



Appeal Decision

Site visit made on 3 July 2019

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/D0840/W/19/3226381

Land on the north side of 1 Castle View, St Stephens, Saltash, PL12 4RD

- 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 Jonathan Sims (Sims Brothers (Plymouth) Ltd) against the decision of Cornwall Council.
 - The application Ref PA18/09294, dated 3 October 2018, was refused by notice dated 29 November 2018.
 - The development proposed is construction of a dwelling including off street parking and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a dwelling including off street parking and other associated works at land on the north side of 1 Castle View, St Stephens, Saltash, PL12 4RD, in accordance with the terms of the application, Ref. PA18/09294, dated 3 October 2018, and subject to the conditions listed in the Annex to this decision.

Procedural Matter

2. Following the submission of their Appeal Statement, the Council drew attention to the publication of the draft Saltash Neighbourhood Plan (SNP) and relevant policies from this plan. The appellant was invited to comment on these draft policies, but no further submissions were received.
3. The 2018 National Planning Policy Framework (Framework) has now been replaced by the February 2019 version of the Framework. However, the policies from the Framework that are relevant to this appeal have not changed.

Main Issue

4. The main issue is whether the proposed development would be cramped and provide a poor layout, and if so, whether it would affect the character and appearance of the area.

Reasons

5. The appeal site comprises an open parcel of land that is partly tarmacked and overgrown, and enclosed by a timber fence and gate.
6. The appeal scheme has been submitted in response to a previous proposal that was dismissed on appeal in September 2016 (Ref. APP/D0840/W/16/3145655) (2016 Appeal).

7. The principal change to the 2016 Appeal scheme, is that the proposal is now for a two storey one bedroom house and not a single storey one bedroom bungalow.
8. In dismissing the 2016 Appeal, the Inspector raised concerns over the standard of the proposed internal accommodation resulting from the proximity of the bungalow windows to a new 1.8 metre high boundary fence. The Inspector found that this relationship restricted the outlook from the new dwelling, as well as natural light, resulting in an oppressive impact on future occupiers.
9. In response, the footprint of the current appeal building has been significantly reduced. As a result, the proposed ground floor bedroom would have its main aspect facing to the north and to the proposed garden. The proposed first floor would comprise an open plan living/dining and kitchen area, benefiting from a number of sources of natural light and outlook, in particular a large bay window facing west over Castle View. These changes address, in my view, the concerns raised by the Inspector in this respect.
10. The previous Inspector also raised concerns over the proposed garden, which essentially comprised a narrow area located at the front between the proposed dwelling and the new 1.8 metre high boundary fence. The Inspector found this layout to be of poor quality.
11. The footprint of the proposed bungalow, in the 2016 Appeal scheme, occupied a large part of the site. In response, the footprint of the revised scheme has been significantly reduced so that it would only occupy approximately half of the plot. The new building would be located on the southern half of the site, allowing the northern half to be set aside as a garden. Whilst the latter would still be enclosed by a new boundary fence, its overall size and layout would be of a far greater quality than the garden area in the 2016 Appeal scheme, and it would also be both useable and functional.
12. The Council argue that the garden would be oppressive given its proximity to the proposed gable end of the new building and to the new boundary fence. For the reasons given above, I do not agree. The submitted plan indicates that the proposed garden would comprise approximately 50 square metres, which for a one bedroom unit, is a good size and reasonable level of provision. The appellant has provided an indicative layout which shows that this area is more than sufficient to accommodate a drying area, patio, landscaping, vegetable patch, whilst still leaving surplus space for other outdoor activities.
13. The Council have not referred to any adopted standards for the provision of amenity space. However, they have referred to the Chief Planning Officer's Advice Note: Good Design in Cornwall (December 2017) (CPO Note). Whilst this is not a statutory document and the weight that can be attached to it is, therefore, limited, paragraph 10 indicates that whilst all gardens should be appropriate for their context, they should also be of sufficient size to accommodate a drying area, planting, vegetable patch and where appropriate, a safe playing space for children. As a rule of thumb, the CPO Note indicates that gardens should be of equal size or larger than the footprint of the building they serve. The appellant's supporting plans indicate that the size of the proposed garden would well exceed the footprint of the proposed building.
14. The Council also argue that the garden area will be in the shade, but provide no evidence to support this statement. The appellant has, however, provided

