

Application Number

P/2017/0226

Site AddressWheatridge Lodge
Wheatridge Lane
Torquay
TQ2 6RA**Case Officer**

Mr Scott Jones

Ward

Cockington With Chelston

Description

Double garage with workshop/storage over (retrospective).

Executive Summary / Key Outcomes

The application is retrospective and seeks approval for a garage with storage space above, which has been built larger and in a different location to the structure that was granted consent under planning reference P/2015/0939, to the rear of Wheatridge Lodge, Wheatridge Lane, Torquay.

The application follows the submission and subsequent refusal of an application to amend planning permission reference P/2016/0840. An enforcement notice requiring the removal of the structure has been issued by the Council.

The application has been referred to Development Management committee due to the historic number of objections that have been received and to ensure consistency in decision making as the previous two applications have been determined by the DM committee.

The applicant has resurveyed the site and submitted the current "as built" application for consideration. Officers are content that the submitted drawings accurately reflect the difference between the approved scheme and the "as built" structure as shown on the comparable site plan.

The "as built" structure is located further south and further west than the consented scheme. This results in a building that is closer to Number 14 Woodleys Meadow and to the Public Right of Way to the south and east.

The width of the structure is similar to that originally approved. The depth of the structure has been increased from 7.34m to 8.06m. The slab level is set 0.36m higher than approved and the eaves height and ridges heights are 0.5m and 0.7m higher respectively than approved from datum level.

The form of the building has changed slightly with two extra rooflights and solar panels provided in the roof. The submitted plans show one of these rooflights (closest to No.14) is to be removed and the opposite north facing rooflight closest to East and West Winds to be obscure glazed, together with the side gable window.

Four surrounding, unprotected, trees have been removed since the original decision was made (in addition to the fir identified for removal within the previous application). Replacement trees are shown on the plans.

The submitted drawing does not identify the detail of the vehicular access despite requests by officers to do so.

Because of the various amendments and the change in context e.g. the removal of a number of trees, the building is considered to be demonstrably more prominent and more dominant than that which was originally approved. On balance, officers consider that the development is materially and significantly different to the approved scheme and causes harm to the character and visual amenity of the area, due to the resulting increase in its height, massing and prominence in the locality.

Consequently the development as proposed is contrary to local plan policy DE1 (Design) and advice contained within the NPPF where great importance to the design of the built environment and good design is acknowledged (Paras 17, 56 and 64).

Recommendation

Subject to no new issues not already considered being raised during the consultation period that expires on 10th May, refusal, for the following reason:

The alterations to the approved scheme, which result in an increase in the height of both the eaves and the ridge, together with the repositioning of the footprint which brings the building closer to the boundary with Woodleys Meadow, results in a building with an unduly bulky and prominent roof. The roof has a visually intrusive appearance and does not relate well to the surrounding built environment in terms of scale, height and massing, which has a detrimental impact upon the character and visual amenities of the area contrary to Policy DE1 (Design) of the Local Plan and advice contained within the NPPF that seeks to secure good design (Paras 17, 56 and 64).

It should be noted that under the previous application reference P/2016/0840 which was to regularise the 'as built' development a second reason for refusal was included relating to a detrimental impact on the amenity of the adjoining occupier. This current submission includes a number of revisions to the building to manage the relationship with adjoining properties and for this reason it would not be appropriate to refuse the application on this ground.

If Members agree this recommendation for refusal, then Members are also asked

to reaffirm their support of continued enforcement action by the Council to ensure the development accords with the plans previously approved.

Decision Level / Determination period

The application is before Members as a resubmission of an earlier proposal considered by Members.

The determination date is the 2nd June 2017.

Site Details

The site accommodates a large two-storey detached dwelling set off the east side of Wheatridge Lane, Torquay, where the building is currently accessed via a short level drive and steps down to the main entrance.

The dwelling is contained within the front half of the plot and to the rear there is generous private garden space that is largely laid to lawn.

Since the consideration of the original application that was granted planning permission a number of trees have been removed from the rear of the site.

The rear border of the plot abuts a public right of way that links Wheatridge Lane with Woodleys Meadow. Adjacent to this now sits a substantially complete garage structure.

