
Appeal Decision

Site visit made on 01 August 2017

by Jessica Graham BA (Hons) PgDipL

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

Decision date: 08 August 2017

Appeal Ref: APP/D0840/W/16/3161876

Land at Heavitree Road, Kingsand, Cornwall PL10 1NP

- 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 Bernard Kay against the decision of Cornwall Council.
 - The application Ref PA16/03790, dated 25 April 2016, was refused by notice dated 6 July 2016.
 - The development proposed is the construction of a two-bedroom traditional style cottage, set over two floors, on vacant land between existing dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a two-bedroom traditional style cottage, set over two floors, on vacant land between existing dwellings at Heavitree Road, Kingsand, Cornwall PL10 1NP in accordance with the terms of the application, Ref PA16/03790, dated 25 April 2016, subject to the conditions set out in the Schedule attached to this Decision Letter.

Procedural matter

2. Since the Council issued its Refusal Notice, the Cornwall Local Plan ("the Local Plan") has been adopted and the Rame Peninsula Neighbourhood Development Plan ("the Neighbourhood Plan") has been made. Both of these documents now form part of the Development Plan for the area, and both main parties have had the opportunity to comment on the implications for their respective cases. My determination of this appeal proceeds on the basis of the Development Plan as it now stands, rather than as it stood when the application was determined.

Main issues

3. The three main issues are
 - 1) The effect that the proposed development would have on the character and appearance of the area;
 - 2) The effect upon living conditions at residences opposite the appeal site, with particular regard to visual impact and potential loss of outlook; and
 - 3) The standard of living accommodation that the proposed development would provide for its future occupiers.

Reasons

The effect on the character and appearance of the area

4. The appeal site is located on the western side of Heavitree Road, between two houses which are both Listed Grade II: "Meridian" to the south, and "Cobblestones" to the north. It lies within the Kingsand/Cawsand Settlement Boundary; the Kingsand/Cawsand Conservation Area; the Rame Forts Area of Great Historic Value; and the Cornwall Area of Outstanding Natural Beauty.
5. The site is currently vacant, creating a gap in the rows of housing that front directly on to both sides of the street. I am told that it formerly contained two dwellings which were demolished in the mid 1950s, and was subsequently tended for many years as a garden, before latterly being used to store building materials.
6. The Council points out that considerable time has elapsed since the dwellings on the appeal site were demolished, such that the gap created is now an established feature of the street scene. That may be so, but in the history of Kingsand it is a relatively short period: the List Entries for "Meridian" and "Cobblestones" date these buildings as late Eighteenth Century, and there is evidence that Cawsand and Kingsand originated as fishing hamlets in medieval times.
7. The historic street pattern in the Kingsand/Cawsand Conservation Area is largely intact, and reflects these origins. The streets are narrow, to provide protection from the exposed coast, and lined with buildings, which creates a strong sense of enclosure and a sheltered, intimate feel.
8. In this context, the proposed construction on the appeal site of a small two-storey dwelling, designed to embody the modest proportions and simple appearance of a traditional fisherman's cottage, would be in keeping with the original tightly-knit built form of Heavitree Road. In my judgment it would have a positive impact on the street scene, reinstating the sense of enclosure that is an important characteristic of the inland lanes of the Conservation Area. The Listed Buildings to either side of the appeal site derive a fair portion of their significance from their setting as part of a row of housing directly fronting the narrow street, such that the appropriate infilling of an existing gap in this row would benefit, rather than detract from, their setting and significance.
9. The street elevation of the proposed dwelling would be set slightly forward from that of Meridian, but I do not share the Council's view that this would render the new building unduly prominent. The houses on either side of Heavitree Road do not follow a formal or straightforward "building line" but, as in many other places throughout the Conservation Area, include stepped and angled frontages reflective of both the piecemeal nature of their historic development and the topographical constraints presented locally. In my judgment, the proposed dwelling would sit comfortably on the appeal site and, in closing the current uncharacteristic gap, enhance the historic character of the street scene.
10. I conclude that the proposed development would fully accord with the aims of Local Plan Policy 24, which seeks to ensure that any new development sustains Cornwall's designated heritage assets, and takes opportunities to better reveal their significance.

