

Application Number

P/2012/1205

Site Address40 Magdalene Road
Torquay
Devon
TQ1 4AF**Case Officer**

Miss Alix Cathcart

Ward

Tormohun

Description

Conversion of ancillary accommodation to form 2 self contained residential apartments - retrospective

Executive Summary

This proposal relates to the retrospective formation of two residential units, one at lower ground level, the other at ground floor and in the roof space, in a new development where the approved use was for one ancillary residential unit on two levels, lower ground and ground floor. It is considered that the proposed use as two units would result in an acceptable development and that the external alterations in the public view, which involve the insertion of windows facing onto Upton Park, can also be accepted as meeting Local Plan policy criteria.

Recommendation:

Approval.

Site Details:

The application site is a building situated along the rear boundary of 40 Magdalene Road, adjacent to Upton Park, which received planning permission in 2009 for development of a two bedroom dwelling to be occupied ancillary to the main building 40 Magdalene Road. The new building work proposed in that application has been undertaken, but two units of accommodation have been created instead of the one that received planning permission. This application seeks to regularise the position. The application site lies within the Tormohun Conservation Area and adjacent to Upton Conservation Area.

A site review meeting was held on 17 January 2013, attended by Councillors Cowell and Excell, where the outcome was that the application should be referred to the Development Management Committee for determination.

Detailed Proposals:

Creation of two units of accommodation on three floors to be occupied as self contained units, not ancillary to the main building 40 Magdalene Road. The larger

unit would occupy the ground floor and roof space, with lounge, kitchen, study and toilet on the ground floor with 3 bedrooms and bathroom over. The ground floor rooms would benefit from natural light on two aspects, the main change from the approved scheme being the insertion of 3 windows on the east elevation facing towards Upton Park and right on the boundary. The upper floor rooms would be lit by rooflights. The lower ground floor unit would comprise lounge, kitchen and 2 bedrooms with bathroom. Natural light would be afforded to each principal room from windows facing onto the courtyard.

The application has been revised since its original submission to show the windows on the east elevation to be inward opening, so as not to project over the property boundary, and laminated so as to not to cause a danger if broken as a result of the recreational use of the park. The revised plan also shows these windows to be obscure glazed.

Consultation Responses:

Highways and Engineering Officer: The development is in an area that has a high demand for parking, however on a previous application this was highlighted by the Highways Department and discarded by the planning officer due to the proximity of the town centre and local bus services. The Highways Group agree that this is suitable mitigation and therefore raise no objection.

Strategic Transportation: Request that the SPD contribution of £3,970 (in line with the table found in Appendix 1 of Planning Contributions and Affordable Housing SPD Update 3) based on the creation of two new residential units, one under 54m² and the other approximately 100m².

This contribution will support the enhancement of pedestrian and cycling infrastructure connecting the site with local public transport routes and with the town centre. This will provide improved sustainable links to local services in a safe and accessible way. The Town Centre is within walking distance of the site but the connections could be improved, especially at junctions, to promote safe walking routes.

This accords with the Local Authority policy document aiming to improve sustainable transport opportunities and enabling travel by sustainable modes, particularly for short journeys. The works are described within the Local Transport Plan 3, Devon and Torbay Strategy 2011-2026 and is a Foundation Scheme detailed within the Local Transport Plan 3 Implementation Plan (Part B: Torbay) March 2011, section 7 – particularly 7.2, 7.3 and 7.4.

The cycle store shall be retained at all times and shall be made available to all residents for the parking of bicycles. There shall be at least one additional cycle storage space for the Ground Floor Flat as the cycle store is not accessible with the steps. If a new separate store such as a shed is proposed, it should have a secure lock and be separate to the bin storage area.

Building Inspector: Building Regulations do not control impact from balls to windows.

Senior Natural Environment Officer: The area adjacent to the building has been developed as a youth play area and it would be unusual for it to be used for football, when there is a football area already built in the park. Windows that open onto the park would have to be high enough for people not to walk or run into them when using the play facilities. If a window did break, then the glass would fall into the grass and this would be a real problem, as much as dogs cutting themselves as for people.

Natural Environment: The contribution would be used for the renovation of the dragon play area at Upton Park. We are working with the friends group for Upton Park to identify alternative play opportunities for this area to include the removal of existing equipment, soft and hard landscaping and the installation of new play equipment.

Representations:

4 Letters of objection have been received, including letters from the Friends of Upton Park and the Torquay Neighbourhood Plan and Torre and Upton Community Partnership. These are re-produced at Page T.200 and points raised include:

- The proposal differs from the 2008 permission;
- The work has been carried out retrospectively;
- Parking concerns;
- The insertion of windows on the boundary with the park with related issues of safety (from breaking glass)
- Undesirable overlooking etc.

Relevant Planning History:

P/2008/1612 Alterations and use outbuilding as ancillary accommodation to main house. Approved.

ZP/2012/0118 Pre application enquiry relating to a scheme substantially the same as is the subject of the current planning application. Informal officer response provided highlighting concerns over possible overdevelopment of the site and the absence of parking.