There are no built or landscape designations over the land or land immediately adjacent.

Detailed Proposals

The application is retrospective and seeks approval for a substantially complete "as built" garage and store, which has been built larger and in a different location to the structure granted consent under planning reference P/2015/0939.

The application follows the submission and subsequent refusal of an amendment that sought approval of a revised size and siting of the building under planning reference P/2016/0840. An enforcement notice requiring the removal of the structure has been issued.

Previously there was some disagreement between the applicant and the Authority in terms of the precise size and siting of the "as built" structure. This has prompted the applicant to resurvey and resubmit an "as built" application for consideration. Officers are content that the submitted drawings accurately reflect the difference between the approved scheme and the "as built" structure.

The approved double garage was a gabled structure 8.6m wide by 7.25m deep with an eaves height of 2.2m and a ridge height of 6.3m. The approved structure was set in to the gentle garden slope with a ground floor slab level 0.3m above the adjacent highway to the southeast. A mature fir tree was identified to be removed

as it sat within the footprint of the proposed building but a number of trees were shown to be retained around the building.

The proposal seeks consent for a larger and repositioned building, as outlined below.

The building is located further south and further west than the consented scheme. This results in a building further away from the residential border with East and West Winds to the north, but closer to Number 14 Woodleys Meadow and the Public Right of Way to the south.

The width of the structure is similar to that approved. The depth of the structure has been increased from 7.34m to 8.06m. The slab level is set 0.36m higher than approved and the eaves height and ridges heights are 0.5m and 0.7m higher respectively than approved from datum level.

In terms of position the building line fronting Woodleys Meadow is 1.65m further forward (towards the southern boundary) than that approved when taken on the parallel from the western side elevation of the consented building line. As the building has been pushed and twisted the comparable southern corner (left hand rear corner when viewed from Woodleys Meadow) of the "as built" scheme is 1.9m further south than the approved position. In regard to the other side of the rear elevation (closer to No.14) the "as built" structure is set 0.9m further forward from the building line of the approved structure where the two intersect on plan view. As the building is twisted the comparable right hand rear corner of the "as built" structure is 0.5m closer to No.14 than the approved building.

The form of the building has changed slightly with two extra rooflights and solar panels provided in the roof. The submitted plans show one of these rooflights (closest to No.14) is to be removed and the opposite north facing rooflight, closest to East and West Winds, is to be obscure glazed.

The setting has changed slightly with four surrounding, unprotected, trees having been removed since the original decision was made (in addition to the fir identified for removal within the previous application). Replacement tree planting is shown on the submitted plans.

Summary Of Consultation Responses

Highways Department Previously recommend that the applicant make allowance for a 2m visibility splay exiting the new access, on the south-west side, for the safety of pedestrian movement.

Summary Of Representations

The period for public representation runs from 19th April until 10th May.

There are currently no public representations and as the period has time to run an

update will be presented to Members.

Previously 11 representations with the following key issues were raised:

- Loss of privacy from the additional openings
- The re-siting and additional size of the structure make it unduly prominent and visually harmful to the area
- The loss of the trees makes it more prominent
- Safety concerns in regard to pedestrians using the footpath
- Concern over the potential to use the structure for business or habitable purposes
- Impact of additional parking and vehicular movement in Woodleys Meadow
- Appears a building designed for residential use
- Impact of vehicles across the land adjacent
- Impact from business use of the building
- Loss of privacy from inter-looking
- Remains an overdevelopment of the site

Relevant Planning History

P/2016/0840 Variation of Condition re P/2015/0939 (Detached double garage with workshop and storage above to rear of property) Condition P1 Approved plans to increase size of garage and insertion of two additional rooflight - Refused. 19.10.2016. Enforcement notice issued that seeks the removal of the unlawful building.

P/2015/0939 Detached double garage with workshop and storage above to rear of property (as revised by plans received 01.03.2016) - Approved 19.04.2016.

Key Issues/Material Considerations

It is not an offence to build without planning permission or to fail to comply with the terms of a planning permission. However anyone who does build without necessary consent does so at their own risk that the local planning authority can decide to take enforcement action to remedy any harm that has been caused. A decision on any application for retrospective planning permission must be made on planning merit alone, taking into account the provisions of the development plan and all relevant material considerations.

