



Appeal Decision

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 16th December 2025

Appeal Ref: APP/X1165/C/24/3357630

Mead View, Churston Road, Churston Ferrers, Brixham TQ5 0HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Sarah Harris against an enforcement notice issued by Torbay Council.
 - The notice was issued on 22 November 2024.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the construction of a flat roof dormer, as shown in "Photograph 1," onto the rear elevation of the dwelling. The dwelling is situated in the designated Churston Conservation Area.'
 - The requirements of the notice are
 - (i) Remove the flat roof dormer from the rear elevation of the dwelling as seen in "Photograph 1" and reinstate the rear elevation of the roof back to its original condition before the unauthorised works took place, in accordance with the details indicated on the attached drawings "Drawing 1" and "Drawing 2."
 - (ii) Remove all resulting debris generated as result of any remedial works set out in point (i) of this section in its entirety from the Land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (the Act) (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by
 - (i) deleting the words "The dwelling is situated in the designated Churston Conservation Area" from the allegation.
2. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. A planning appeal in respect of the flat roof dormer which is now the subject of this enforcement appeal was dismissed on 15 February 2024. There is no ground (a) appeal before me which is that planning permission should be granted for the matters stated in the notice. I am therefore unable to consider the planning merits of the development or policy considerations as part of this enforcement appeal.
4. As the appeal is proceeding on the limited grounds of (f) and (g), I am able to proceed to determine the appeal based upon the evidence before me without a site visit.

The Notice

5. The allegation refers to the location of the appeal dwelling in the Churston Conservation Area. However, the location of the dwelling is not part of the breach of planning control alleged which is the construction of a flat roof dormer. I will therefore delete the words 'The dwelling is situated in the designated Churston

Conservation Area' from the allegation as the Conservation Area designation is not part of the allegation, it is a reason for issuing the notice.

The appeal under ground (f)

6. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The two requirements relate to (i) removing the dormer, reinstatement to its previous condition and (ii) removing debris after removal. The purpose of the notice is therefore to remedy the breach of planning control.
7. The appellant does not dispute that requirement (i) is necessary. However, the appellant considers that the second requirement to remove the resulting debris arising from the demolition is excessive and should be deleted. Section 173(4)(a) of the Act sets out that remedying the breach includes 'restoring the land to its condition before the breach took place'. Requiring the debris arising from the demolition to be removed from the land falls squarely within the purpose of the notice.
8. The appellant wishes to retain the debris on site until such time as an alternative configuration for the dormer has been agreed with the Council. The planning appeal was dismissed on 15 February 2024. There has been no information provided to show that any alternative scheme has been approved since this appeal was lodged in December 2024. Deleting requirement (ii) from the notice would therefore allow the debris to remain on the Land indefinitely which would not remedy the breach of planning control.
9. The appellant has referred to having to make arrangements for a skip to dispose of debris even though materials could be re-used. However, as the wording of the requirement is to remove the debris from the Land, it is then a matter for the appellant to decide whether to arrange appropriate storage elsewhere or disposal. The second requirement is not excessive when the purpose of the notice is to remedy the breach. The ground (f) appeal fails.

The appeal under ground (g)

10. An appeal under ground (g) relates to the period for compliance which is 6 months. When the appeal was lodged, the appellant stated that it would be impossible to comply with both requirements within a 6 month period particularly over the winter months. However, the notice takes effect from the issue of a decision letter and a 6 month compliance period would allow for compliance up until mid-June.
11. There is no appeal regarding the requirement to remove the dormer. The appellant has therefore been aware of the need to remove the dormer since the appeal was lodged. The appellant may have been reluctant to commence demolition work whilst pursuing a ground (f) appeal with regard to the removal of debris. However, preparatory matters such as obtaining quotes from appropriate contractors to carry out works including disconnecting services and scaffolding could have been obtained since December 2024.
12. Whilst a 12 month period for compliance has been requested, that is excessive given the nature of the work which is largely demolition even allowing for the need

for quotes, if none have been obtained already, scaffolding, disconnection of services and removal of debris. The existing compliance period of 6 months is a reasonable period to comply with both requirements. The appeal under ground (g) therefore fails.

Other matters

13. Any comments from the appellant and local residents which relate to retaining the dormer, rather than the specific grounds of appeal before me, fall outside the scope of this appeal.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

E Griffin

INSPECTOR