



Appeal Decision

Site visit made on 6 July 2020

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/X1165/C/19/3241354 53 The Reeves Road, Torquay TQ2 6EQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act) by the Planning and Compensation Act 1991.
 - The appeal is made by Mr George Nicette against an enforcement notice issued by Torbay Council.
 - The enforcement notice was issued on 31 October 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a dormer on the front elevation of the roof of the dwelling ('the unauthorised works'). The location of the unauthorised works is shown on photographs 1 and 2 annexed to this notice.
 - The requirements of the notice are:
 - 5.1 remove the unauthorised works
 - 5.2 reinstate the roof to its original condition
 - 5.3 remove all materials resulting from compliance with 5.1 from the land
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

2. The notice does not specify an effective date as required by S173(8) of the Act but the letter that was issued with it made it clear that the notice should be appealed before 2 December 2019. The appeal was submitted before that date and I have interpreted that the letter is a part of the notice. No injustice has been caused to the appellant by the omission of the date under the relevant heading on the notice.
3. The appellant has referred to other front dormers in the area as well as "builds" nearby. I am not considering the planning merits of the case as explained in the header above, because the fee has not been paid. It is also not for me to adjudicate on the fairness of how the Council has dealt with the case.

The Appeal on ground (c)

4. The appeal on this ground is that the alleged breach of planning control does not constitute a breach of planning control. The main issue is whether the

alleged development would be permitted development under the provisions of Article 3, Schedule 2, Part 1 of the GPDO¹.

5. Class B of Part 1 sets out what permitted development exists for "the enlargement of a dwellinghouse consisting of an addition or alteration to its roof". Paragraph B.1. provides limitations defining what is not permitted by that class including, at sub-paragraph (c), where "any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway."
6. The dormer has been constructed on the roof slope which faces towards The Reeves Road, the main highway serving the property. This appears as the main, front elevation of the dwellinghouse. This in my opinion is the principal elevation. The development extends beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and which fronts a highway and is therefore expressly excluded from the permitted development rights deemed by Class B. Planning permission is required for the development.
7. The development as alleged does constitute a breach of planning control and the ground (c) appeal therefore fails.

Conclusion

8. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

A Harwood

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)