
Appeal Decision

Site visit made on 22 July 2019

by M Harris BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/D0840/W/19/3227858

**Serendah, Road from Upton Meadows to Marine Drive, Upton,
Bude EX23 0LY**

- 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 Ms Karen Fitz-Hugh against the decision of Cornwall Council.
 - The application Ref PA18/06879, dated 23 July 2018, was refused by notice dated 12 November 2018.
 - The development proposed is the demolition of existing dwelling house and garage and the redevelopment of the site into eight apartments and a penthouse.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house and garage and the redevelopment of the site into eight apartments and a penthouse at Serendah, County Road, Upton, Bude EX23 0LY in accordance with the terms of the application, Ref PA18/06879, dated 23 July 2018, subject to the conditions in the attached schedule.

Procedural Matter

2. The address in the heading above has been taken from the planning application form. However, it is evident from the appellant's submissions that the 'Road from Upton Meadows to Marine Drive' is actually County Road. I have, for completeness, used County Road in my formal decision.

Main Issue

3. The main issue is the effect of development, by virtue of siting, scale, massing, height and the extensive use of glazing, on the character and appearance of the immediate vicinity and the wider landscape and seascape setting.

Reasons

4. The appeal site lies at the junction of Marine Drive and County Road. The site is currently occupied by a substantial dormer bungalow with associated outbuilding/garage. Upton is a small, linear settlement, a short distance beyond Bude, which contains a range of house types and designs with no significant unifying style.
5. Within the immediate environs of the site there are a range of dormer bungalows, large two storey detached dwellings, terraces and large buildings. This includes Piran Heights adjacent to the site which has accommodation in

the roof space resulting in the building reading as three storeys.

6. The current dwelling is one of two properties straddling Marine Drive which when travelling south function as the end of the settlement, although further development is visible in the distance. When approaching Upton from the south, the appeal site is situated on a key corner. The current building, whilst substantial in terms of footprint, is lower in height and smaller in mass than the neighbouring properties on County Road, a number of which are orientated and elevated to benefit from the coastal vista. Taken as a whole, the plot is a prominent one with extensive coastal views to the south.
7. The scale and mass of the proposed development is larger than the building which it would replace. This would result in the proposed building reading as two or three storeys high, depending on the elevation. While the proposed building would be higher than the existing building, it would be lower than Piran Heights.
8. The position and orientation of the proposed building would reflect that of other buildings on County Road whilst seeking to ensure that there is no demonstrable harm in respect of the living conditions of the occupants of those properties.
9. The proposal was presented to the Cornwall Design Review Panel, reflecting the support for such an approach within paragraph 129 of the National Planning Policy Framework (the Framework), with an acknowledgement that the scale and massing are appropriate to the setting. I agree with this view and I do not consider that harm would arise by virtue of the proposed design, even with the increase in development over the existing position.
10. Turning now to the proposed palette of materials. It was noticeable from my site visit that there is significant variance in the locality. To the north, The Sheiling is a red brick and tile property and beyond this there are rendered properties, some of which are painted, and evidence of ongoing building works introducing further variety of materials to other buildings. Both Piran Heights and Gwin Haven were observed to have some significant glazed elements, including large windows and extensive balustrades to balconies to take advantage of views.
11. Whilst the appeal scheme would have a contemporary design and appearance, the proposal would not be entirely out-of-keeping with the appearance of other buildings in the locality. Furthermore, the proposed material palette is evident locally as is the use of glazing, in part to maximise views of the land/seascape.
12. In light of the above, I do not consider that the development would have an unacceptable impact on the character and appearance (by virtue of design) of the immediate vicinity and wider landscape or seascape setting. I therefore conclude that the proposal would not conflict with the Cornwall Local Plan Strategic Policies 2010-2030 (Local Plan) in respect of policies 1 or 2 insofar as they relate to the presumption in favour of sustainable development or spatial strategy. I also conclude that the proposal would not conflict with Local Plan policies 12 or 23 and their aim to promote high quality design and to respect the natural landscape.
13. Further, whilst not cited within the refusal, saved policy ENV1 of the North Cornwall Local Plan 1999 has been highlighted by the Council within their

statement. However, I find no conflict insofar as the saved policy seeks to protect landscape character.

14. In respect of Policy 5 of the Bude-Stratton Neighbourhood Development Plan 2016-2030 I conclude that the proposal accords with its aim to support brownfield and infill development. The proposal also represents good design as advocated by Section 12 of the Framework, in particular paragraph 127 concerning the promotion good architecture which considers the surrounding built environment and landscape setting.

Other Matters

15. Interested parties have raised concerns regarding coastal erosion in the vicinity of the appeal site. There is, however, no substantive evidence before me to support these concerns.
16. The Council's Officer Recommendation to committee discussed the requirement for a planning obligation to address matters of education and public open space. The absence of a signed agreement was not a reason for refusing the planning application, but a signed and dated Section 106 Agreement (s106) has been submitted as part of the appeal process.
17. It is necessary for me to consider the submitted s106 against the tests set out at paragraph 56 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Housing development can bring about increased demand for both education facilities and public open space. The evidence before me, including the Council's Section 106 Planning Obligations Guidance for Education Provision and Open Space Strategy for Larger Towns in Cornwall, identify the relevant thresholds and payments together with how contributions would be spent.
18. I am satisfied that the s106 meets the tests and I have therefore attached weight to it in reaching my decision.

