



Appeal Decision

Site visit made on 30 May 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 26 June 2023

Appeal Ref: APP/X1165/D/23/3314262

2c The Forge, 2 Western Road, St Marychurch, Torquay TQ1 4RL

- 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 Steve Davies against the decision of Torbay Council.
 - The application Ref: P/2022/0871 dated 22 July 2022, was refused by notice dated 9 November 2022.
 - The development proposed is first floor extension to existing garage to create an annexe.
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Decision

1. The appeal is allowed and planning permission is granted for first floor extension to existing garage to create an annexe at 2c The Forge, 2 Western Road, St Marychurch, Torquay TQ1 4RL in accordance with the terms of the application: P/2022/0871 dated 22 July 2022, subject to the conditions set out at the end of this decision letter.

Preliminary Matters

2. At the appeal stage the Appellant submitted an alternative 'reduced' scheme. Whilst I have noted that the Council offered to consider a 'reduced' scheme it would not appear that this particular proposal has been discussed with the Council or has been the subject of consultation and it is not therefore open for me to take it into account. My decision is necessarily based solely on the plans as determined by the Council.
3. The application forms referred to the address of the appeal site as '2c 2 The Forge' but all references thereafter have been to '2c The Forge, 2 Western Road'. I have therefore used the latter address.

Main Issues

4. The main issues in this appeal are:
 - a) The effect of the proposal on the character and appearance of the St Marychurch Conservation Area, and
 - b) The effect of the proposal on the living conditions of immediate neighbours, with particular regard to overlooking and loss of privacy, loss of light and outlook.

Reasons

Issue a) Character and Appearance

5. The appeal property is an end of terrace property on the corner of Western Road with Havelock Road within a predominantly residential area. There is an existing garage and parking area at the rear accessed off Havelock Road, which also provides access to parking areas and garages serving other properties in Western Road.
6. The appeal site and surrounding area lies within the St Marychurch Conservation Area. The Conservation Area has an attractive mix of both close knit development as well as more widely spaced villas, much of it dating from the 19th century, and it retains the character of a separate community within the wider Torquay area. The steeply sloping streets and attractively varied townscape are features of the local area and contribute to the significance of the Conservation Area. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.
7. The proposal would seek to increase the height of the existing garage to introduce accommodation at first floor level to create a one bedroom annexe. The garage doors would be changed to a pedestrian door and bi-folding doors would replace the existing windows in the north elevation and 3 roof lights introduced into the northern roof slope and one roof light in the southern elevation. There would also be a small circular window at first floor level in the eastern elevation.
8. The existing garage is at a higher level than the existing house and Havelock Road continues to climb with taller dwellings to the south. From Havelock Road, the existing garage building sits on its own with spacing around it, both set back from the street frontage and from the buildings to the north and south. Given the sloping nature of Havelock Road and the spacing between the buildings both to the south and to the north, I consider that the increased height and massing of the proposal would be readily assimilated into the urban grain and the varied character and appearance of the Conservation Area. It would remain a modest building of traditional design which would blend in with the surrounding buildings of varying scales. Given its scale and siting, it would not become a dominant feature in the street scene but continue to contribute to the attractive and varied character and appearance of the Conservation Area.
9. I therefore conclude that the proposal would respect the significance of and preserve the character and appearance of the St Marychurch Conservation Area. There would be no conflict with Policies DE1, DE5 and SS10 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the National Planning Policy Framework (Framework) and in particular Section 16, all of which amongst other things seek development to be of high quality which respects the local context, including the significance of designated heritage assets.

Issue b) Living Conditions

10. The appeal proposal would amend the existing openings in the existing garage building. At ground floor, the principal change would be on the northern elevation and the existing windows would become bi-folding doors. However, given they would be at ground floor and taking into account the siting of the building in relation to the dwellings to the north, including boundary treatments and distance from the rear elevations of these dwellings to the north, I am satisfied that there would be no overlooking or loss of privacy for the neighbours of these adjoining dwellings. Roof lights would be inserted in the north facing roof slope but subject to the imposition of a condition to require that these would be set at a minimum of 1.7m above floor level in the north facing roof slope, I am again satisfied that the neighbours to the north would not be materially affected in terms of overlooking and loss of privacy. Given the distances, scale and the siting of the building as proposed to be altered, I am also satisfied that there would be no loss of outlook for the neighbours in dwellings to the north, either from their rear facing rooms or their rear garden.
11. I have taken into account the orientation of the appeal proposal and the houses to the north. Although no technical information has been provided, I consider that there is sufficient distance between them that there would be no material loss of light or overshadowing.
12. The living conditions of the occupiers of the dwellings to the south and to the east would not be materially affected by the proposed development, given their distances to the proposal and the limited openings proposed in the building facing towards these dwellings.
13. I am therefore satisfied that the appeal proposal would not materially harm the living conditions of the immediate neighbours including those in dwellings to the north, with particular regard to overlooking and loss of privacy and loss of outlook and light. There would be no conflict with Policy DE3 of the Torbay Local Plan and the Framework, and in particular Paragraph 130, both of which amongst other matters seek a high quality of design which respects the amenities of existing and future occupiers.
14. The Appellant has contended that the lack of objection from neighbouring residents points to the acceptability of the proposal in respect of impact on living conditions, but my consideration is based on the planning merits, regardless of whether or not representations have been submitted.

Conditions

15. In terms of conditions, I agree with the Council that the materials should be specified to preserve the character and appearance of the Conservation Area, and the approved plans should be listed for the avoidance of doubt and in the interests of good planning. In respect of materials, I have referenced one of the approved plans, which provides details of the proposed materials.
16. I shall also add a condition, as set out above, to require the north facing roof lights to be at or above a height of 1.7 metres above the finished floor level of the room to protect the amenities of surrounding neighbours. I have also added a condition to require the accommodation hereby permitted to be used for purposes ancillary to the residential use of the main dwelling, to accord with the terms of the application and the basis upon which the proposal has been

considered and determined. There would potentially be additional matters to consider were the proposal for an independent dwelling.

Conclusion

17. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions (1 -5 inclusive)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as described on Plan 076-WES-PA01-REV-A.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 076-WES-EX01-REV-A; 076-WES-EX02-REV-A; 076-WES-PA01-REV-A; 076-WES-PA02-REV-A.
- 4) The proposed roof lights in the northern roof slope of the development hereby permitted shall be at or above a height of 1.7 metres above the finished floor level of the room in which the roof lights are installed and thereafter so retained.
- 5) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Forge, 2 Western Road, St Marychurch, Torquay.