Key Issues/Material Considerations:

The main issues in this case are the suitability of the building to provide two units of accommodation in place of the one unit that received planning permission and the acceptability of the external alterations, in particular on the east elevation, in their context in the Tormohun Conservation Area and adjacent to the Upton

Conservation Area. The relationship with Upton Park is an issue from several points of view and the impact of the proposal on the privacy and amenities of other nearby residential occupiers, in particular those in the main building at 40 Magdalene Road is pertinent.

The advice provided at pre application stage has been noted. However, having benefitted from an internal inspection of the premises, it has been seen that the accommodation in both units have rooms of reasonable size, with reasonable amounts of natural light and pleasant outlooks. It is concluded that the new units of accommodation would both provide a satisfactory residential environment, meeting the criteria of Policy H4.

The external alterations in the public view comprise the insertion of window openings on the east elevation and in the roof. As design features, these are considered to be reasonable in their context and would not harm the character or appearance of either of the Conservation Areas. With regard to the lack of parking provision, in town centre locations, there is flexibility in the parking provision required in planning applications. In the present case, the location is convenient for access by walking or by using public transport. The lack of parking provision would be offset to some degree by the sustainable transport contribution that would be required in connection with this application.

The issues that have been raised by objectors in connection with the adjoining use of the park have been noted. Because of concerns raised over safety, the applicants have agreed to change the design of the windows to be inward opening, with laminated glass inserted and this is considered to address the issues satisfactorily. The applicants also proposed using obscure glazing in these windows. The windows contribute to the internal amenity of the accommodation and it is considered not necessary to require obscure glazing. Although concerns have been raised over undesirable viewing from the occupiers over the adjacent park, as there are many such relationships around the country, it would not be considered reasonable to impose this restriction and accordingly it is not proposed to require the use of obscure glazing in these windows. The concerns raised over safety are considered to have been satisfactorily addressed.

With regard to the relationship of windows between the new units of accommodation and the new existing windows in 40 Magdalene Road, there is a certain amount of intervisibility, but this is similar to a light well situation, on balance the relationship is regarded as being acceptable.

Response to points made in representations:

The main points have been addressed in the above comments. As regards the relationship to the approved scheme and the fact that the work has been carried out without planning permission, it is open to any applicant to seek a variation to an approved scheme and, where an unauthorised development has been carried

out, it is open to the owner to seek to regularise that. The Local Planning Authority is required to consider this type of application on its own merits. It is not part of the planning process to penalise people for carrying out unauthorised work by refusing a scheme for that reason. If a scheme meets Local Plan Policy criteria and can be supported, it is appropriate that a planning permission should be issued. If the reverse is the case, then enforcement action would be an appropriate course of action.

Sustainability:

Environment Agency Flood Risk Map Status, Flood Zones 2 and 3. Standard advice applies. As planning permission has already been granted for the residential occupation of the 2 lower ground floors, no new issues arise.

Crime and Disorder:

Issues raised in connection with the adjoining use of the park have been discussed above.

Disability Issues:

No special issues.

Section 106/CIL:

The application proposal has been assessed against the provision of the document "Planning Contributions and Affordable Housing, Supplementary Document – Update 3, Economic Recovery Measures April 2011". A financial contribution would be payable in respect of the proposed new use, as set out below.

On the basis that the new accommodation will comprise two new (non-ancillary) residential units, one 2-bed in the category 45-54m² and the other a 3-bed in the category 95-119m²:

2-bed flat:

| | |
|---------------------------|-----------|
| Waste Management | £ 50 |
| Sustainable Transport | £1,260.00 |
| Education | £ 410.00 |
| Lifelong Learning | £ 160.00 |
| Greenspace and Recreation | £ 550.00 |
| South Devon Link Road | £ 450.00 |

TOTAL £2,880.00

3-bed flat:

| | |
|-----------------------|-----------|
| Waste Management | £ 50 |
| Sustainable Transport | £2,710.00 |
| Education | £1,240.00 |
| Lifelong Learning | £ 410.00 |

| | |
|------------------------------|----------------|
| Greenspace and Recreation | £ 2,370.00 |
| South Devon Link Road | £ 975.00 |
| TOTAL | £ 7,755 |
| Total for both flats: | £10,635 |

Conclusions:

The proposal reflects Local Plan Policy criteria. The applicant has confirmed agreement to the payment of the sustainable development contribution. The application is recommended for approval, subject to provision of the financial contribution being secured.

Condition(s)/Reason(s)

01. Not later than 3 months from the date of this decision, or by such later date as may be agreed by the Local Planning Authority in writing, the windows on the east elevation shall be changed to inward opening windows fitted with laminated glass as shown on the approved plan.

Reason: In the interests of safety and in accordance with the objectives of Policy H4 of the Saved Adopted Torbay Local Plan 1995-2011.

02. The Cycle store shown on the approved plan shall be available to the residents of each of the residential units hereby approved at all times.

Reason: In the interests of sustainable transport and in accordance with the objectives of Policy T25 of the Saved Adopted Torbay Local Plan 1995-2011.

Informative(s)

01. Summary of reasons for the grant of permission: This proposal meets Local Plan policy criteria because the use proposed is appropriate for this location and because of its size, siting and design. The scheme is appropriate in respect of its appearance, its impact on nearby residential occupiers, and in its context in the Tormohun Conservation Area.

Relevant Policies

- H4 Conversion and sub-division into flats
- BE5 Policy in conservation areas
- T25 Car parking in new development
- CF6 Community infrastructure contributions