



Appeal Decision

Site visit made on 1 September 2020

by P N Jarratt BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 September 2020

Appeal Ref: APP/X1165/C/20/3249628

22 Upton Hill, Torquay, TQ1 3ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Alan Hardman against an enforcement notice issued by Torbay Council.
 - The enforcement notice, numbered 2016/0233/EN, was issued on 25 February 2020.
 - The breach of planning control as alleged in the notice is the use of land as a dwelling.
 - The requirements of the notice are permanently to cease the use of the land as a dwelling and remove all residential fittings, such as kitchen, bathroom, carpets and furniture from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

2. An appeal on ground (a) is that planning permission should be granted for what is alleged in the notice. The main issues are the effects of the development on the living conditions of occupants, and the adequacy of parking and storage space provision.

Reasons

3. The appeal site is within an established residential area and is a former detached domestic garage that has been converted into an independent dwelling on two floors with Velux windows installed in the roof slope. Roller shutters are in place at the entrance of the garage which is set back from the highway by about 5 metres behind entrance gates.
4. In September 2017, following enforcement investigations, a retrospective planning application for the retention of the use of the garage as a dwelling with associated parking was refused (P/2017/0701). A further retrospective application was refused in June 2019 (P/2017/1105) although this proposed timber sliding gates instead of the installed metal security shutter (which has subsequently been removed), and a reduction in height of the boundary walls.

An appeal against the latter decision was dismissed in March 2020 (APP/X1165/W/19/3243249).

5. It was found in the previous decisions on the planning applications and the dismissed appeal that the building is too small to provide satisfactory living accommodation to future occupiers. The dwelling does not meet the minimum internal useable floorspace standards for a two-bedroom, four person dwelling, nor the acceptable provision of useable outdoor amenity space contrary to Torbay Local Plan Policies H1 and DE3. These require that development should create high quality living environments and be designed to provide a good level of amenity for future residents, including through the provision of adequate floorspace to achieve a pleasant and healthy living environment. I have had regard to the appellant's reasons for converting the building for his own occupation and that it is in a sustainable location where property prices are high but, nevertheless, such factors do not outweigh the harm caused to future occupiers through the provision of accommodation that fails to satisfy the required standards.
6. Additionally it was found that there is insufficient external space on the site to provide the required amount of off-street car parking, cycle and waste storage space and this also fails to accord with the requirements of Policy DE3. Whilst I note that there is sufficient space to park a small car off-street, this does not overcome the need for a second space of adequate dimensions to meet policy requirements. Furthermore, although the appellant states there is sufficient space for bicycle and waste bin/recycling behind the entrance gates this has not been satisfactorily demonstrated that such arrangements are achievable.
7. It was also found in the previous decisions that despite the re-design of the gate and boundary walls, the scheme would have a harmful effect on the character and appearance of the surrounding area. However, the gate and boundary walls do not form part of the allegation and it is not necessary for me to consider them further.
8. There have been no material changes in circumstances that indicate that I should reach a different conclusion to the previous inspector on living conditions and parking and storage. Having regard to all relevant considerations, I consider that the development is contrary to the relevant policies of the Local Plan.

Other Matters

9. No appeal has been made on ground (g) - that the time for compliance with the notice is too short. However, in view of the uncertainty arising through Covid-19, a compliance period of 3 months may be difficult to achieve. The Council has the power to extend any period specified in accordance with s173A(1)(b) but this is a matter entirely within the discretion of the Council.

Conclusion

10. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

P N Jarratt

Inspector