



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: 23 December 2024

Appeal Ref: APP/X1165/D/24/3353165

Fosseway West, St Agnes Lane, Torbay, Torquay, TQ2 6QD

- 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 & Mrs Fitzgerald against the decision of Torbay Council.
 - The application Ref is P/2024/0475.
 - The development proposed is demolition of uPVC porch and replacement with one storey extension with terrace.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of uPVC porch and replacement with one storey extension with terrace at Fosseway West, St Agnes Lane, Torbay, Torquay, TQ2 6QD, in accordance with the terms of the application Ref P/2024/0475, dated 11 July 2024 and subject to the conditions listed below.
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2513_01 Rev.B; 2513_02 Rev.B; P-2024-0475-5 Location Plan (dated 11/07/2024).
 - 3) The external surfaces of the development hereby permitted shall be constructed in materials to match those on the existing building or otherwise be as shown on the approved plans.

Application for Costs

2. An application for costs was made by the Appellant against Torbay Council. This application is the subject of a separate decision.

Preliminary Matters

3. On 12 December 2024 the Government published a revised version of the National Planning Policy Framework (NPPF). However, the policies that are relevant to this appeal have not changed (albeit some of the paragraph numbering is different) and I have not, therefore, sought the parties comments on the revised NPPF.

Main Issues

4. Even though the Council's two reasons for refusal raise a number of similar issues, I have dealt with them separately and tried to avoid any repetition. The main issues are, therefore, the effect of the proposed development on: (a) the character and appearance of the area, with particular regard to symmetry and the streetscene; and (b) the character and appearance of the area, with particular regard to designated and non-designated heritage assets.

Reasons

Character and appearance – symmetry and streetscene

5. The appeal site is located on St Agnes Lane and comprises a large 2-3 storey semi-detached 19th Century Villa located within spacious grounds. The other half of the semi, located to the south, also dates from the same period and is known as Elmcroft. It is also located within spacious grounds. The properties were built as a pair and there are examples of other pairs as well as detached Villas, from the same period, either side of St Agnes Lane. The host property is subdivided into three flats, as, I understand, are other properties in the Lane.
6. The area immediately to the north of the host building is hardstanding (tarmac) used for off-street parking to serve the three flats. To the north of this is the garden which wraps around the eastern (front) elevation of the host property to meet up with the garden to Elmcroft. The appeal building is located, as with Elmcroft, on a bluff or steep cliff. As a consequence, their gardens fall away sharply to the east, which for the host provides pedestrian access to Rathmore Road and Torquay Station.
7. As I observed on my site visit, due to the distance involved and the fact that the cliffs and gardens to the appeal site and Elmcroft contain extensive areas of mature trees and shrubs, there are limited public views of the host building. Those views that are available are glimpsed views of only the upper part and roof to the host principally from Hennapyn Bridge and Hennapyn Road, to the south east and east of the appeal site. Elmcroft is well screened from these views.
8. Public views of the appeal building from St Agnes Lane are also limited by the fact that the lane is narrow and enclosed, with boundary walls, mature trees and shrubs screening houses from the road. The views that exist from the Lane are mainly of the rear (west) elevation to the host and the rear of Elmcroft. The northern (side) elevation of the host building is also visible to the public when passing the appeal site, on the Lane, through the existing driveway. Whilst the host building and Elmcroft can be seen as a pair from the Lane, particularly when approaching from the south, this view is of the rear of these properties from where they do not give the impression of a symmetrical pair due to the existence of various later additions.
9. The appeal proposal involves the demolition of an existing uPVC porch and its replacement with a single storey flat roofed extension with terrace above. The porch currently serves Flat 1 (on the ground floor) and the works would secure an improved and larger layout for that flat. The proposal would also involve the demolition of the unsightly entrance porch (lobby), reinstate the original front door and provide a roof terrace for Flat 2 (on the first floor). The proposal also

shows the retaining wall for the parking area to be repaired and a new footpath, with steps, constructed to access the lower garden

