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# Appeal Decision

Site visit made on 1 November 2016

**by Richard S Jones BA (Hons) BTP MRTPI**

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

**Decision date: 14<sup>th</sup> November 2016**

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**Appeal Ref: APP/D0840/W/16/3154404**

**Pentile House, School Road, Mevagissey, Cornwall PL26 6TQ**

- 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 S Dace against the decision of Cornwall Council.
  - The application Ref PA16/02290, dated 9 March 2016, was refused by notice dated 4 May 2016.
  - The development proposed is the erection of a two storey extension to rear of property to extend kitchen and bathroom to existing ground floor flat, create a double garage, utility room and workshop, two No 1 bedroom self-contained flats to first floor and two No 1 bedroom self-contained flats to attic area.
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## Decision

1. The appeal is dismissed.

## Preliminary matters

2. Changes to Planning Practice Guidance<sup>1</sup> make clear that there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought. This follows the order of the Court of Appeal dated 13 May 2016 which gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014. These circumstances include that contributions should not be sought from small scale and self build development such as the appeal proposal. Accordingly the Council has confirmed that it no longer seeks an affordable housing contribution from the proposed scheme.
3. I have therefore not considered further the Council's third reason for refusal, which relates to the absence of a suitable mechanism to provide affordable housing.
4. Although not contained within the first two reasons for refusal, the Council assert that emerging policies contained within the Cornwall Local Plan Strategic Policies 2010-2030<sup>2</sup> (CLP) should be given great weight. This level of weight is disputed by the appellant. However having regard to paragraph 216 of the National Planning Policy Framework (the Framework) I find that I am able to attach significant weight to these policies.

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<sup>1</sup> Paragraph: 031 Reference ID: 23b-031-20160519

<sup>2</sup> Cornwall Local Plan Strategic Policies 2010-2030 Proposed Submission (March 2014), Schedule of Focused Changes (September 2014) and Schedule of Further Significant Changes (January 2016) Combined Document January 2016

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## **Main Issues**

5. The main issues are:

- whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of internal living space and outlook; and
- the effect of the proposed development on the character and appearance of the area.

## **Reasons**

### *Living conditions*

6. The national technical standards<sup>3</sup> require a minimum gross internal floor area (GIA) of 50m<sup>2</sup> for a one storey, one bedroom dwelling and 1.5m built in storage. The proposed plans confirm that the all of the flats at first floor and attic floor level would have a floor area of 56m<sup>2</sup>. However, the technical standards require that any area with a headroom of less than 1.5m is not counted within the GIA unless used solely for storage and that the minimum floor to ceiling height is 2.3m for at least 75% of the GIA.
7. This is a matter of concern for the proposed attic accommodation because of the likely constraints arising from the east west roof pitch and its junction with the pitched roof running north south.
8. The appellant has stated that the headroom reduces to 1.5 metres and below from a point approximately 1m from the southern end of the building, resulting in Flat 3 being reduced to approximately 53m<sup>2</sup> and Flat 4 reducing to approximately 50.5m<sup>2</sup>. However, I have no figures or cross section details to assess how the other half of this pitch and the north to south pitch would affect these figures or to determine whether or not 75% of the GIA of the two flats would achieve a minimum floor to ceiling height of 2.3m.
9. Whilst I sympathise with the appellant that this information was not requested by the Council, nevertheless on the basis of the information before me I cannot be certain that even the minimum internal space standards would be achieved. There is therefore significant potential that the flats would result in cramped and oppressive living accommodation for future occupants.
10. In order to overcome concern relating to overlooking into the garden area of The Headlands, it is proposed that the lower sections of each of the east facing habitable room windows, on both the first and attic floor levels, would be obscure glazed and non-openable but with the top section being clear glazed and openable.
11. Given the potential for significant overlooking from these windows into the garden of The Headlands (but not than the house), particularly during the winter months, it would not be appropriate to use clear glazing. I appreciate that overlooking into the garden already occurs from the existing balcony but this does not justify making the situation materially worse by adding two more flats facing into the space.

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<sup>3</sup> Department for Communities and Local Government Technical housing standards – national described space standard March 2015.

