

Appeal Decision

Site visit made on 17 January 2017

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 06 February 2017

Appeal Ref: APP/D0840/W/16/3160375

The Red House, Downderry, Torpoint, PL11 3JA

- 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 Stuart Fitz-Barton against the decision of Cornwall Council.
 - The application Ref PA16/00869, dated 27 January 2016, was refused by notice dated 13 April 2016.
 - The development proposed is new dwelling and double garage.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Cornwall Council against Mr Stuart Fitz-Barton. The application is the subject of a separate decision.

Procedural Matter

3. The Council adopted the Cornwall Local Plan (the LP) in November 2016. The Council's decision notice refers to Policy ALT2 of the Caradon Local Plan first alteration (2007), which has now been replaced by Policy 12 of the LP, to which I have had regard. Further, Policy CL9 of the Caradon Local Plan first alteration remains extant.

Main Issues

4. The main issues of the appeal are: the effect of the proposal on the character and appearance of the area; and the effect of the scheme on the living conditions of the occupants of The Red House and neighbouring properties.

Reasons

Character and appearance

5. The appeal site is located within the curtilage of the property known as The Red House. It lies at the end of The Red House's steeply sloping and elevated rear garden. The Red House sits within Brenton Road, which I observed is characterised by properties of various architectural styles. Despite such variation, there is nonetheless a strong linear pattern of development in this part of Downderry that runs on the northern and southern side of Brenton Road. This consists of mainly detached properties of similar scale that are orientated along the road to utilise the sea views. On the northern side of
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Brenton Road, this includes large rear gardens that are largely undeveloped. The appeal site falls within an Area of Great Landscape Value (AGLV).

6. The proposal would result in the construction of a two storey dwelling of modern design. It would be sited in a very elevated position. Whilst views of the proposed dwelling from Brenton Road would, to a large degree, be minimised by the topography of the area and the existing dwellings that are set above the level of the road, I observed that clear views could nonetheless be gained from Brenton Road when in close proximity to the appeal site. Further, the dwelling would be clearly evident from the rear elevations of the existing properties on the northern side of Brenton Road. I also observed on my visit that views of the appeal site from the beach cannot be gained, although it would be visible from views out at sea.
7. It was clear to me on my site visit that the largely undeveloped rear gardens to the north of Brenton Road form an undeveloped fringe to Donderry, with the open countryside beyond. Whilst I acknowledge that there are some examples of dwellings at similar heights above sea level to that proposed, these lie on the western and eastern sides of Brenton Road, with a distinct lack of any development at such height in between and a very distinct linear pattern of development. The appeal site falls roughly in the middle of this area.
8. The proposed dwelling set behind The Red House in a backland position, would appear isolated and incongruous within its local context and the pattern of development. It would encroach into the pleasant undeveloped fringe of Donderry in this location. Further, the proposed two-storey dwelling is of a significant size and would be set on piers, with a large balcony on its southern elevation. Due to its scale and elevated position, I consider that it would tower over The Red House and appear overly dominant when viewed in the vicinity of the appeal site. I do not consider that the large curtilage of The Red House in anyway remedies these concerns.
9. The proposal also includes a lift that would take future occupants up the hill side and would be made of glass. This in itself would be an overly urbanising feature that is not characteristic of the area. This would further undermine the attractive undeveloped fringe of Donderry.
10. Whilst I do not share the concerns of the Council with regard to the scheme representing the overdevelopment of the site, this does not affect any of my above findings.
11. For the reasons given above, I consider that the proposal by virtue of its siting and scale would cause harm to the character and appearance of the area and to the AGLV. The proposal therefore conflicts with Policy 12 of the LP and Policy CL9 of the Caradon Local Plan first alteration. These policies seek to ensure that new developments: maintain and enhance Cornwall's distinctive natural and historic character; are of an appropriate scale, density, layout, height and mass with a clear understanding and response to its landscape, seascape and townscape setting; and accord with the characteristic pattern of the settlement. I also consider that the proposal runs contrary to Section 7 of the National Planning Policy Framework (the Framework) that seeks good design.
12. I have been referred to a very similar development only a short distance (four properties) to the east along Brenton Road at the property known as Swn-y-

Don, which was refused at appeal¹. This involved a notably comparable scheme, with a similar dwelling, sited only a short distance away at a similar height above sea level, within the same linear pattern of development described above, albeit in that case the plot was slightly smaller and is located closer to the cluster of properties on the eastern side of Brenton Road where it meets Main Road. Even bearing the latter in mind, the Inspector came to very similar conclusions to those above, which adds notable weight to my findings.

