



Appeal Decision

Site visit made on 12 June 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/D0840/W/19/3225096

The Pump House, Tywarnhayle Road, Perranporth TR6 0DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Philip Henwood against the decision of Cornwall Council.
 - The application Ref PA18/03853, dated 19 April 2018, was refused by notice dated 20 December 2018.
 - The development proposed is described as an outline application for a proposed single dwelling (amended design PA17/02695) with a reduced building and boundary fence against the southeast aspect.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Philip Henwood against Cornwall Council. This application is the subject of a separate decision.

Procedural Matters

3. The application was submitted in outline. The application form indicates that approval was sought only for access, layout and scale, with the matters of appearance and landscaping reserved for future approval. I note that details of the appearance of the proposed dwelling were submitted with the application for illustrative purposes only. I have dealt with the appeal on this basis.
4. As part of their statement of case, the appellant has submitted a set of 3D drawings (Appendix G) which show the intended appearance of the proposed dwelling. As the submitted drawings are for illustrative purposes and they do not evolve the scheme beyond which people's views were sought in respect of the planning application, I am satisfied that neither the Council nor any other appeal party would be prejudiced by my determination of the appeal on that basis.
5. The National Planning Policy Framework was revised in February 2019 (the Framework). In terms of the main issue in this appeal, the revisions to the Framework have not changed national planning policy. I have therefore taken the Framework into account as part of the determination of this appeal.

Main Issue

6. The main issue is the effect of the development upon the living conditions of 5 Tywarnhayle Road in respect of outlook.

Reasons

7. The appeal site is a level parcel of land that is situated between the back gardens of the residential properties of Nos 5-7 Tywarnhayle Road and Nos 33 and 33a Droskyn Way. The site is accessed via an existing driveway, which provides vehicular access to residential garages and parking, in addition to a pedestrian route between the two streets.
8. There is a small pitched roof building located within the centre of the site, which was formerly used as a pumping station. The parties advise that the land was most recently used as an allotment. On the boundary of the site facing Tywarnhayle Road there is a timber fence which is approximately 1.8 metres high and set in by 0.6 metres from the low stone boundary wall which runs along the rear gardens of Nos 5-7. It is understood from the evidence before me that the fence was erected as permitted development by the land owner.
9. The topography of the area rises steeply from Tywarnhayle Road to Droskyn Way. Nos 5-7 are two storey terraced properties, which are situated below the site with their ground floors at a significantly lower level. Due to the area's topography their rear gardens slope steeply upwards towards the boundary of the appeal site. From the rear garden and first floor bedroom window of No 5, the boundary fencing has an enclosing impact, but occupiers of the property still have a skyward outlook with townscape views of the properties of Droskyn Way present.
10. It is proposed to demolish the existing building and erect a single storey dwelling with an 'L-shaped' footprint. A material consideration in this case is the appeal decision¹ of 13 March 2018 relating to the erection of a single dwelling on the same site. That appeal was dismissed on living conditions grounds because the Inspector found that the proposal would unacceptably harm the outlook of the occupiers of Nos 5-7. It was found that the proposed fence would cause harm to the outlook of the occupiers of Nos 5-7. In addition, the proximity of the end wing of the proposed dwelling would cause further harm to the outlook of the occupiers of No 5. In respect of design, character and appearance and highway safety, the Inspector found that the proposal would not result in unacceptable harm or conflict with the development plan or the Framework.
11. That application was also submitted in outline with the matters of appearance and landscaping reserved. However, there are material differences between that scheme and the current proposal. A fence facing the rear gardens of Nos 5-7 has now been erected and the depth of the end wing has been reduced by approximately 2 metres. The width of the end wing and overall height of the proposed dwelling remains unaltered. Whilst it is an important planning principle that like cases should be determined in a like manner, this appeal needs to be determined on its own merits.
12. The proposal would alter the existing relationship between the appeal site and Nos 5-7. The Council have concluded that the proposal would not have a detrimental impact upon the living conditions of the occupiers of Nos 6-7, when compared to the existing situation whereby a boundary fence has now been erected: I have no reason to disagree with this assessment.

¹ APP/D0840/W/17/3189911

13. Whilst I acknowledge that the reductions to the depth of the end wing of the proposed dwelling would improve the relationship between the appeal site and No 5, taking it further away from the site boundary when compared to the previous scheme, I consider that the current proposal would create an oppressive and overbearing relationship for the occupiers of No 5.
14. The end wing of the proposed dwelling would be situated about 3.7 metres from the rear boundary of No 5 and despite the single storey height, due to the appeal site's elevated position and the proposed width, the proposed dwelling would be readily apparent on the skyline and appear significantly higher than the existing fence. As a result, it would increase the sense of enclosure at the rear of No 5 and dominate the main field of view for occupiers of No 5 from the rear garden and first floor bedroom window. Consequently, the proposed dwelling would significantly reduce the outlook of the occupiers of No 5 to an unacceptably harmful degree.
15. I accept that soft landscaping could be planted between the fence and stone wall of No 5, details of which would need to be agreed at reserved matters stage, whilst this would soften the appearance of the fence, it would not overcome the concerns set out above.
16. Based on the evidence before me, I note that the existing fence could be increased in height to 2 metres and erected on the boundary with No 5 under permitted development. The works would increase the sense of enclosure from the rear of No 5, when compared to the existing boundary fencing. However, it would not offset the significant harm to the outlook of the occupiers of No 5 that I have identified above. As such, I have afforded the appellant's 'fallback' position limited weight.
17. For the collective reasons outlined above, I conclude that the proposed development would cause significant and demonstrable harm to the living conditions of the occupiers of No 5 Tywarnhayle Road with particular regard to outlook. As such, the proposal would not accord with Policy 12 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (Adopted November 2016), as it would fail to protect individuals and property from overbearing impacts. In addition, the proposal would not secure a high standard of amenity for the existing occupants of buildings, which is inconsistent with Paragraph 127 of the Framework.

Other Matters

18. The proposed dwelling would make efficient use of existing land within a sustainable location, which would contribute to the Council's housing land supply and support the local economy and local services, without causing harm to the character and appearance of the area. In addition, I note that the proposed dwelling has been designed to maximise thermal and energy efficiency, make use of natural light, minimise surface water run-off through the incorporation of permeable surfaces and that conditions could be used to secure remediation of any potential contamination of the site arising from its former use. These benefits of the development would not outweigh the unacceptable harm to the living conditions of the occupiers of No 5, which I have identified above.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

Inspector