10. The design shows a split level extension, with the first part comprising an extension to the kitchen and diner at finished floor level with the terrace above. Internal steps would then lead down to a sunken living room, set at a lower level to the first part, within the existing patio and finished with a green roof. The proposed extension would be offset from the original Villa entrance to allow for the restoration of the latter. The pallet of materials would include smooth render, aluminium windows, traditional timber door, green roof and frameless glass balustrade.
11. The Council's Delegated Report (CDR) confirms that they recognise the benefits of the proposal in terms of improving Flat 1, the removal of the unsightly porch and reinstatement of the original front entrance. Even so, the Council contend that these benefits are not outweighed by the poor design and over dominant scale, height and massing of the proposal and the removal of the alleged symmetry between the host and Elmcroft. As I confirm below, I do not share any of the Council's concerns.
12. The proposal would replace a poor quality porch with a well-designed and high quality addition that would integrate well with the host building. The proposed scale, mass and height of the new extension would, in my view, be modest and its contemporary design would represent a sympathetic addition to the host. It would provide an appropriate transition between old and new, that would also allow the original fabric, form and historic features of the host building to be retained and enhanced. The new extension would step down in line with site levels and its simple uncluttered design would result in an addition that would be subservient to the host property. The acceptability of the proposal would be accentuated by the pallet of materials and window proportions, which would ensure that it sits comfortably on the appeal site and does not compete with or appear dominant, but instead compliments the character of the original Villa.
13. In terms of symmetry, as I confirmed earlier, the host building is not identical to Elmcroft. Both properties have been adapted and extended over the years, with some of those additions more successful than others. Moreover, the properties are only largely seen as a pair from St Agnes Lane, with public views of their rear (west) elevations. In those views, Elmcroft appears closer to the Lane whereas the host building is set back, with an existing garage sited between it and the Lane. The proposed extension is set even further back so that it would not at any time be read as part of the same view with Elmcroft.
14. I note that the CDR places emphasis on the footprint of the new extension and its width compared to existing. In my view, that is an unreliable way to assess the acceptability and subservience of the proposal. I accept that the footprint of the host property would be increased, but this would not harm the original character of the Villa, which would largely be preserved.
15. Overall, I am satisfied that the appeal proposal would not result in any harm to the character and appearance of the host property or Elmcroft. In relation to the streetscene, I accept that there would be limited views of the proposal from St Agnes Lane. However, due to the narrow and enclosed nature of this Lane, the distance that would separate the proposal from the Lane, its modest height and stepped design and the fact it would represent a sympathetic addition to the host, the proposal would not, in my view, be visually prominent within the

streetscene. As I confirmed earlier, in more distant views from the east, only the upper part and roof of the host building appear visible with the new extension screened by existing mature landscaping.

16. Accordingly, the appeal proposal would comply with policies DE1 (Design) and DE5 (Domestic Extensions) of the Torbay Local Plan 2012 to 2030 (December 2015) (TLP) and policy TH8 (Established architecture) of the Torquay Neighbourhood Plan (June 2019). These require, amongst other matters, that new development is well designed, acknowledges local character, relates to the surrounding built environment in terms of scale, height and massing and does not dominate or have other adverse effects on the host property and streetscene. These policies remain broadly consistent with those in paragraphs 131, 135 and 139 of the NPPF.

Character and appearance – designated and non-designated heritage assets

17. The appeal site lies within the Chelston Conservation Area (CCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, 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 NPPF as well as in policy SS10 (Conservation and the historic environment) of the TLP.
18. The host property is also recognised as a 'key building' within the Chelston Conservation Area Character Appraisal (November 2005) (CCACA) with the adjoining semi, Elmcroft, also identified as a 'key building'. The host and the other half of the semi are thus non-designated heritage assets (NDHA). Paragraph 216 of the NPPF states that when considering the effect of an application on the significance of a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
19. I described earlier the nature of the appeal proposal, which is essentially the construction of a single storey flat roofed extension with terrace. In relation to the impact of the proposal on the CCA, I have based my assessment on the CCACA and my own observations on site. The purpose of the CCACA is, of course, 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.
20. The CCACA states that the area was developed as a secluded Victorian garden suburb in the late 19th and early 20th Centuries. The appraisal divides the area into two separate character areas with the appeal site falling within 'Character Area (2): The 19th Century Churches and Villas'. The appraisal states that the latter is characterised by detached and semi-detached Villas, with St Agnes Lane containing important and cohesive groups of Villas set back behind walls and banks, at a lower density to other parts of the conservation area.
21. The CCACA continues by stating that much of the character of the CCA depends on the interplay of open spaces, private grounds with extensive tree and shrub cover and the informal arrangement of Villas around curling streets and avenues, set within an undulating topography. Map One confirms that the

