



Appeal Decision

Site visit made on 6 June 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH July 2023

Appeal Ref: APP/X1165/W/23/3315192

Aveland House, Aveland Road, St Marychurch, Torbay, Torquay TQ1 3PT

- 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 Nick Trewin against the decision of Torbay Council.
 - The application Ref P/2022/1126, dated 10 October 2022, was refused by notice dated 6 December 2022.
 - The development proposed is the creation of a balcony in place of an existing flat roof.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of nearby flats, with particular regard to the potential for noise and disturbance, and access to light.

Reasons

Noise and disturbance

3. The appeal property is a hotel set within an area that is generally characterised by residential uses. During my site visit I observed relatively low levels of activity and background noise levels in the area of the appeal site. Whilst my visit was a snapshot in time, I have no substantive evidence that the conditions I observed were abnormal.
4. The proposed balcony to room 4 is relatively generous in size and comparable in area to the room it would serve. This would make it an attractive outdoor space for recreation and relaxation by guests who are likely to be on holiday. It could also accommodate seating.
5. Although serving a single hotel room, the proposed balcony to room 4 would be set close to first and second floor windows in the adjoining flat block (Sunray Court). Use of the balcony by guests would involve them moving to and from the balcony and engaging in outdoor conversations. This would likely generate levels of noise and disturbance that would be audible from the rooms in the nearby flats that are served by those windows.
6. This would particularly be the case if this balcony space was used by guests late at night and during warm dry weather, as this would likely coincide with when occupiers of the nearby flats would reasonably expect a certain level of peace and quiet for sleeping, and when they are more likely to have their windows open for ventilation. Given my observations of relatively low levels of

activity and background noise in the area, I find that levels of noise and disturbance generated by use of the proposed balcony to room 4 would be particularly noticeable and intrusive to the occupiers of the nearby flats, and would harm their living conditions.

7. Full details of other balconies in the area are not before me and therefore I cannot be sure that they are comparable to the proposal in this appeal. As such, the existence of other balconies has limited relevance to my considerations in this appeal.
8. The appellant has put it to me that more noise nuisance would arise from the use of a general garden area. Nonetheless, I have assessed the proposal on the evidence before me and found harm. The potential for noise nuisance from garden areas does not alter my findings on this main issue. Whilst occupiers of the nearby flats have not objected to the proposal, the absence of objections is not a reason to allow a proposal that would be unacceptable.
9. For these reasons and based on the information before me, I conclude that the proposed development would generate levels of noise and disturbance that would harm the living conditions of the occupiers of the nearby flats. As such, it would conflict with Policy DE3 of the Torbay Local Plan – The Plan for Torbay: 2012-2030 (LP), which, amongst other requirements, seeks to ensure that development causes no undue noise impacts on the living conditions of nearby occupiers.

Access to light

10. The glazed screen at the end of the proposed balcony closest to the adjoining flat block would not, given its position relative to the sun as it moves through the sky, cause harmful overshadowing of windows in the adjoining flat block. Although an absence of harm in this respect would accord with one element of Policy DE3 of the LP, it does not outweigh the harm I have found above in respect of noise and disturbance.

Other Matters

11. I note the Council found that the proposed balcony would not be harm the character and appearance of the area, thus complying with Policy DE1 of the LP and Policy TH8 of The Torquay Neighbourhood Plan – Adopted June 2019. However, an absence of harm in this respect does not weigh in favour or against the development.

Conclusion

12. For the reasons given above and having considered all matters raised, I conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR