The Planning Inspectorate

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: 2 August 2019

Appeal Ref: APP/D0840/W/19/3225984
The Atlantic Inn Car Park, Peverell Terrace, Porthleven, TR13 9DZ

- 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 The Atlantic Inn against the decision of Cornwall Council.
- The application Ref PA18/07496, dated 9 August 2018, was refused by notice dated 8 October 2018.
- The development proposed is new dwelling and associated works.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The 2018 version of the National Planning Policy Framework (Framework) has been replaced by the February 2019 version. However, the policies that are relevant to this appeal have not changed.

Main Issues

3. The main issues are:

    - the effect of the proposed development on the character and appearance of the area with particular regard to the sites location within the Porthleven Conservation Area and the Cornwall Area of Outstanding Natural Beauty; and
    - the effect of the proposed development on the living conditions of the existing neighbouring occupiers at Compass Cottage.

Reasons

Character and appearance

4. The appeal site is located on the southern side of Peverell Terrace. It is currently tarmacked and enclosed by low walls. It is used for parking and as a bin store in conjunction with The Atlantic Inn, which is located to the north west of the appeal site.

5. The appeal site lies within the Porthleven Conservation Area (PCA). Paragraph 190 of the Framework requires consideration to be given, therefore, to the impact of any new development on the character and appearance of the conservation area. This approach is reflected in Policy 24 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (CLP).

6. The properties to the north and north-west of the appeal site, on Peverrell Terrace, are predominantly 2 storeys, comprising a mix of designs and styles. The area to the west and north west of Peverell Terrace is more open, and whilst some new development has been permitted to the west of the appeal site, this has been designed so that most of the built form lies below the level of the road. As a consequence, the spaciousness, open outlook and sea views on this side of the road have largely been retained.

7. The PCA Appraisal and Management Strategy (March 2010) (Appraisal) includes the appeal site within the "*Seaside*" character area, described as predominantly eighteenth and nineteenth century cottages arranged in an informal closely knit pattern along the coastal path/road. The Appraisal also identifies sites and buildings that are either vacant, derelict or in poor condition, where there may be opportunities to enhance the character and appearance of the PCA through redevelopment or refurbishment. The appeal site is not mentioned. It also refers to modern development that is considered to detract from the PCA, which includes a site to the west of the appeal site. The Appraisal continues at 5.1 by stating that "*New buildings should reflect the grain of the historic settlement, respect important views (see also principle 3.1), and should be inspired by the proportions, massing and materials of surrounding historic buildings*."

8. The appeal site occupies a prominent position within the streetscene. It is highly visible when traveling in either direction on Peverell Terrace, and also in approaching from the unnamed road that links Cliff Road with Peverell Terrace. From a number of these vantage points, the undeveloped nature of the appeal site offers significant views of the sea and coastline, which is a positive feature of the PCA. The openness of the appeal site, when viewed with the low level development to the west and the open areas further to the north west, make a positive contribution to the PCA.

9. Within that context, the scale, design and mass of the proposed dwelling would be significant. It would result in a marked change in the appearance of the site and the character of the streetscene. It would be visually dominant and would result in significant harm to the contribution that the appeal site makes to the character and appearance of the PCA. The proposed development would not respect the grain or pattern of development and its proportions and massing would be out of scale in comparison with the new development that has been permitted to the west. In my view, the impact on the PCA would be substantial and it would not be mitigated by any public benefits that the proposal would secure.

10. Furthermore, most of the properties on the eastern side of the Peverell Terrace are set back behind well designed front gardens or parking areas, enclosed by a combination of stone/rendered walls and landscaping. The proposed building, on the other hand, would be sited very close to the back edge of the road, further accentuating the imposing impact it would have on the streetscene and on the spaciousness of this part of the road. The impact of the new building would also be harmful when viewed from the properties to the south of the appeal site, due to its elevated position relative to those properties.