- appeal building and Elmcroft are 'key buildings' of architectural importance and as such they make a positive contribution to the CCA.
22. Within the various photographs towards the end of the CCACA is a reference to the appeal building (photo 48) showing its east elevation as viewed from the bridge and Hennapyn Road. As I confirmed earlier that view is now largely screened by mature landscaping with only the upper part and roof of the host just about visible. I also note that the text with the photo states that in narrow St Agnes Lane the houses are well hidden by mature trees and are hardly visible from the road.
23. All of the above factors contribute, in my judgement, to the special interest and significance of the CCA as a whole.
24. The proposed extension would, in my view, represent a well-designed and high quality addition that would integrate well with the character of the existing building. The proposed scale, mass and height of the new extension would be modest and its contemporary design would represent a sympathetic addition to the host, allowing a transition from old to new that would enable the original fabric, form, historic features and detailing of the Villa to be largely retained. The fact that the proposal would step down in line with site levels and include a simple uncluttered design, results in an addition that would be subservient to the host. Its overall scale, height and massing would not compete with but on the other hand compliment the character of the original Villa.
25. In terms of symmetry, the host property is not, in my view, identical to Elmcroft as both properties have been adapted and extended over the years. The properties are only largely seen as pair from St Agnes Lane, but this view is of their rear (west) elevations, with the appeal building itself set back behind the existing garage. The proposed extension would be set back even further from the Lane and would not be read as part of the same view with Elmcroft.
26. The appeal proposal would also secure improvements to Flat 1 and the quality of accommodation it provides, assisting in safeguarding the viable residential use of the host building. It would also include the reinstatement of the original front entrance and thus an opportunity to better reveal an architectural feature of importance. The proposed stepped nature of the new extension, its modest scale and height and its flat roof contemporary design would assist in ensuring that the proposal compliments the host property and allows the host's original form, fabric, architectural and historic features, that contribute towards its NDHA status, to be largely retained.
27. Section 7 of the CCACA sets out the settings and features of special importance with paragraph 7.3 listing those elements which make the most essential contribution to the character of the CCA. These include, amongst others, the high quality of the 2-3 storey Villas in extensively landscaped grounds, the many historic buildings that have retained their spacious surroundings and have not lost them to infill development, the survival of many original details on the buildings including the retention of original boundary treatments and the variety of mature trees and shrubs that are able to flourish in sheltered locations. The appeal site exhibits all of these elements. The appeal proposal would not result in any harm to any of these elements or thus to the positive contribution the site makes to the CCA.

28. Consequently, the proposal would not, in my judgement, harm the significance of any designated and non-designated heritage asset or be prominent or over dominant in any important views within the CCA. For the above reasons, I am satisfied that the proposal would not result in any harm to the special interests of the CCA.
29. Accordingly, I find that the proposed extension is acceptable and that it would preserve the character and appearance of the CCA, as a whole, in that it would leave it unharmed. The proposed extension would represent a modest and appropriate addition to the host property in accord with policy SS10 of the TLP and paragraph 216 of the Framework. As the proposal would leave the CCA unharmed, there is no need to undertake the assessment set out in paragraphs 213 – 215 (inclusive) of the NPPF.

Other matters

30. The Council's Questionnaire indicates that the appeal site lies within the setting of Grade II Listed Buildings, namely Hennapyn Road Bridge and Sydore in Meadfoot Road. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special regard must be had to the desirability of preserving those buildings setting. Similar advice is to be found in the NPPF. The reference to Sydore appears to be an error as Meadfoot Road is, I understand, located on the other side of Torquay. Hennapyn Road Bridge is located south east of the appeal site. Whilst there are glimpsed views of the upper part of the host property from the bridge, the proposed extension would be well screened and hidden in those views. The host is also separated from the bridge by the cliffs and extensive mature landscaping. In view of this, the proposal would not result in any harm to the setting of the bridge.

Conditions

31. I have considered the Council's suggested conditions against the advice in the NPPF and the Planning Practice Guidance chapter on the 'Use of planning conditions'. The conditions are all standard in requiring compliance with the submitted plans and for materials to match existing or to be as shown on the approved plans. Both conditions are necessary and reasonable in order to secure a high quality development and to reflect the details included in the application. These suggested conditions were listed in response to question 11 on the Questionnaire form, which also confirmed that no other conditions were considered necessary.

Conclusion

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

G Roberts

INSPECTOR