Conditions

19. The Council proposed conditions when making their recommendation to Committee and their appeal statement confirms that those conditions are to be relied upon should the appeal be allowed. I have reviewed these against the tests detailed in the Framework and accompanying Planning Practice Guidance and have made minor changes, including to numbering, where necessary to aid clarity. The appellant has confirmed their acceptance of pre-commencement conditions.
20. Conditions 1 and 2 confirm the timescales and approved plans in order to ensure the development is delivered in accordance with the submitted details.
21. Condition 3 is necessary in order to ensure the sustainable management of surface water and discharge of foul water from the site. I have added a new condition 4 in response to the representations of the Piran Heights Management Company Ltd in recognition of their concerns regarding the overall height of the development and to ensure that the development is delivered in accordance with the design intent. Condition 5 is necessary to ensure ecological protections are in place during the demolition and construction phase; the approved Ecological Opportunity Plans (1 and 2) secure suitable mitigation. I have imposed condition 6 to minimise any disturbance

arising during the construction period in the interests of residents living conditions.

22. Conditions 7, 8, 9 and 10 are all necessary to secure the appropriate landscape details and finished materials together with the necessary layout and delivery of access to the site, car parking and road crossings in order to ensure the delivery of the scheme in accordance with the submitted and approved details.

Conclusion

23. I have found that the proposals represent good design whilst respecting the character and appearance of the immediate vicinity and wider landscape and seascape setting. Conditions ensure that the quality of design is secured and delivered, and the executed planning obligation ensures that any impact arising from the development in respect of education and public open space requirements can be mitigated.

24. For the reasons given above, I conclude that the appeal is allowed.

M Harris

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 17023 PL01; 17023 PL102 C; 17023 PL103; 17023 PL104; 17023 PL104.1; 17023 PL105; 17023 PL107; and Ecological Opportunities Plans 1 of 2 and 2 of 2.
3. No development hereby permitted shall commence until details of a scheme for the provision of surface water management and foul water treatment has first been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 1. A description of the foul and surface water drainage systems operation;
 2. Details of the final drainage schemes including calculations and layout;
 3. Confirmation from South West Water Ltd that the foul network has sufficient capacity to cater for this development;
 4. A Construction Surface Water Management Plan;
 5. A Construction Quality Control Plan;
 6. A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features;
 7. A timetable of construction; and,

8. 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.

4. No development shall take place until full details of the proposed finished floor levels together with eaves and ridge heights of all buildings (relative to the submitted application plan 'Survey as Existing 17023 SURV01) 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. The demolition of the existing dwelling and subsequent construction of the development hereby permitted shall be carried out in accordance with the mitigation and compensation measures set out within section 5 of the submitted 'Bat Roost Assessment' report undertaken by Encompass Ecology Ltd and the details indicated on the two submitted Ecological Opportunities Plans (and as may be modified by a Natural England European Protected Species Licence), namely:

- New roost provision;
- Site lighting;
- Timing of works;
- Hand stripping of key areas; and,
- Provision of bird nesting opportunities and retained as such thereafter.

6. Site clearance and construction works shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. No works shall take place at any time on Sundays or Bank/Public Holidays.

7. With the exception of site set-up, demolition and site clearance, no development hereby permitted shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority.

The hard landscaping details shall include:

- proposed finished ground levels or contours;
- means of enclosure;
- circulation areas;
- hard surfacing materials;
- refuse or other storage units/structures; and,
- consideration of the salvaging and reuse of the existing stone within walls and garden areas on site within the landscaping scheme.

The soft landscape works details, together with a plan detailing their implementation, shall include:

- planting plans;
- written specifications;
- schedules of plants (noting species);
- plant sizes; and,
- proposed numbers/densities where appropriate.

All hard and soft landscape works shall be carried out in accordance with the approved details in the first planting season following the first residential occupation of the development hereby permitted, or the completion of the development hereby permitted, whichever is the sooner.

Any trees or plants which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

8. Prior to any works above slab level, full details of the materials to be used in the construction of the external surfaces of the building hereby permitted (including doors/windows/wall finishes/cladding/roof materials and their method of fixing) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

9. Prior to the completion of the car parking areas and the first residential occupation of the development hereby permitted, full construction details for all proposed footway works, crossing point improvements and the stopping up of the existing North West vehicular access onto Marine Drive, as indicated on approved plan ref: 17023 PL02C, shall have been submitted to and approved in writing by the Local Planning Authority.

Thereafter, the footways, crossing points and the permanent stopping up of the existing vehicular access onto Marine Drive shall be completed in accordance with the approved details prior to the first residential occupation of the development.

10. Prior to first occupation of the development hereby permitted a plan shall be submitted to and approved in writing by the Local Planning Authority which details the car parking spaces (including any delineation necessary), access and circulation areas together with the materials to be used. They will be constructed in accordance with the approved details and made available for the use by residents prior to the first residential occupation of the development hereby permitted. Those parking and turning spaces shall not thereafter be used for any other purpose than manoeuvring and parking of vehicles in connection with the operation and residential occupation of the development.

End of schedule