- an analysis, which indicates that, at various times of the day, the proposed garden would receive a reasonable amount of daylight and sunlight.
15. In relation to the positioning of the garden area to the side of the new dwelling, this is not, in my view, an uncommon relationship or layout. It would not affect the quality of or enjoyment of the proposed garden, which would also be relatively private. The appellant has drawn comparisons with the approved garden layout for a new house at 16 Castle View (ref. PA18/09876). Whilst care needs to be taken when making such comparisons, this approved layout has its main garden to the side of the new dwelling, which the appellant suggests would be of a similar size to that in this appeal, albeit serving a three bedroomed (five person) house. I also note that this approved garden would have a similar relationship to the gable end of the new house and to a new 1.8 metre high boundary fence.
 16. The previous Inspector concluded that, combined, the poor quality of the internal living accommodation and the external amenity area, resulted in a development that felt cramped in its plot and did not secure an acceptable level of all round living accommodation. I am satisfied that both of these concerns have been addressed in the revised scheme. As a consequence, the proposed dwelling would not be cramped in relation to its plot size and would provide a good standard of living accommodation, both internally and externally.
 17. The Council also argue that the poor and cramped layout would result in a development that does not function well or add to the overall quality of development in the area.
 18. Leaving aside the findings I have reached above in relation to the acceptability of the proposed layout, the properties surrounding the appeal site are mixed and vary in terms of their scale, style, design and layout. Within this context, the appeal site has no particular role or function, in that it does not form part of the formal estate layout and is separated from the existing pattern of development. It is also not an important open space in the context of the streetscene, which is reflected by the fact that the site previously benefited from planning permission for two single storey garages.
 19. Whilst I accept that the proposed two storey building would visually be more prominent than the previously approved garages, the scale, design and siting of this new building would not, in my view, result in any significant harm to the streetscene or to the character of the area. As a consequence, the proposed building would not be out of keeping and it would sit comfortably on this small plot.
 20. The proposed design is simple, but effective and includes detailing found on surrounding properties, such as its render finish, gabled roof design and window proportions/detailing. As a result, the proposed building would not appear incongruous and any direct contrast with surrounding properties would not detract from or materially harm the rhythm and pattern of existing built development.
 21. The Council argue that the new building would be prominent in views from Castle View. Even so, there is no evidence before me to suggest that those views would give rise to any significant harm. The Council also refer to the previous Inspectors comments that surrounding properties benefited from front and rear gardens and that the proposed plot was smaller than existing plots in

the area. However, this comment was made in the context of the Inspectors findings that that scheme would offer far less outdoor amenity space than that found on existing properties nearby and also, that the proposed amenity space was of such poor quality.

22. For the above reasons, I am satisfied, on balance, that the proposed development would not be at variance with the aims and objectives of Policy 12 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (CLP) or the guidance set out in the Cornwall Design Guide, the CPO Note and the Building for Life 12, and that it would also be compliant with the advice in paragraph 127 of the Framework.

