

Appeal Decision

Site visit made on 20 September 2016

by CD Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 24 October 2016

Appeal Ref: APP/D0840/W/16/3152306

Land adjacent to New Bungalow, Maynes Row, Tuckingmill, Camborne TR14 8QP

- 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 Michael Wodskou against the decision of Cornwall Council.
 - The application Ref PA15/02688, dated 19 March 2015, was refused by notice dated 8 March 2016.
 - The development proposed is partial demolition of existing retaining wall adjacent to Maynes Row and creation of 5 no. dwellings.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 30 September 2016.

Decision

1. The appeal is allowed and planning permission is granted for partial demolition of existing retaining wall adjacent to Maynes Row and creation of 5 no. dwellings at Land adjacent to New Bungalow, Maynes Row, Tuckingmill, Camborne TR14 8QP in accordance with the terms of the application, Ref PA15/02688, dated 19 March 2015, subject to the conditions set out in the Schedule at the end of this Decision.

Main Issues

2. The main issues in this case are:
 - whether the proposal would preserve or enhance the character or appearance of the Tuckingmill Conservation Area.
 - the effect of the proposal on the living conditions of surrounding occupiers with particular regard to privacy and outlook.

Reasons

Character and appearance

3. The appeal site is situated within the Tuckingmill Conservation Area and is also part of a World Heritage Site. The heritage significance of the area lies mainly in the quality of the historic buildings, many of which are associated with the mining history of the town.
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4. Due to the topography of the area, the appeal site is situated on lower ground than Pendarves Street and Maynes Row which run along the northern and eastern boundaries behind a retaining wall. As such, the site can be overlooked from these streets, where it is viewed as an area of open space containing a relatively small concrete building. The site is also seen in the context of the historic buildings to the immediate west, including the former Sunday School building (Tuckingmill Apartments) and the Grade II listed Methodist Chapel. Furthermore, Maynes Road, to the east of the site, contains rows of traditionally proportioned terraced houses which are separated from the site behind long front gardens.
5. The proposed housing would have a two-storey elevation fronting Maynes Row. From this perspective, both buildings would appear to have relatively simple proportions, featuring natural slate roofs. The overall form would therefore reflect the general appearance of other nearby housing, including the historic terraced properties within Maynes Row. Although the proposed fenestration would not follow the same symmetry as the Maynes Row properties, it would nonetheless be uncomplicated and not distract from the simple proportions of the east elevation. Similarly, the proposed exterior cladding would not increase the prominence of the development or otherwise disrupt the visual qualities of the historic buildings in Maynes Row.
6. The rear elevation, facing Tuckingmill Apartments, would be four storeys in height and have a somewhat more complex appearance. However, due to the difference in ground levels, the lower storeys of the development would be less conspicuous from Maynes Row and Pendarves Street. The lower storeys would also be situated well below the majority of other dwellings to the east, including the rows of terraces seen from East Hill. Hence, the proposal would not visually distract from the appearance of these terraces within longer views of the site. Whilst the proposed dormer windows would not be typical of other nearby properties, they would be relatively small and the overall proportions of the pitched roof would be maintained. Overall, the development would integrate with the appearance of the surroundings.
7. I therefore conclude on this issue that the proposed development would preserve the character and appearance of the Tuckingmill Conservation Area. It would also be compatible with the World Heritage status of the site. There would be no conflict with the objectives of the National Planning Policy Framework (the Framework) including Paragraph 132, which aims to protect the significance of heritage assets.

Living conditions

8. The rear elevation of the proposed development would face a westerly direction and concerns have been expressed regarding the privacy of the existing occupiers of Tuckingmill Apartments. Turning to the proposed detached unit, the ground floor lounge windows would be screened by a wall and the ground floor kitchen window would face away from the apartments opposite. Upper floor windows would serve a bathroom and stairwell rather than primary living accommodation. The potential for mutual overlooking would therefore be somewhat limited.
9. The balconies of the two terraced properties nearest Tuckingmill Apartments would have privacy screens sufficient to prevent views into any directly opposing windows. These could be secured via a condition. Whilst it would still

be possible to look upwards from the balconies towards Tuckingmill Apartments, this would result in an oblique views of opposing windows rather than directly inside the building. The proposed first floor windows would serve a bathroom and stairwell rather than primary living space. Although the second floor windows would serve bedrooms, I note that the orientation of the proposed terrace would be such that these bedroom windows would not directly face the existing apartments.