11. The Council drew my attention to an appeal decision concerning a proposed dwelling in the Polruan Conservation Area, in which the Inspector found that the scheme would not be compatible with its surroundings¹. It is important to bear in mind that each proposal must be determined on its own site-specific merits. That case concerned a site consisting of the end part of an existing dwelling's rear garden, and the proposed house would have fronted directly on to the adjoining lane, where the existing dwellings were set well back within generous gardens. The situation is very different here.

Living conditions at the premises opposite

12. Since the demolition some 60 years ago of the dwellings which previously occupied the appeal site, the street-facing windows of the houses opposite have received more light, and experienced a lesser degree of enclosure, than they would have done throughout the much longer period of their existence prior to that demolition. That their occupiers should wish to retain the present visual gap is entirely understandable, but it is not the case that (as the Council appears to contend) they now have "rights" to an "open outlook", or a "legitimate expectation" that a development proposal which would adversely affect that outlook should be refused. Rather, any harmful impact upon living conditions at these properties should be assessed against the Development Plan and weighed in the overall planning balance, in the usual way.
13. There are three houses which face the appeal site across Heavitree Road: Kobe House, Varna House, and Dorset House. The proposed reinstatement of residential development on the appeal site, in the form of a modest two-storey dwelling, would reduce the amount of light that currently reaches the street-facing windows of these properties. However, this would be no different to the situation prior to the demolition of the earlier dwellings on the site, or to that currently experienced by other houses on both sides of Heavitree Road.
14. The street-facing windows of Kobe House, Varna House and Dorset House serve a living room at ground floor level, and bedrooms at the upper levels. Since the houses front directly on to Heavitree Road, the windows of the ground-floor living rooms are already overlooked to some degree by people walking on the street outside. In my judgment the presence of street-facing windows in the proposed dwelling opposite, with a small external amenity area to the side, would not materially worsen the existing situation or have any significant impact on current levels of privacy.
15. Clearly, views from the street-facing windows of these three properties would change; instead of a single-storey height privet hedge, they would look towards a two-storey dwelling. I saw at my site visit that the ground floor living rooms at the front of each of the dwellings have a snug, enclosed feel, in keeping with the character of a fisherman's cottage designed to turn its back on the coast for protection from the weather. This sense of enclosure may increase slightly as a result of the change in outlook but not, in my view, to a harmful degree; again, the situation would be akin to that which existed prior to the demolition of the original dwellings opposite. In addition to the ground-floor living room, each of the three houses also has a second sitting room at the rear of the first floor, orientated to take advantage of magnificent sea views out over Plymouth Sound. That outlook would remain unaffected by the current proposal.

¹ Ref: APP/D0840/W/15/3137930

16. I find that the proposed development would meet the objectives of Policy 12 of the Local Plan, which seeks to ensure that development proposals protect individuals and property from overlooking, unreasonable loss of privacy, overshadowing and overbearing impacts.