11. The appellant indicates that the proposed development should be viewed in the context of recent developments permitted to the west. However, as I have

found, these developments have been sensitively designed so as to sit at a much lower level to the road. As a consequence, their impact on the openness and on views from and within the PCA have been significantly mitigated. This is evidenced by the before and after photographs included with the plans for the approved dwelling on the adjoining site, ref. PA16/10925. These photographs also show that that development replaced existing single storey buildings and structures. Whilst I appreciate that the new dwelling further to the west is more prominent, this too sits at a much lower level to the road, so that only part of its gable end and roof are visible. Again, this is reflected in the submitted 'sketches' of the proposed streetscene.

12. The appellant argues that the appeal site is of no historic value, but as I have found, it forms an intrinsic part of the PCA and makes an important to its character and appearance. Moreover, the poor condition of the site is not, in any way, justification for allowing a development that would result in significant harm. The current condition of the appeal site is also a matter that is very much within the control of the appellant.

13. The appellant argues that the proposed materials are in keeping with those that prevail in the area, and in accord with the Cornwall Design Guide (CDG). That may be so, but it is the scale, design and massing of the development that gives rise to the harm, as well as its failure to make a positive contribution to local character and distinctiveness as required by paragraph 192 c) of the Framework. The appellant suggests that the development would establish a consistent street frontage which is at present absent and a discordant feature of the area. For the reasons given above, I disagree. Even when regard is had to the new development to the west, the scale of the appeal proposal would be incongruous and in complete contrast to the prevailing built form on this side of Peverell Terrace.

14. The appellant contends that the proposed development will improve the visual appearance of the site and the PCA. Again, for the reasons set out above, that is not a view I share. The appellant also indicates that whilst sea and coastal views will be partially obscured by the proposal, the overall character of the street, where such views are interrupted by built form, will be preserved. As I have found, the proposed building would have a harmful impact on the openness, spaciousness and views in this part of the PCA.

15. The appeal site also lies within the South Coast Western section of the Cornwall Area of Outstanding Natural Beauty (AONB). Paragraph 172 of the Framework attaches great weight to conserving and enhancing such areas. This is reflected in Policy 23 of the CLP and Policy MD9 of the Cornwall AONB Management Plan (CMP). Both confirm that development will only be permitted where it is of an appropriate scale, is compatible with its surroundings and promotes the conservation of the historic environment and the heritage assets that it forms part of. Given the findings I have reached in relation to the PCA, for those same reasons, the proposed development would also result in harm to the character and appearance of the AONB.

16. The appellant has referred to other Council decisions which they argue demonstrate the acceptability of new build development involving significant increases in scale and massing. However, I have considered the appeal proposal on its individual merits, having regard to the particular circumstances of this case. Even so, I do not know the full planning circumstances of these

cases and it is not possible for me, therefore, to determine whether they are comparable to the appeal proposal.

17. Accordingly, I find that the proposed development would be contrary to Policies 1, 2, 12, 23 and 24 of the CLP, Policy MD9 of the CMP, Section 7 of the CDG and paragraphs 127, 130, 172, 192 and 196 of the Framework. Combined, these policies seek, amongst other requirements, to protect, enhance and conserve existing heritage assets and the AONB, and to ensure that new development is of an appropriate scale, layout, height and design for its context and retains and enhances the special character of Cornwall.

Living conditions – existing neighbours

18. The submitted plans show that the proposed building would be sited close the southern boundary of the appeal site. This part of the new building would comprise a large two storey gable end, which, on the first floor, would contain an expanse of glazing to serve the proposed living room. Beyond this southern boundary, the land falls away over a bank and then a shear drop over a stone wall to the side boundary of Compass Cottage.

19. On my site visit, I viewed the appeal site from various locations, as well as from the front amenity area, raised door entrance and rear garden to Compass Cottage. Whilst views from the rear garden are largely screened and are at an obscure angle, from the other viewpoints it was clear that the proposed dwelling would have an overbearing impact on the living conditions of the occupiers of Compass Cottage and would result in an unacceptable sense of enclosure.

20. As the proposed building, in particular its two storey gabled end, would sit at a much higher level, close to the edge of the existing bank/wall, it would be highly visible from the front of Compass Cottage. As a consequence, the proposed development would, in my view, have a significant impact on the outlook of the occupiers of Compass Cottage and would appear overbearing when viewed from the front windows and small private amenity area to that property.

21. The appellant argues that the outlook of Compass Cottage would not be affected due to the change in levels and as the principal aspect of this property is towards Cliff Road. However, the harmful impact arises as a direct result of the elevated position of the appeal site and the scale of proposed building, as well as the absence of any proposals to mitigate this harmful relationship.

22. The appellant has referred to the fact that Compass Cottage is a holiday let and does not lend itself to being used as a single family dwelling. I am unclear as to the basis on which the latter statement is made, but in either case, these factors are not relevant and they do not negate the requirement for me to assess the impact of the proposed development on the living conditions of existing as well as future occupiers of that property.

23. Due to the orientation of Compass Cottage relative to the proposed development, there is unlikely, from what I could observe on site, to be any direct overlooking into the main windows of the cottage. Whilst the front amenity area of the cottage will be overlooked, this would, in my view, be no different to the current situation, where this area is already overlooked by adjoining properties.

24. Although the Council argue that occupiers will be overlooked as they enter and leave Compass Cottage, I am not satisfied that any resulting harm would be sufficient in itself to justify the refusal of planning permission. In view of this, I have not given consideration to the appellant's suggestion that any concerns in this respect could be mitigated by the use of obscure glazing or landscaping.

25. The appellant has referred to other decisions for new build development where they allege similar issues of overlooking and loss of outlook have been accepted by the Council. However, as I confirmed above, my duty is to consider the appeal proposal on its individual merits, and, even so, I have not been provided with any detailed evidence that would allow me to make any such comparisons.

26. I find, therefore, that the impact of the proposed development on the living conditions of the occupiers of Compass Cottage by reason of loss of outlook would be unacceptable and fails to comply with Policy 12 (2) of the CLP and paragraph 127 f) of the Framework. Both seek to protect the living conditions of the occupiers of neighbouring properties from the harmful impacts of new development.

Other Matters

27. Concerns have been raised regarding the loss of the existing parking for The Atlantic Inn, noise impact from the use of the retained bin stores and highway safety. However, no detailed evidence has been submitted to suggest that these concerns would result in any material harm. I also note that these issues were addressed in the Council's Delegated Report and that they were not matters that the Council subsequently raised in their objections to the proposed development. I am satisfied, therefore, on the basis of the evidence that is before me, that none of these issues would give rise to any significant harm.

28. Reference has also been made to the appellant's original application submission which indicated that the new dwelling was required to support the viability the public house. However, no evidence has been submitted to demonstrate this and I have not, therefore, considered this matter further.

29. I note that a consultation response from Natural England confirmed that the appeal site was located within the 'zone of influence' of the Fal & Helford Special Area of Conservation (SAC). Paragraph 176 of the Framework confirms that SAC's should be given the same protection as habitat sites. However, Natural England went on to say that it was a matter for the Council to decide whether an assessment of the proposal was required in this respect. This issue has not been raised by the Council and I have assumed, therefore, that they were satisfied that no such assessment was required.

30. The appellant has referred to the benefits of the appeal proposal in terms of boosting the supply of housing, contributing to the housing targets of the CLP, promoting the more effective use of this brownfield site and securing new development within a sustainable location.

31. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires all proposals for development to be determined in accordance with the development plan unless material considerations indicate otherwise.

32. I accept that the appeal proposal would make a contribution to meeting future housing provision and would secure development on previously developed land within an existing settlement, benefits that are supported by other policies in the development plan and the Framework. However, the contribution to future housing provision would be very small, as would any economic benefit from increased spending, support for local facilities or short term employment in construction. In view of this, I have attached only moderate weight to these benefits and they are not sufficient, either individually or cumulatively, to outweigh the significant harm that I have identified.

33. In relation to the presumption in favour of sustainable development, as paragraph 11 c) of the Framework confirms, that only applies to development that accords with an up to date development plan. As I have found, the proposed development would be contrary to the CLP, which is up to date and consistent with the policies in the Framework.

Conclusions

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

G Roberts

INSPECTOR