Other Matters

23. Concerns have been raised regarding the lack of on street parking, maintenance of the retaining wall, alternative uses for the appeal site, highway safety and impact on neighbours. There is no detailed evidence before me to suggest that any of these concerns would result in material harm and I note that they are not issues that the Council have raised. I am satisfied, therefore, that none of these issues would give rise to any significant harm.
24. The Council has questioned whether there is a discrepancy on the floor plans. The appellant has responded by producing an overlay of the proposed ground and first floors. I am satisfied, based on this overlay and my own assessment of the proposals, that there is no apparent discrepancy on the submitted plans. The Council have also raised a concern over the size of the proposed car port. The appellant has indicated that the width, at the front, allowing for a proposed pillar, is approximately 2.1 metres, which then increases to 3 metres. This width is, in my view, sufficient to allow access for an average sized car, as well as providing sufficient space for occupiers of the vehicle to then open their car doors. Even so, I note from the Council's Delegated Report that as the site is in a sustainable location, the requirement for off-street parking is not considered to be essential.
25. With regard to the SNP, I understand that this is the first draft of that plan and it is, therefore, still at very early stage in plan process. In view of this, I have not accorded any weight to the policies of the SNP, but even so, those referred to by the Council would not have affected the findings I have reached.
26. There are a number of benefits to the appeal scheme. The proposed development would secure the more efficient use of this site and maximise the potential it offers to contribute towards housing need, specifically for a small household, within a sustainable location. All of these are benefits that are supported by other development plan policies, as well as those of the Framework. These benefits add further support to the findings I have reached above.

Conditions

27. The Council has suggested a number of conditions which I have considered against the advice in the Framework and the Planning Practice Guidance (Guidance) on the use of planning conditions.
28. Conditions relating to the provision of parking, submission and approval of boundary treatment and a drainage scheme, and the use of obscure glazing, are necessary and reasonable in order to secure a high-quality sustainable

development, prevent increased risk of flooding and pollution, and to safeguard the living conditions of neighbours.

29. In relation to condition 6), I note that a drainage scheme is required in accord with Policy 26 of the CLP, notwithstanding the information submitted with the appealed application and that the appellant has not objected to this condition. The appellant has also not raised any objections to Condition 5), albeit in relation to the proposed east (rear) elevation I could not find any reference to the use of obscure glazing. Even so, as this elevation faces onto a neighbouring property, obscure glazing is required to protect the living conditions of those occupiers.
30. Whilst the Guidance advises that permitted development rights should only be taken away in exceptional circumstances, I am satisfied that those circumstances exist here and that a condition preventing further windows being installed under permitted development rights is necessary and reasonable to safeguard the living conditions of the occupiers of neighbouring properties.
31. I have also added a condition requiring compliance with the submitted plans for clarity and modified the wording of some of the conditions.

Conclusion

32. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex - Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) Before the permitted dwelling is occupied, the parking area shall be laid out and constructed in accordance with plan no 2018.2.FPP and the said area shall not thereafter be obstructed or used for any other purpose.
- 3) No development above slab level shall take place until details of all boundary treatment 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 and retained as such thereafter.
- 4) 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 windows or dormer windows, other than those expressly authorised by this permission, shall be constructed on the northern, eastern and southern elevations.
- 5) The first floor windows on the southern and eastern elevations shall be obscure glazed and retained as such thereafter.

- 6) Notwithstanding the drainage details submitted with the application, the dwelling hereby permitted shall not be occupied until a scheme for the provision of surface water management and foul water treatment has been installed to serve the development in accordance with details that shall have been first submitted to and approved in writing by the local planning authority. Such details shall include: 1. Details of the final drainage schemes including calculations and layout; 2. Confirmation from South West Water Ltd that the foul network has sufficient capacity to cater for this development; 3. A Construction Surface Water Management Plan; 4. A Construction Quality Control Plan; 5. A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features; 6. A timetable of construction; 7. Confirmation of who will maintain the drainage systems and a plan for the future maintenance and management, including responsibilities for the drainage systems and overland flow routes. Thereafter, the approved scheme shall be implemented in accordance with the details and timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details for the lifetime of the development. Details of the maintenance schedule shall be kept up to date and be made available to the local planning authority within 28 days of the receipt of a written request.
- 7) This permission is in respect of the following submitted application plans: Drawings No. 2018.2.LPP (location plan), 2018.2.FPP, 2018.2.EPP, 2018.2.SPP & 2018.2.SWDP. The development shall be carried out in accordance with these approved plans unless otherwise agreed in writing by the local planning authority.