Living conditions at the proposed new dwelling

17. There is no dispute that the proposed dwelling would meet the requirements of the Government's *Technical housing standards – nationally described space standard* (DCLG, March 2015). However, the Council is concerned that the configuration of the windows would limit natural light and outlook, leading to feelings of enclosure and confinement, and that the small external amenity space would lack sunlight and privacy.
18. Each of the habitable rooms would have at least one window. Some would have two: the dining room would have side-facing glazed patio doors in addition to the front-facing window, and the two bedrooms would each have a rooflight and a front-facing window. The downstairs cloakroom would receive no natural light, but that is not unusual even in much larger dwellings. The upstairs bathroom would have a rooflight, and the stairs and hall would have both a side window and a rooflight. The front-facing windows would look out on to the street, but this is not an unusual arrangement for either first-floor bedrooms or ground-floor living rooms and would not, in my judgment, undermine the privacy of the occupiers or cause uncomfortable feelings of enclosure.
19. While the *Cornwall Design Guide* (2013) recommends the provision of some private outdoor space "where possible", neither the national space standards nor the Local Plan specify a minimum requirement for the provision of outdoor space, and it is axiomatic that not all homeowners want the responsibility of a large garden. The external amenity space provided here would be small and, having no boundary to the road, would lack privacy. But it needs to be considered in context: there is a number of small terraces and outdoor amenity areas tucked in beside and between buildings throughout Kingsand, and the space here proposed would receive no less sunlight than many of those. Further, the proposed dwelling lies only a very short walk from the public beaches of Kingsand and Cawsand, the South West Coast Path, and the publically accessible grounds and gardens of the Mount Edgcumbe Estate.
20. Drawing all of this together, I conclude that the proposed dwelling would provide its occupiers with a reasonable quantity and quality of internal living space. The outdoor amenity space would be small, and would lack privacy, but these disadvantages would be partially offset by the close proximity of a wide range of publicly accessible, high-quality outdoor amenities nearby. I am satisfied that the proposal would provide sufficient internal living space and waste storage space, and has been designed to make the best use of available opportunities for natural lighting. It would therefore accord with the aims of Policy 13 of the Local Plan.
21. The Council drew my attention to an appeal decision concerning a proposed new dwelling at St Stephens, in which the Inspector found that the limited provision of garden space would be compounded by its poor quality and the low level of internal space². That case differed from the current scheme in a number of ways: the proposal was for a bungalow, set at a significantly lower

² Ref: APP/D0840/W/16/3145655

level than the neighbouring property, with a 1.8m high close-boarded fence between 2 and 5m from its only windows, and a small triangular garden partly wedged between the fence and the front elevation. The situation is very different here and, as noted above, each development proposal must be determined on the basis of its own site-specific circumstances.

Conclusion

22. For the reasons set out above, I conclude that the proposed development would accord with the relevant policies of the Development Plan. I have found no other material considerations of sufficient weight to justify determining the appeal other than in accordance with the Development Plan.

Conditions

23. The Council provided a list of conditions which it would wish to see attached if the appeal were allowed. In addition to the standard conditions governing the time limit for commencement, and compliance with the approved plans, I agree that in light of the narrow width of Heavitree Road and close proximity of neighbouring dwellings, it will be important for the Council to agree an acceptable Construction Method Statement prior to the commencement of work on the site. I have attached the appropriate condition.
24. Given the sensitive location of the proposed dwelling within the Kingsand/Cawsand Conservation Area and on a very constrained site, I also agree that conditions are needed to remove Permitted Development Rights for any extension or enlargement of the dwelling, and to secure more detailed information concerning the windows, doors and roof covering, together with samples of external materials, for the Council's approval. I have slightly amended the Council's suggested wording, in the interests of clarity.
25. Policy 1 of the recently adopted Neighbourhood Plan states that due to the impact upon the local housing market of the continued uncontrolled growth of dwellings used as second or holiday homes, new open market housing will only be permitted where there is a condition restricting occupancy. This is to ensure that the dwelling is occupied as the principal residence of the owner or their tenants, rather than used as holiday accommodation. To secure compliance with this Development Plan policy I have, as the Council suggested, attached a duly restrictive condition.

Jessica Graham

PLANNING INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin no 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:

D/00	Site Location Plan and Block Plan
D/01	Existing Site Plan
D/02	Existing Elevations
D/11 Rev A	Proposed Floor Plans
D/12 Rev A	Proposed Elevations
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until details of the design of, and materials to be used in the construction of, the doors, windows, rooflights, lintels, sills and rainwater goods, and details of the method by which the roof slates will be fixed, 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.
- 5) No development shall take place until samples 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.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, extension, alteration or addition shall be made to the dwelling hereby permitted.

- 7) The dwelling hereby permitted shall not be occupied otherwise than by a person or persons as their only, or principal, home. For the avoidance of doubt, the dwelling shall not be occupied as a second home, or as holiday accommodation. The occupants shall supply to the local planning authority (LPA), within 14 days of the LPA's written request to do so, such information as the LPA may reasonably require in order to determine whether or not their occupancy complies with this condition.