. The appeal proposal would provide a number of benefits, including the provision of one home which would contribute towards the supply and mix in the area, make an effective use of the site, benefit the local economy from construction works and future occupiers using local services and facilities, and provide additional open market accommodation with good accessibility to services and facilities and social benefits from additional residents in the area. However, given the scale and nature of the development, the benefits would be limited.

Planning Balance

26. I have found that the appeal proposal would result in harm to the living conditions of neighbouring occupiers which attracts significant weight. I give limited weight to the lack of five-year supply of deliverable housing sites and neutral weight to the absence of other harm and to the other considerations. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

27. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR