The Planning Inspectorate

Appeal Decision

Site visit made on 17 September 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal Ref: APP/D0840/W/19/3225046
Penmere and Trelyn, The Crescent, Truro, Cornwall TR1 3ES

- 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 Kernoweth Homes Ltd against the decision of Cornwall Council.
- The application, Ref. PA18/07302, dated 3 August 2018, was refused by notice dated 20 December 2018.
- The development proposed is extension and alterations to garages at rear of proposed development at Trelyn and Penmere to create 2 No. first floor flats.

Application for Costs

1. An application for costs was made by Kernoweth Homes Ltd against Cornwall Council. This is the subject of a separate Decision.

Preliminary Matter

2. As some building works have already taken place the appeal application is in part retrospective.

Decision

3. The appeal is dismissed.

Background and Main Issues

4. The appeal proposal is effectively an amendment to the permission for the redevelopment of the site of two dwellings, Penmere and Trelyn, by the construction of a terrace of four dwellings along the front building line of The Crescent. This scheme also included the erection of two single storey garage blocks providing four garages for the new dwellings.

5. These are positioned within the rear curtilage of the site with their access from the service lane that serves all or most of the dwellings on the north side of the street as well as the houses in Coronation Terrace further to the north. The current proposal would provide two one-bedroom flats above the garage buildings.

6. The main issues are (i) the effect of the proposed development on the character and / or appearance of the area and the Truro Conservation Area, and (ii) the adequacy of the living conditions for future occupiers of the flats.

Reasons

7. The officers' report recommended approval for the revised scheme and in so doing weighed the pros and cons of the introduction of an additional two new homes to the former Penmere and Trelyn site. The main advantage was considered to be the economic, social and environmental benefits associated with two new homes in Truro in a location that is highly accessible to a wide range of services and facilities within the city. On balance, these factors were considered to clearly outweigh the disadvantages of the proposal.

8. Leaving that favourable recommendation for the applicant (now appellant) temporarily aside, the drawbacks of the amendment to the original scheme were also set out in the officers' report and have since been augmented by the Council's appeal statement and further objections from neighbours. I have had regard to all these in the light of my visit to the site, the grounds of appeal and appellant's final comments.

9. On the first issue, the character of the area on both sides of the rear access lane is defined by rear gardens and a miscellany of boundary walls and single storey outbuildings. Although these have a cluttered appearance and are ostensibly of no particular visual merit, the buildings and their haphazard positions are typical of older established suburban neighbourhoods. As is often the case, the original houses have gradually been supplemented over the years with garages for residents' cars, albeit now not often used for this purpose, and other ancillary buildings to accommodate domestic paraphernalia. And despite the absence of any obvious aesthetic quality the area has a pleasingly peaceful and subservient character that in my view makes an important and positive contribution to the conservation area.

10. Given this context, I consider that the introduction of residential accommodation by means of two first floor flats above the garage blocks would be an incongruous form of development that would draw the eye and be perceived as harmfully out of place in this part of the conservation area. As the Council says, their relatively large scale and residential appearance including dormer windows and rooflights would be noticeably at odds with the smaller, simpler and clearly ancillary outbuildings on the adjoining and nearby plots. The rearward siting of the dwellings would be out of keeping with the linear street frontage settlement form that the Council explain as following the contours of the valley.

11. Furthermore, the increased size of the garage blocks as regards height and to some extent footprint to accommodate two additional dwellings, together with the increased activity from their occupation, would result in a cramped and congested form of development amounting to, in short, an overdevelopment of the site. This would be especially apparent in visual terms because of the close proximity of the garage / flats buildings to three of the site boundaries including the rear access lane. The relatively open appearance of the rear garden areas would be in part compromised by the proposed development.

12. On this issue, I therefore conclude that the proposal would have a harmful effect on the character and appearance of the locality, which lies within the conservation area. The appeal scheme would not therefore preserve these aspects of the conservation area and there would be conflict with Policies 2, 12

& 24 of the Cornwall Local Plan Strategic Policies 2010-2030 adopted in 2016 ('the Local Plan') ; Policies C1, E4 & H1 of the Truro and Kenwyn Neighbourhood Plan 2015-2030, and Section 16: 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework 2019 ('the Framework').

13. On the second issue, the living conditions for the future occupiers of the flats, the Notice of Refusal refers to 'mutual overlooking' with a resultant inadequate privacy. In my view this is clearly correct, because the French dormer windows would directly face one another over a gap of about 8m, only a third of the recommended standard in the Cornwall Design Guide 2013.

14. However, in this case the harm is compounded because the other fenestration would be confined to rooflights, which provide only natural light but no outlook in any meaningful sense. I therefore consider the outlook as a whole from each of the flats to be of particularly limited scope and quality, whilst resolving the overlooking issue through obscure glazing secured by a condition would make it much worse. Additional factors that derive from the proposal are the absence of any external amenity area for the occupiers and the fact that they would be subject to the noise and disturbance from residents of the four houses using their allocated garages directly beneath the living accommodation. These and other matters have been referred to in detail in third party objections and I consider that they can be legitimately considered given that the appellant has had a 'right of reply' through the appeal process.

15. On this issue I conclude that the living conditions for future occupiers of the flats would be well below a satisfactory and acceptable standard in the terms outlined above. This would be in conflict with Local Plan Policy 12 and paragraph 127f) of the Framework. I acknowledge that future occupiers would be able to decide for themselves the suitability of the accommodation, but this does not obviate the need for reasonable minimum standards as regards day-to-day living conditions.

16. Returning to the advantage of the scheme providing two additional homes on the site, because the proposal would lead to 'less than substantial' harm to the significance of the conservation area as a designated heritage asset, paragraph 196 of the Framework requires this harm to be weighed against the public benefits of the proposal, including where appropriate securing its optimum viable use. The term 'less than substantial' should not be interpreted as minimising the case against the proposal, as the bar for a development to cause 'substantial' harm is set at a very high level.

17. I accept that the addition of two dwellings to the original scheme secures an optimum viable use of the site and that they would be a worthwhile, albeit modest, addition to the housing stock of the area. The fact that the accommodation is likely to be at the more affordable end of the market further enhances the public benefit. Nonetheless, I also consider the drawbacks of the scheme in the form of harm to the character and appearance of the conservation area, to be such as to outweigh the benefits of the development.

18. I have given careful consideration to the matters raised in the grounds of appeal, which include references to the sections of the Framework considered to be supportive of the proposal. I have also noted the appellant's concern as

to the way in which the Members overturned the officers' recommendation; the allegedly inappropriate use of some of the descriptions of the development; a suggestion that the Council's analysis of the character of the conservation area is flawed and various other matters, including that the Council has gone beyond its remit in terms of the reasons for refusal. I have similarly had regard to the submissions in the appellant's Final Comments.

19. However, nothing I have seen or read leads me to alter my conclusions on the main issues or the related more detailed submissions in the appeal. The initial report by the planning officer recommended on balance that the advantage of the scheme in terms of two more new homes warranted an approval. However, the Members have reached a different planning judgement, as they are entitled to. On the evidence before me, and again on balance, I share their view. And taking account of national and local planning policies and all other material considerations, I consider that there is a clear-cut justification for the Council's decision to refuse permission.

20. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR