



Appeal Decision

Site visit made on 1 October 2024

by C Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/X1165/W/24/3343508

The Focсле, 54 Higher Street, Torbay, Brixham, TQ5 8HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period on an application for approval of details required by the conditions of a planning permission.
 - The appeal is made by Mr Roy Perry against the decision of Torbay Council.
 - The application Ref CN/2024/0016 sought approval of details pursuant to condition Nos 3, 5 and 9 of a planning permission, Ref APP/X1165/W/20/3259178, granted on appeal on 15 April 2021.
 - The development proposed is conversion of existing building comprising a maisonette and 2 flats into a single dwelling and construct a new self-build infill dwelling.
 - The details for which approval is sought are: condition 3 (construction method statement) condition 5 (surface water drainage) and condition 9 (ecology).
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Decision

1. The appeal is allowed and the details submitted discharge the requirements of conditions 3, 5 and 9 imposed on planning permission reference APP/X1165/W/20/3259178, dated 15 April 2021.

Applications for costs

2. An application for costs was made by Mr Roy Perry against Torbay Council. This application is the subject of a separate Decision.

Reasons

3. The Council indicates in its Appeal Statement that conditions 3, 5 and 9 should be discharged. Having reviewed the evidence, I share this view.
4. Conditions 3 and 9 are worded in such a way that action should have been taken prior to the commencement of any works. However, I understand that construction on the site started before compliance with these conditions had been demonstrated. Although I note the Council's suggestion to reword the conditions to reflect this situation, I do not consider this to be necessary as it would have little practical impact.

Conclusion

5. The appeal is therefore allowed and conditions 3, 5 and 9 of planning permission APP/X1165/W/20/3259178 can be discharged.

C Cresswell

INSPECTOR