



Appeal Decision

Site visit made on 9 December 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2024

Appeal Ref: APP/X1165/D/24/3347211

9 Thurlow Road, Torbay, Torquay, TQ1 3DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mike Wall against the decision of Torbay Council.
 - The application Ref is P/2024/0150.
 - The development proposed is removal of part of the existing boundary wall to allow improved access to the property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development as set out in the Application Form.
3. The Council's Delegated Report (CDR) refers to substantial changes that are shown to take place to the ground levels within the site to accommodate the improved pedestrian access to the appeal property. They consider these works amount to development and proceeded to determine the application on the basis that the proposal related to the removal of part of the stone wall and the associated groundworks. Even so, that is not the proposal that is before me, which is described as removal of part of the existing boundary wall. Whether the associated groundworks require planning permission is also not a matter that is before me and not a matter that I can comment on.
4. The Appellants Appeal Statement (AAS) contends that the groundworks are minor, which does not appear to be supported by the submitted section of the new path leading up to the appeal property. Even so, the AAS clearly states that the application only sought planning permission to remove part of the stone boundary wall and did not seek permission for any groundworks or any alterations to the existing front garden to the appeal site. In view of this, I have proceeded to determine the appeal on the basis that planning permission is only sought for the removal of part of the existing boundary wall.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the appeal sites location within the Upton Conservation Area.

Reasons

6. The appeal site lies within the Upton Conservation Area (UCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the National Planning Policy Framework (December 2023) (NPPF) and in policies DE1 (Design) and SS10 (Conservation and the historic environment) of the Torbay Local Plan 2012 to 2030 (December 2015) (TLP) and policies TH8 (Established architecture) and TH10 (Protection of the historic built environment) of the Torquay Neighbourhood Plan (June 2019) (TNP).
7. The Council's reason for refusal also refers to policy HE1 (Listed buildings) of the TLP. As its name implies, this policy relates to the impact of development on Listed Buildings. However, my attention has not been drawn to any nearby Listed Buildings and as such this policy is not, in my view, relevant.
8. The Council's Upton Conservation Area Character Appraisal (CACA) is dated July 2005. The purpose of this document is to define and analyse the special interest which constitutes the character and appearance of the area, and the qualities that warrant its designation as a conservation area. The document provides a basis for decision making and assists in interpreting and applying the relevant heritage policies of the development plan and NPPF.
9. The CACA states that the UCA is located at the heart of Torquay and includes a number of areas that are defined by their function, ranging from the Civic complex of Edwardian properties to Victorian and Edwardian residential villas. The latter comprise detached, semi detached and terraced properties in an informal arrangement, within an area that exhibits pronounced changes in its topography. The historic built environment is largely, therefore, a product of the 19th Century. The CACA continues by identifying 'character areas' with the appeal site falling within 'No.2 St Marychurch, Thurlow & Ashill Roads.' The latter is described as having an informal layout with early to mid-19th Century detached villas in large gardens mostly on higher ground. It also refers to subsequent infilling in the character area from the late 19th Century, the 1920's and 1930's as well as later 20th Century developments of flats.
10. Paragraph 7.3 of the CACA identifies the key features of special importance to the UCA, which it seeks to protect and enhance. These key features include, amongst others, the "*high survival of extensive boundary walls and gate piers using local limestone rubble.*" The CACA also includes a number of 'Appraisal Maps' including 'Map One' which identifies the character areas, Listed Buildings and other key buildings or groups of buildings. The key buildings include 5 – 7 Thurlow Road (No's 5 & 7) located to the south east of the appeal site. 'Map Five' identifies 'Important Features' which includes 'Prominent walls'. The whole of the wall to the front boundary of the appeal site is defined as a 'Prominent wall'. This map also shows that No's 5 & 7 have largely unspoilt frontages retaining significant period detail, as do the properties to their south.
11. All of the above factors contribute, in my judgement, to the special interest and significance of the UCA as a whole.
12. As I confirmed earlier, the appeal proposal would involve the demolition of part of the existing stone wall to create an improved pedestrian access to the

appeal property. The proposal would involve the removal of some 2.6 metres of the existing boundary wall.

13. Within the above context and as I observed on site, the existing boundary wall to the appeal site is visually prominent and forms an integral part of a larger stone wall that dominates this part of the streetscene. It creates a strong sense of enclosure and forms part of an expanse of aged stone wall that wraps itself around the appeal site and then extends up the hill in front of 9A to 13A (odd) Thurlow Road. All of this wall is identified as 'Prominent walls'. As with similar walls within the UCA it is an important feature of architectural and historic interest. That importance is accentuated by the fact that the appeal site is located adjacent to key buildings that include unspoilt frontages that retain significant period features.
14. The removal of even part of this historic wall would, in my view, have a negative impact on the character and appearance of the UCA. The proposal would replace the wall with a large gap leading to a wider access path which would represent a discordant and visually dominant feature that would harm the important contribution that this part of the stone wall plays within the streetscene and this part of the UCA.
15. For the reasons set out above, I find that the appeal proposal would result in harm to the character and appearance of the UCA and as such it would not preserve or enhance the character or appearance of the UCA. As is required, particularly by the NPPF, considerable importance and weight must be attached to the harm to this heritage asset. The appeal proposal would lead to less than substantial harm to the significance of this heritage asset which must be weighed against any public benefits of the development.
16. The Appellant states that the proposal would improve pedestrian access for the existing elderly occupier and at the same time secure improvements for future occupiers. Whilst I sympathise with the personal circumstances of the Appellant, these improvements are to the private access that serves the appeal property and would thus only benefit existing and future occupiers and owners. They are not public benefits and would not deliver, in my view, either economic or social or environmental objectives.
17. Reference has been made to the work that the proposal would generate for a local builder, but that is a common factor where most new built development is proposed and it is not, therefore, a benefit to which any weight can be accorded. The Appellant also refers to the use of high quality materials, but that is a standard requirement for all new development, in particular where that development is permitted within a conservation area. Consequently, the latter is again not a benefit to which any weight can be accorded.
18. Based on all the above factors, none of the considerations referred to nor any other public benefits, delivering either economic or social or environmental objectives, would, in my view, be sufficient to outweigh the harm I have identified to the significance of the heritage asset.
19. The Appellant has referred to examples of where the wall appears to have been removed to provide improved access to other properties on Thurlow Road. I have not been provided with any planning background to these examples or any evidence as to if and when they were approved, what policy guidance was in place at the time or whether they were undertaken under permitted

development or prior to the designation of the conservation area. Even so, in relation to 15 Thurlow Road I note that this does not fall within the area defined as 'Prominent walls' in the CACA. Whilst 11 Thurlow Road does fall within this definition, as I observed on site the works to that property have had a harmful impact on the character and appearance of this part of the UCA. It is not, therefore, an example of the type of work that should be replicated. As the CACA also states, it is these types of losses or damage that the designation of the conservation area seeks to protect so that the special interest of the area is preserved or enhanced. The existence of these examples does not, therefore, provide any justification for the appeal proposal or affect the findings I have reached on this issue.

20. I accept that there were no objections from local residents but that is not an indication that the proposal is otherwise acceptable and neither does it negate the need for the proposal to be assessed against local and national policies that seek to preserve or enhance designated heritage assets.
21. Accordingly, I find that the proposed development would be contrary to policies DE1 and SS10 of the TLP, policies TH8 and TH10 of the TNP and paragraphs 195, 203, 205 – 206 and 208 of the NPPF.

Conclusion

22. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR