
Appeal Decision

Site visit made on 27 September 2016

by David Walker MA MRTPI

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

Decision date: 01 November 2016

Appeal Ref: APP/D0840/W/16/3150421

Garages at New Windsor Terrace, Falmouth TR11 3BX

- 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 Jon Perrow against the decision of Cornwall Council.
 - The application Ref PA15/09994, dated 23 October 2015, was refused by notice dated 7 April 2016.
 - The development proposed is demolition of garages and construction of flats.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of garages and construction of flats at Garages at New Windsor Terrace, Falmouth TR11 3BX in accordance with the terms of the application, Ref PA15/09994, dated 23 October 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site/location Plan 15028.21 A; Block Plan 15028.22 A; Proposed 15028.25 B; Proposed 15028.26 B; Proposed 15028.27 B; Proposed 15028.28 B; Proposed 15028.29 C; Proposed 15028.30 C; Proposed 15028.31 C; and Proposed 15028.32 B.
 - 3) Development shall not begin until details of a scheme for the discharge of foul and surface waters from the development hereby approved has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 4) No development above base course level shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 5) With the exception of all new window and external door openings shown on the approved drawings, no new openings shall be added to the dwellings hereby permitted.
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Main Issue

2. The main issue in the appeal is the effect of the proposal on the living conditions of the occupants of the ground floor of No 15 New Windsor Terrace in relation to its scale and proximity, and with regard to the availability of light and outlook.

Reasons

3. New Windsor Terrace is a residential street featuring mainly small terraced houses fronting onto the highway. The existing single storey garages would be replaced with two additional two storey terraced houses with accommodation provided within the roof space. These would be attached to the adjacent property Windsor Heights and maintain an existing gap to No 15.
4. It was apparent at my site inspection that the windows along the side elevation of No 15 faced the appeal site and served habitable rooms. Only a limited outlook would be available as a result of the existing garage structures being in close proximity at a higher level and with an intervening wall along the common boundary. Although the proposal would introduce an additional storey it would be no closer to No 15 or extend further as to result in any increased loss of outlook.
5. The daylight and sunlight calculation drawings provided show the windows to No 15 to experience reduced levels of natural light, as a pre-existing condition of the site. It is also shown that the proposal would further reduce the light available to levels that would not accord with the recommendations of the BRE guidance Site Layout Planning for Daylight and Sunlight (A guide to good practice – 2nd Edition) of 2011. The guidance is not mandatory however, and the available evidence indicates that as a result of the existing poor levels of daylight the ground floor rooms of No 15 would already be reliant on the usage of artificial light. The proposal would not change that situation.
6. Therefore, while the proposal would result in a demonstrable loss of natural light for the occupants of the ground floor of the neighbouring property it has not been shown that further detriment would arise. Accordingly, there would be no conflict with the requirements of Policy 6CB of the Carrick District Wide Local Plan 1998 for small scale residential development to respect the scale, height and density of the local area, amongst other matters, and the associated advice contained within paragraphs 4.10, 4.11 and 7.4 of the Cornwall Design Guide 2013.
7. Moreover, in replacing the dereliction of the former garages with new buildings of good design, the proposal would enhance the character and appearance of the Falmouth Conservation Area within which it is located, and provide four new homes at a location with good access to facilities and services. The appeal site is also located within the Cornwall Area of Outstanding Natural Beauty where the proposal would result in a small-scale development within an existing built up area. I am satisfied it would conserve the natural beauty of the designated area.
8. Having regard therefore to the policies and principles set down at paragraphs 7, 9, 17, 53 and 56-59 of the National Planning Framework (the Framework) I find the proposal would deliver acknowledged benefits that outweigh the limited harm to living conditions. Overall, on the main issue I conclude that

while the proposal would result in less natural light being available to the occupants of the ground floor of No 15 no significant additional harm to living conditions would arise.

Other Matters

9. While no details have been provided over where a rainwater down pipe shown on the rear elevation would drain I intend to attach a suitable condition for full details of drainage to be submitted for approval. Having regard to the sectional drawing provided I am satisfied that the proposed roof light windows would be at a height that would avoid giving rise to the potential for casual overlooking.
10. A staircase would be provided to the rear of the proposal to serve the accommodation on the upper floors via a narrow passageway from the street. I have nothing before me to suggest that this would give rise to unacceptable patterns of activity leading to noise or disturbance for me to find harm in this respect. While objection is raised by the owner of the adjacent property in relation to any tying-in of the development this is not a matter before me under the Planning Acts and remains a private issue between the parties affected. In relation to the removal of refuse from the proposed flats I acknowledge that the Council were satisfied with this aspect of the scheme and have no reason to disagree.
11. At the time of the application Falmouth Town Council raised objection to the height of the proposal and its effect on the street scene. The Officer Report explains that the proposal is a revised scheme with a reduced roofline and fewer and smaller dormer windows, and results in an acceptable design. I have no reasons to disagree with that assessment and have found the proposal to amount to an enhancement of the conservation area in my consideration of the main issue, above.

Conditions

12. The appeal being allowed I have given consideration to the list of suggested conditions provided by the Council. I attach conditions relating to the standard time period for implementation and identifying the plans approved in the interests of certainty.
13. Having regard to the Council's uncontested statement within the Officer Report that the appellant's agent has agreed to the use of a condition to secure a scheme for drainage, I agree that this is necessary to ensure the satisfactory management of waters. As the issue goes to the heart of a development within a confined site such details should be agreed prior to the commencement of any development.
14. While, the prior approval of the specification of external materials is necessary in the interests of maintaining the character and appearance of the conservation area, I do not agree that this is required before any development commences. Accordingly, I have revised the Council's suggested wording for the restrictions to take effect before any development commences above the base course level.
15. Due to the close proximity of the proposal with other dwellings, and in the interests of avoiding harmful overlooking, it is necessary also to restrict the potential to insert new window and door openings. However, I have no

evidence to suggest that contamination is a risk and that further mitigation and remediation is appropriate. Having regard to paragraph 109 of the Framework I do not consider that the imposition of the Council's suggested ground contamination condition would therefore be reasonable.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed subject to conditions.

David Walker

INSPECTOR