Planning permission P/2015/0939 is extant, this is a material consideration.

An application made under reference P/2016/0840 to amend the plans approved under permission P/2015/0939 so that they accorded with the "as built" structure was refused. An Enforcement Notice to remove the unlawful structure has been issued by the Council.

The key issues are the continued comparison between the scheme that was

approved under permission P/2015/0939 and that which has been built in regard to visual impact, impact upon adjacent occupiers and local amenity, and highway and movements impacts.

1. Visual impact

The changes that alter the character and appearance of the structure and its resultant visual impact upon the area are discussed below.

In terms of scale, the building is bigger and higher than that originally approved. The depth has increased by approximately 0.7m to just over 8 metres which presents an increase in the footprint of around 11% to that approved. The base of the building is 0.36m higher than approved and the resultant as built eaves and ridges heights are 0.5m and 0.7m higher respectively than approved.

In terms of prominence, aside from the increase to the height and massing of the building, there are two further factors to consider.

Firstly the building has been repositioned further south and west than the approved siting. This results in the building being closer to the rear boundary of the plot and the adjacent Public Right of Way. In terms of comparable positions, the building line fronting Woodleys Meadow is 1.65m further forward (southwards) than that approved when taken on the parallel from the western side elevation of the consented building line. As the building has been pushed and twisted the comparable southern corner (left hand rear corner when viewed from Woodleys Meadow) "as built" is actually 1.9m further south than the approved position. To the other side of the rear elevation (closer to No.14) the building is set 0.9m further forward from the building line of the approved structure where the two intersect on plan view. As the building is twisted the comparable corner of the "as built" structure is 0.5m closer to No.14 Woodleys Meadow than the approved building, due to the drift westwards away from this building reducing the difference.

The relocation towards the rear boundary naturally makes the building more prominent within the locality, with the impact heightened by the increased massing of the building.

The second factor to consider is that there has been the removal of a number of trees that were present when the previous proposal was considered and which were identified to be retained within the approved plans. The removal of these trees has resulted in the loss of the natural screening that was previously present and has made the structure far more visible and prominent within the locality. Replacement planting has been detailed on the submitted plans to seek to rectify this.

In addition solar panels have been installed in the roof of the building and these elements add clutter and increase the number of materials previously approved (which constituted a simple palette of materials). However, the solar panels could

have been added, under Permitted Development rights, to the approved structure once built and hence their presence is considered acceptable in the as built proposal.

Having considered the various amendments and the change in context following the subsequent removal of a number of trees, the as-built structure is more prominent and more dominant than that which was approved. The combined impact of these factors causes unacceptable harm to the character and visual amenity of the area.

Having considered matters of scale, design and setting the revised proposal conflicts with the aims and objectives of Policy DE1 (Design) of the Torbay Local Plan 2012-2030 and advice contained within the NPPF where great importance to the design of the built environment and good design is acknowledged (Paras 17, 56 and 64).

2. Amenity impact

The changes that alter the likely impact upon local amenity are discussed below.

The provision of a larger domestic garage with secondary workshop/storage space above that is solely used for purposes that are incidental to the occupation of the associated dwelling is still considered unlikely to affect neighbour amenity in terms of noise and general activity.

The increase scale and height of building in the revised location is unlikely to result in an overbearing structure that would result in loss of outlook or light when considering the distance to and arrangements of plots and building.

In terms of overlooking and loss of privacy the upper floor void space is to be served by five rooflights rather than the four within the approved scheme (with one of the currently installed six rooflights being removed), together with the two gable windows. Previously it was considered that adjacent amenity could be appropriately managed through the retention of the screening and by obscuring certain openings in order to remove sensitive sightlines. As built, there is demonstrable harm to adjacent amenity through direct overlooking from the upper floor openings as there is no obscure glazing present within the upper floor. The proposal seeks to address this harm by removing the rooflight closest to No.14 and also seeks to lessen the impact upon East and West Winds by obscuring the side gable window and the nearest north facing rooflight. Neighbouring amenity could be appropriately protected by these amendments which would remove the most sensitive of the sightlines.