10. Whilst the Council suggest that the development would result in the perception of overlooking, the site is within an urban setting where some degree of mutual overlooking may be expected. In this case, I have found that the development would not undermine the privacy of the surrounding occupiers to the extent that it would be harmful.
11. Although it is suggested that the development would appear overbearing from Tuckingmill Apartments, there would be a clear gap between the detached unit and the proposed terrace. This would enable a relatively open outlook to be maintained. Whilst a parking space is proposed outside an existing apartment window, this window is set above ground level. As such, car headlights would not beam directly into the room which it serves. Furthermore, the activity generated by the proposed car parking spaces is unlikely to be substantial given the limited amount of accommodation that it would serve.
12. I therefore conclude on this issue that the proposed development would have an acceptable effect on the living conditions of surrounding occupiers. There would be no conflict with paragraph 17 of the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

13. It is argued that the proposed development would increase the risk of Tuckingmill Apartments experiencing flooding and I have had regard to the Hydro-Logic Services report referred to by the owner of that property. However, viewed against the other technical evidence submitted and taking into account the comments of the Environment Agency, there is relatively before me to indicate that the risk of flooding would be increased.

Conditions

14. In the interests of clarity, standard conditions have been imposed requiring that the development is carried out in accordance with the plans and within a time limit. To protect highway safety a condition is imposed to ensure parking and turning space is provided. To protect character and appearance, there is a condition requiring further details of exterior materials and hard landscaping. For the same reason, certain permitted development rights are also withdrawn. To ensure appropriate drainage, a condition has been imposed requiring further details of surface water drainage. In recognition of the flood risk, conditions are also imposed requiring that no habitable accommodation is provided on the lower ground floor. Further details of flood resilience measures are also required. In recognition of potential past uses of the site there are conditions requiring any contamination and ground instability to be mitigated. Finally, to protect privacy, a condition is imposed for obscure glazing.

Conclusion

15. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

CD Cresswell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: D01 Rev B, D02 Rev D, SK-100 Rev A.
- 3) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details and retained thereafter.
- 4) The development hereby permitted shall not commence until the installation of a system for the disposal of surface water on the site has been completed in accordance with the details which shall first have been submitted to and approved in writing by the Local Planning Authority. The details shall include a programme for maintaining the system. The system shall be retained and maintained thereafter in accordance with the approved details. No building hereby permitted shall be occupied until the sustainable drainage system for the site shall have been completed in accordance with the submitted details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 5) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. D01 Rev B for cars to be parked and that space shall thereafter be kept available at all times for those purposes.
- 6) No development shall commence until full details of hard landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out in accordance with the approved details prior to the occupation of any unit hereby permitted and notice shall be given to the local planning authority when the approved scheme has been completed.

The hard landscaping details shall include:

- proposed finished ground levels or contours;
 - means of enclosure
 - hard surfacing materials
 - minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc.)
 - proposed and existing functional services above and below ground (eg drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc).
- 7) No development shall take place until a site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to

be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), the following development shall not be carried out without an express grant of planning permission:
 - i) the enlargement, improvement or other alteration of the dwellinghouse;
 - ii) the enlargement of the dwellinghouse consisting of an addition or alteration to its roof;
 - iii) any other alterations to the roof of the dwellinghouse;
 - iv) the erection of construction of a porch outside any external door of the dwelling;
 - v) the provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.
 - vi) windows or openings other than those expressly authorised by this permission.
- 9) Before the first occupation of any of the dwellings hereby permitted, the windows and glazed balcony balustrades coloured green on drawing numbers D01 Rev B and D02 Rev C (as submitted during the course of the application) shall be fitted with obscure glazing and permanently retained in that condition thereafter.
- 10) No habitable accommodation shall be provided on the lower ground floor of the dwellings hereby permitted, as set out on approved drawing number D01 Rev. B. The lower ground floor of the approved dwellings shall be used solely for car parking, utility space and a lower yard area in perpetuity.
- 11) No development shall commence until details of flood resistance and resilience measures have been submitted to and approved in writing by the local planning authority. The approved details shall be incorporated into the final construction prior to the first occupation of any of the dwellings hereby permitted.
- 12) No development shall commence (other than that required to be carried out as part of an approved scheme of remediation) until criteria 1 to 5 below have been complied with (as necessary). If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until criterion 5 has been complied with in relation to that contamination.

Criterion 1: Preliminary risk assessment/desk study

A preliminary risk assessment/desk study identifying:

- (i) All previous uses
- (ii) Potential contaminants associated with those uses
- (iii) A conceptual model of the site indicating sources, pathways and receptors
- (iv) Potentially unacceptable risks arising from contamination at the site

The written report must be submitted in writing to the Local Planning Authority.

Criterion 2: Site characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme and a written report of the findings of the investigation and risk assessment is to be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

Criterion 3: Submission of remediation scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and approved in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Criterion 4: Implementation of approved remediation scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to the Local Planning Authority.

Criterion 5: Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of criterion 2, and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of criterion 3, and submitted in writing to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted in writing to the Local Planning Authority in accordance with criterion 4.