13. The appellant has referred me to several other examples in the nearby area. The first of these relates to a development at Down Cliff, which was allowed on appeal², with a slightly different development being granted permission on the same site more recently by the Council³. However, Down Cliff is located adjacent to cluster of properties on the eastern side of Brenton Road where it meets Main Road. I consider in that case the proposed dwelling would relate to the existing pattern of development within its vicinity. The Inspector of Swn-y-Don appeal also drew a very similar distinction. Therefore, I am not of the view that the permitted development at Down Cliff sets any precedent for this development and I afford it little weight. I acknowledge that the Inspector in the Down Cliff case noted that in their view the village has no particular prevailing pattern of development. However, this statement appears to be looking at the village as a whole and ignores the distinct pattern of linear development that surrounds the appeal site, which the scheme would directly conflict with, resulting in the identified harm to the character and appearance of the area and the AGLV.
14. Another example provided by the appellant is a scheme at Wentworthy, Trerieve Lane, which was also allowed at appeal⁴. However, in that proposal the characteristics of the site and its location further to the east means that, in my view, it is not comparable to this appeal scheme. Therefore, I also afford it little weight. On my site visit, I noticed the steel frame of a two bedroom dwelling behind the property known as Island View, which I understand was granted permission by the Council⁵. However, this is closely related to a cluster of buildings on the western side of Brenton Road and therefore reflects the existing pattern of development.

Living conditions

15. The proposed dwelling would be located some 25 metres from the rear elevations of The Red House and its neighbouring properties known as Seahouse and Faire. I accept that in most normal circumstances such a distance would be sufficient to mitigate any potential overlooking and overbearing effect. However, in this case the proposed dwelling would be sited in a very elevated position with its main living areas and extensive balcony at the front to benefit from sea views. As a result, I consider that there would be direct overlooking of the rear amenity space of The Red House and the neighbouring properties, resulting in a loss of privacy. The Inspector of the Swn-y-Don appeal proposal, which, as set out above, is very comparable to this scheme and had a similar relationship with its neighbours, also came to the same view and this adds weight to my findings. Further, by virtue of the scale

¹ APP/D0840/W/15/3014901, dated 30 December 2015.

² APP/D0840/A/13/2202504, dated 21 January 2014.

³ PA16/05482.

⁴ APP/D0840/A/12/2186485, dated 22 April 2013.

⁵ PA14/11171.

of the proposed dwelling and its very elevated position, I agree with the Council that there would also be a strong sense of overbearingness when viewed from the rear amenity spaces of the The Red House and the neighbouring properties. Both of these matters would adversely affect the occupant's enjoyment of their rear amenity spaces at The Red House and the neighbouring properties, causing harm to their living conditions. Due to the extremes in levels, I am not of the view that any mitigation such as fencing or soft landscaping could overcome such matters.

16. The proposed lift would run along the boundary with the neighbouring property to the west. I consider that this has the potential to cause noise and disturbance to the occupants of the neighbouring property given its close proximity, detrimentally affecting their living conditions.
17. The appellant suggests that the possibility of some actual and perceived overlooking of neighbouring houses and their gardens in coastal towns and villages is common, as they are often characterised by steeply sloping land, which inevitably results in houses being positioned with fairly extreme variations in floor levels and roofscape heights. The appellant goes on to set out that this is particularly the case when sea views are an essential sought after feature of a building's design. Whilst this is noted, I have considered the specific circumstances of this proposal on its merits and have found that unacceptable overlooking would result, as well as a strong sense of overbearingness. Further, I acknowledge that due to the extreme variations in levels, views from the proposed dwelling would to some degree be directed over the top of The Red House. However, direct views would nonetheless still be available to the rear amenity space of The Red House and the neighbouring properties.
18. The appellant is also of the view that the rear amenity spaces of the properties on the northern side of Brenton Road are of limited value, as most properties have their principle amenity space to the south, facing the sea. However, I observed on my site visit that there is evidence that the rear amenity spaces of the Red House and the neighbouring properties are tended to and utilised. I consider that this is likely to be even more so in the summer months. Therefore, I give little weight to this suggestion.
19. I have been referred to the Down Cliff appeal and a more recent planning permission from the Council on the same site. However, as pointed out by the Swin-y-Don appeal Inspector, the Down Cliff site has a reduced potential for overlooking by virtue of the greater separation distances between the proposed dwelling and its neighbours. I consider that the same also applies to the mitigation of any overbearing effect associated with the Down Cliff scheme.
20. For the reasons given above, I consider that the proposal would cause harm to the living conditions of the occupants of The Red House and the neighbouring properties Seahouse and Faire. The proposal therefore runs contrary to Policy 12 of the LP, which seeks to ensure that proposals protect individuals and property from overlooking and unreasonable loss of privacy, overbearing impacts and unreasonable noise and disturbance.

Other matters

21. As set out above, the LP was adopted in November 2016. The examining Inspector of the LP concluded that the Council could demonstrate a five year

housing land supply. I have been provided with no evidence to suggest that I should take a different view. Consequently, the social and economic benefits of one new dwelling, when the Council can demonstrate a five year housing land supply would be very minor and carry little weight.

22. I accept that the appeal site lies within the settlement boundary, is located close to local services and facilities and the proposal would increase the patronage at the local school. However, such matters do not overcome or outweigh the identified harm.

23. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

24. For the reasons set out above and having regard to all other matters raised, there are no material considerations and benefits that either individually or in combination outweigh the identified harm and the associated development plan conflict. Further, the scheme does not represent sustainable development as set out in the Framework. The appeal is therefore dismissed.

Jonathan Manning

INSPECTOR