Should members decide to grant consent for the scheme it is recommended that a condition is imposed to ensure that, prior to the first use of the building, the rooflight is removed as detailed and that obscure glazing is fitted within the north-east gable window and the adjacent north facing rooflight, and then maintained at

all times thereafter .

Subject to the above, the development is considered to retain suitable levels of amenity and would comply with Policy DE3 of the Torbay Local Plan 2012-2030.

3. Highway and movement impact

The impact of the changes on the highway network and related issues are discussed below.

The proposal retains garage parking that exceeds the minimum size standards for garages as outlined within the Local Plan and hence they will comfortably fit a car and provide adequate manoeuvring space around the vehicles within the building.

The revised siting of the building has reduced the length of the driveway below that which is generally sought by Highway Engineers, which is considered to be 5.5m for driveways as a minimum and ideally 6m to ensure that there is no conflict with an up and over door (or similar). This seeks to ensure against the use of land for car parking which is not in the applicant's ownership. In the circumstance this is unlikely to present conflict as the access and boundary is not bordering a traditional or narrow footpath where there will be movement close to access point. However, the situation is not ideal.

A second point of concern previously raised was that the amended footprint presented an oblique entry point to the left hand garage space that appeared challenging if not unworkable. This appears to have been addressed by the applicant widening the access point however in doing so this has created a layout where the drive access is in closer proximity to the narrowing footpath route, which could create conflict between pedestrians and vehicles and increase the risk of danger.

Previously the Highway Authority recommended that the applicant make allowance for a 2m visibility splay exiting the new access, on the south-west side, for the safety of pedestrian movement. This has not been achieved.

As the plot benefits from a combined parking arrangement that will exceed the requirements of the local plan the amended layout is, on balance and notwithstanding some concern in terms of the servicing and access to the spaces, considered acceptable and broadly compliant with Policies TA2 and TA3 Torbay Local Plan 2012-2030. Should Members seek to approve the application it is recommended that prior to the first use of the building that a detailed access arrangement, to include a 2m visibility splay and gate detail, is submitted and approved in writing.

S106/CIL

N/A.

Statement of Pro-active Working

The Council has sought to work positively and proactively with the applicant through pre-application discussions and through open dialogue including requests for further information.

Local Finance Considerations

The local finance impact of the proposal is diminimus due to its scale.

Human Rights and Equality Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Conclusions

On balance the proposal is recommend for refusal, due to the impact of the changes in comparison to the approved scheme upon the character and visual amenities of the area caused by the additional height, massing and greater prominence of the structure in the locality. This is due to its re-siting closer to the edge of the plot and also through the loss of the trees that would have provided some screening and softening of the structure).

Cumulatively the amendments are considered to result in a demonstrable negative impact between it and the previously approved structure in terms of visual amenity.

As it stands that structure presents demonstrable harm to amenity through direct overlooking of adjacent properties. However this could be suitably managed through achieving the amendments proposed and hence it is not considered reasonable to refuse the application on this ground.

Should members decide to grant approval, officers recommend that a condition requiring the removal of the identified rooflight and the obscure glazing of the identified openings be achieved prior to the buildings first use.

As a result of the changes the building is considered to have a visually intrusive appearance and does not relate well to the surrounding built environment in terms of scale, height and massing, which has a detrimental impact upon the character and visual amenities of the area. The application is therefore considered contrary to Policy DE1 (Design) of the Local Plan and advice contained within the NPPF that seeks to secure good design (Paras 17, 56 and 64).

Condition(s)/Reason(s)

01. The alterations to the approved scheme (Planning Reference P/2015/0939), which result in an increase in the height of both the eaves and the ridge, together with the repositioning of the footprint which brings the building closer to the boundary with Woodleys Meadow, results in a building with an unduly bulky and prominent roof. The roof has a visually intrusive appearance and does not relate well to the surrounding built environment in terms of scale, height and massing, which has a detrimental impact upon the character and visual amenities of the area contrary to Policy DE1 (Design) of the Local Plan and advice contained within the NPPF that seeks to secure good design (Paras 17, 56 and 64).

Relevant Policies

- DE1 Design
- DE3 Development Amenity
- ER1 Flood Risk
- TA2 Development access
- TA3 Parking requirements