12. Although I do not have details of the internal height levels, but if the extent of obscure glazing is to prevent overlooking then it follows that there would be no direct outlook to occupants either sitting down or standing up. Consequently their outlook would largely be restricted to upward facing views towards the sky.
13. Whilst this would satisfactorily resolve the potential for loss of privacy for the occupants of The Headlands, it would nonetheless be at the cost of a poor internal environment to the occupants of those flats affected. My concern here is not one of natural daylight but rather the oppressive sense of confinement and unduly constrained outlook. Being single aspect, no other alternative visual relief could be attained.
14. I am also concerned that the lounge/kitchen of Flat No 4 contains no windows at all and again is single aspect. Occupants of this main habitable room space would therefore have no outlook and receive no natural light. The appellant states that the intention is for this room to be served by a roof-light, however, this is not shown in the roof plan of the site layout. Even though this could be reasonably secured by condition, I remain concerned that the outlook would be very limited.
15. I conclude therefore that the proposal would not provide acceptable living conditions for future occupants in terms of outlook. Also, it has not been demonstrated that the internal layout of the attic flats are not overly restrictive in terms of their size and thus not providing sub-standard living accommodation for future occupants, contrary to the national technical standards.
16. Such an outcome would also be contrary to emerging CLP Policy 14 which states, amongst other matters, that all new development will be expected to achieve the provision of sufficient internal space in housing for everyday activities and to enable flexibility and adaptability by meeting nationally described space standards.
17. It follows therefore that I find conflict with paragraphs 17 and 58 of the Framework which state that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
18. The Council's first reason for refusal also makes reference to criterion 2 of Saved Policy 71 of the Restormel Borough Council Local Plan 2001 – 2011 (RBCLP), which relates to unidentified housing sites and refers to development at high densities where this is consistent with the density and character of existing development in the area concerned. I do not consider however, that this is particularly relevant to this main issue and I have therefore attached little weight to it.

#### *Character and appearance*

19. The existing building is an attractive Victorian townhouse with its principal elevation facing to the north. This would be largely unaffected by the proposals. The main side western facing elevation, which is exposed and highly visible, is also attractive and incorporates a two storey bay. The southern elevation is less coherent having been extended in various forms. Whilst these are of no particular architectural interest, they are nevertheless, subservient in scale.

20. I appreciate that the property is neither listed nor within a conservation area and that the extension seeks to replicate design features of the original building. Nevertheless, the additions would be substantial and would fundamentally alter the scale and appearance of the existing building. The result would be a large, bulky and imposing building which would detract from the character of the original building and the surrounding area. This harm would not be outweighed by any benefits arising from the loss of the existing flat roof additions at the southern end of the building.
21. I also appreciate that the appeal site benefits from a relatively large plot, however, the scheme would be a disproportionately large addition that would be out of keeping with the scale and design of the existing building and the surrounding domestic scale of dwellings.
22. Although relative to the plot as a whole, I do not consider that the extended building would amount to a cramped form of development, however, the extent of the rearward expansion is such that the existing sense of spaciousness at the rear of the building and the views through the site to the trees beyond, would be lost.
23. I therefore conclude on this main issue that the proposed development would be harmful to the character and appearance of the host building and the surrounding area. This would be contrary to Saved RBCLP Policy 6, which requires new development to harmonise with their surroundings and create an interesting, attractive environment by meeting a number of criteria. Despite pre-dating the Framework, I find the policy to be broadly consistent with it and therefore I attach a good measure of weight to it.
24. The proposal would also conflict with emerging CLP Policy 13 which states, amongst other matters that development proposals must be of high quality design and demonstrate a design process that has clearly considered the existing context. It follows therefore that I also find conflict with paragraphs 17, 56 and 58 of the Framework which require high quality design that responds to the character of the area.
25. The Council has not raised concerns regarding the effect of the proposal on the Cornwall Area of Outstanding Natural Beauty, within which the site lies. Having regard to its built context within the settlement I do not consider that the proposal would materially harm the landscape and scenic beauty of the same.

### **Other matters**

26. I acknowledge that no objection has been received from the Highway Authority and that no adverse impacts on biodiversity or air ground and water pollution have been identified. However the lack of such harm cannot weigh in favour of the proposal and should properly be considered as neutral in the planning balance. It follows therefore that they cannot mitigate the harm I have identified above.
27. The appellant has stated that it is common ground that the Council is unable to demonstrate a five-year supply of housing land and has referred to Paragraph 49 of the Framework. This states that housing applications should be considered in the context of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable

housing sites. However, the policies in which I have found conflict relate to design and the protection of living conditions. They are not therefore relevant to the supply of housing. Moreover, the Council acknowledge that the principle of the proposed development is acceptable as it is within the defined and physical built limit of Mevagissey.

28. Nevertheless, in consideration of the three dimensions of sustainable development, as set out in paragraph 7 of the Framework, I acknowledge that parts of the social role would be achieved by the provision of housing in a relatively sustainable location and that the proposal would make a modest contribution to the mix and supply of housing. Indeed, I have given considerable weight to these positive aspects. However, it is also important that the standard of accommodation provided is satisfactory if it is to meet the needs and expectations of its occupants and in this respect the social dimension of sustainable development would not be achieved.
29. Although the proposal would make a contribution to the economic dimension of sustainable development through the construction of the extension, this would be for a limited time only. Moreover, as set out in the Framework, good design is a key aspect of sustainable development and on the basis of the harm to the character and appearance of the locality, the proposal would fail to meet the environmental dimension of the same.
30. When assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits I have identified. Accordingly, the proposal would not amount to sustainable development and it follows therefore that no such presumption, as anticipated in paragraph 14 of the Framework, applies.

## **Conclusion**

31. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Richard S Jones*

Inspector