
Appeal Decision

Site visit made on 25 July 2017

by C Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 14 August 2017

Appeal Ref: APP/D0840/W/17/3172215

Rumours Apartments, 89 Henver Road, Newquay TR7 3DJ

- 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 Dr Elizabeth Garner against the decision of Cornwall Council.
 - The application Ref PA16/07816, dated 4 May 2016, was refused by notice dated 5 December 2016.
 - The development proposed is development of 3 number 3 bed houses on land to rear of 87 and 89 Henver Road.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Cornwall Council against Dr Elizabeth Garner. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are:
 - whether the proposal would provide acceptable living conditions for future occupiers, having particular regard to privacy, outlook, private outdoor space and the provision of internal living space.
 - the effect of the proposal on the living conditions of neighbouring occupiers having particular regard to privacy and outlook.
 - the effect of the proposal on the character and appearance of the area.

Reasons

Living conditions

4. The appeal site is a vacant area of land which is surrounded on all sides by existing development. It lies to the rear of No's 87 and 89 Henver Road and is accessed through a gap between these properties. No 87 is a semi-detached house (which was undergoing refurbishment at the time of my site visit) whereas No 89 is a large three storey building. I understand that it was formerly a hotel but has now been converted into flats.
5. To the north is No 1 Godolphin Way and to the west is No 85 Henver Road, both of which are semi-detached residential properties with gardens close to

the boundaries of the site. There is a large hotel to the east (Pine Lodge) with a swimming pool near the boundary. A stone wall bordering the northern, eastern and western perimeters of the site physically separates it from these properties, whilst the southern aspect (facing No's 87 and 89) is open.

6. It is proposed to construct three detached dwellings on the site. Each would have three bedrooms and private gardens. The plans indicate that a total of two parking spaces and a turning area would also be provided.
7. The Cornwall Design Guide 2013 (the Design Guide) recommends that where the distance between facing habitable rooms is less than 25 metres, the design should demonstrate how privacy will be maintained. In this case, the Council states that the distance between the proposed dwellings and the rear elevation of No 89 is substantially less than 25 metres (as little as 6.2 metres in the case of the proposed Type B unit according to the officer report). However, the upper floor windows in the dwellings would project outwards at 45 degree angles to prevent direct overlooking of opposing windows in No 89. In this particular regard, privacy would be maintained.
8. Nonetheless, this arrangement would not entirely eliminate the potential for mutual overlooking. In particular, I note that the first floor window on the rear elevation of the proposed Type B unit would face towards the rear garden of the Type C unit. This is a relatively large floor to ceiling window which serves the main bedroom and features a Juliet balcony. Consequently, there is clear potential for mutual overlooking to take place between the occupiers of this bedroom and the neighbouring garden. As the garden is not particularly large it is likely to be subject to intensive use by the occupiers of that property, thereby increasing the opportunities for overlooking to take place. There is also the possibility of overlooking from the first floor window of the Type A unit towards the existing garden area of No 85, which I understand has planning permission¹ for a new dwelling in the northern part of the site. Overall, the proposal would not maintain an acceptable standard of privacy.
9. The Council point out that the internal living space of each dwelling would fall below that set out in national standards². While I recognise that deviation from the standards may be appropriate in some circumstances, it is nonetheless necessary to ensure that appropriate living conditions are maintained. In this particular case, I am conscious that despite being modest in size, the proposed dwellings would each have three bedrooms and would therefore be capable of supporting reasonably large households. Internal living space could therefore be subject to very intensive use and appears somewhat cramped.
10. I am mindful that the proposed dwellings would be physically close to the rear elevation of No 89. Whilst the upstairs bedroom windows of the Type A and B dwellings would face away from No 89 in order to help maintain privacy, the outlook from inside these rooms would be somewhat restricted as a consequence. Although the ground floor bedroom windows would be of a more conventional design, the rear elevation of No 89 would loom above these windows at relatively close quarters. As such, the outlook from these windows would be dominated by No 89 and the sense of confinement would be exacerbated by the relatively modest size of the rooms themselves. This would reduce the appeal of these rooms as pleasant spaces to reside.

¹ Council Ref: PA16/00100

² Technical Housing Standards – nationally described space standard, DCLG, March 2015.

11. Likewise, as the three dwellings would span the entire width of the plot with little visual permeability between each unit, the development would dominate outlook from the opposing residential units in No 89. The Council also argue that the Type C unit would have an overbearing impact on the Pine Lodge hotel to the east. However, the elevation facing the pool area would be relatively small and situated in the corner of the site. As such, I do not consider that it would appear overbearing from that perspective.
12. The limited size of the dwellings would also increase pressure on the gardens as an area of outdoor amenity space. However, the gardens would all be north facing and small which would reduce their attractiveness for usual activities such as sitting outside, drying clothes or serving as a play space for children. In my view, such provision would be inadequate for a modern three bedroom dwelling that would be capable of accommodating a small family.
13. I conclude on this issue that the proposal would not provide acceptable living conditions for future occupiers. It would also harm the living conditions of neighbouring occupiers. There would be conflict with Policy 12 of the Cornwall Local Plan (the Local Plan) which aims to achieve appropriate standards of design. Whilst the appellant argues that the proposal would comply with the provisions of the Design Guide, the overall purpose of this document is to achieve good standards of design. For the reasons given above, I do not consider that the proposal would comply with that objective.

Character and appearance

14. Although the proposed development would further intensify the use of the site in a location that is primarily dominated by lower density housing, it would not be easily visible from public vantage points in Henvy Road or Godolphin Way. Nonetheless, the quality of the built environment is also appreciated from within the private domain. In this respect, I am mindful that the proposed dwellings would be highly visible from the rear facing windows of No 89 as well as other neighbouring properties.
15. As well as being in close proximity to the rear elevation of No 89, the proposed dwellings would not be attractive features within their setting. In particular, the upper floors of the Type A and B units would present a mostly blank façade to the opposing windows in No 89 and the Type C unit would simply present a featureless wall. Furthermore, the density of the development would lead to the site assuming a confined appearance which would visually contrast with the more spacious housing which forms the backdrop to the site.
16. I therefore conclude on this issue that the proposal would have a harmful effect on the character and appearance of the area. There would be conflict with Policies 2 and 12 of the Local Plan which both seek good design.

Other matters

17. Paragraph 7 of the National Planning Policy Framework (the Framework) outlines the economic, social and environmental dimensions of sustainable development. These are closely associated with the core principles of the Framework set out in paragraph 17.
18. With regard to the social dimension of sustainable development, I note that the Framework aims to encourage the effective use of land and to boost housing supply. I recognise that the proposal would directly contribute to these

objectives. Even though the Council are able to demonstrate a 5-year supply of housing land, the contribution of three dwellings in maintaining this supply should not be overlooked. I also recognise that there would be local economic benefits arising from the construction process. However, the environmental and social harm in respect of living conditions and character and appearance would outweigh these benefits. Hence, the proposal cannot be considered sustainable development when assessed against the three dimensions of sustainability as outlined in paragraph 7 of the Framework.

19. The appellant states that an interested party who commented on the application is a member of the Town Council. It is also argued that the officer report makes no reference to the policies of the former Restormel Borough Council even though the new Local Plan had not been adopted at the time the application was under consideration (although I note that the Council's decision notice was dated after the Local Plan was adopted). However, neither of these matters alters my view that the proposal would have a harmful effect on living conditions as well as the character and appearance of the area.

Conclusion

20. For the above reasons, and having regard to all other matters raised, the appeal should therefore be dismissed.

C Cresswell

INSPECTOR