
Appeal Decision

Site visit made on 19 December 2014

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 26 January 2015

Appeal Ref: APP/X1165/A/14/2227141
2 Cavern Road, Torquay, Devon TQ1 1NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Derek Bond against the decision of Torbay Council.
 - The application, Ref. P/2013/0091/PA, dated 17 December 2012, was refused by notice dated 9 April 2014.
 - The development proposed is the conversion of a HMO arranged as 7 bedsits & basement flat into 5 self-contained flats as per previously (expired) permission – 2007/0389/PA.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a HMO arranged as 7 bedsits & basement flat into 5 self-contained flats as per previously (expired) permission – 2007/0389/PA at 2 Cavern Road, Torquay, Devon in accordance with the terms of the application, Ref. P/2013/0091/PA, dated 9 April 2014, subject to the following conditions:
 - 1) The development hereby permitted shall begin within 3 years of the date of this Decision;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: HM Land Registry Location Plan showing the site edged red; 'Proposed Various – P/2013/0091 (20.12.2012)'; 'Proposed Internal – P/2013/0091 (20.12.2012)';
 - 3) Prior to the occupation of any of the residential units hereby approved, cycle parking provision for no less than 5 cycles shall be completed and made available for use and thereafter retained;
 - 4) Prior to the occupation of any of the residential units hereby approved, waste and recycling materials storage facilities shall be completed and made available for use and thereafter retained.

Reasons

2. The application is a re-submission of application ref. P/2007/0389/PA allowed on appeal in February 2008 but not implemented. The submitted plans are the same as those approved in that appeal.
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3. The Council has made its decision on the current scheme having regard to both national and local policies and guidance, including in particular the 'Planning Contributions and Affordable Housing Supplementary Planning Document, Update 3: Economic Recovery Measures 2011' which post dates the previous appeal decision.
4. However the 28 November 2014 amendments to paragraphs 12-23 on Planning Obligations in Section 23b of the Government's Planning Practice Guidance 2014 mean that there is no longer any reasonable basis to withhold permission for the proposed development on the basis of the absence of planning contributions or a completed Section 106 agreement that secures such contributions, as referred to in the Council's Notice of Refusal. I shall therefore allow the appeal.
5. In doing so I shall impose similar conditions to those imposed on the previously allowed appeal to secure the provision of cycle parking and waste and recycling storage facilities, in order to promote sustainable transport and to secure appropriate service facilities for the development. A condition requiring the development to be carried out in accordance with the approved plans is also required for the avoidance of doubt and in the interests of proper planning.

Conclusion

6. For the reasons explained above the appeal is allowed.

Martin Andrews

INSPECTOR