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## Appeal Decision

Site visit made on 10 December 2019

**by C Cresswell BSc (Hons) MA MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 December 2019**

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**Appeal Ref: APP/D0840/W/19/3232355**

**Little Hendra, Boskerris Road, Carbis Bay TR26 2NQ**

- 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 Andrew McGivern against the decision of Cornwall Council.
  - The application Ref PA18/07686, dated 15 August 2018, was refused by notice dated 14 January 2019.
  - The development proposed is demolition of existing dwelling and redevelopment of the site to provide 7no new dwellings and 1no replacement dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for 'demolition of existing dwelling and redevelopment of the site to provide 7no new dwellings and 1no replacement dwelling' at Little Hendra, Boskerris Road, Carbis Bay TR26 2NQ in accordance with the terms of the application, Ref PA18/07686, dated 15 August 2018, subject to the conditions set out in the Schedule at the end of this Decision.

### Procedural Matter

2. The Application Form indicates that the proposed development is for a total of nine dwellings (including one replacement dwelling). However, the plans before me in this appeal show a total of eight dwellings and this is how the development is described in the Appeal Form. For accuracy, I have therefore taken the description of development in this Decision from the Appeal Form rather than the Application Form.

### Application for Costs

3. An application for costs was made by Mr Andrew McGivern against Cornwall Council. This application is the subject of a separate Decision.

### Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

#### *Character and appearance*

5. The appeal concerns a detached house surrounded by a large garden. While this part of Carbis Bay is mainly residential in nature, housing types and densities vary. Housing to the west in Boskerris Crescent is characterised by

lower density, detached properties, some with rear gardens which directly adjoin the appeal site. The dwellings in Hendra Parc to the south have much smaller gardens which also back onto the site, whereas to the north and east there are higher density holiday and apartment blocks.

6. Due to the size of the garden, the appeal site maintains a particularly green and spacious appearance. The proposed new housing would very clearly change this. There would be a much higher density of development and although the new properties would have small gardens, most of the site would be covered by buildings and hard surfaces.
7. However, the extent to which the site can be seen from the public domain is somewhat limited. Direct views of the garden are largely screened by existing buildings and residential development. There are vantage points where some parts of the site can be glimpsed (including between dwellings in Boskerris Crescent and near Seashells in Porthrepta Road) but it is not a particularly prominent feature within the townscape. The site is most visually exposed near the entrance in Boskerris Road. However, this is a relatively small part of the street frontage and only part of the garden can be seen.
8. The dwellings would be relatively low level, with flat roofs, and would be set back from the entrance of the site. Given my observations above, they would not be prominent features within the street scene. Nor would development of the site significantly reduce the perception of greenery or openness within Boskerris Road or the wider vicinity.
9. Although the new dwellings would not be characteristic of the older and more established properties in the area, they would share architectural similarities with some of the more contemporary buildings nearby. This includes Sandsifters close to the entrance of the site in Boskerris Road.
10. The new dwellings would also be seen from the rear windows and gardens of surrounding properties, including those in Boskerris Crescent and Hendra Parc. It is recognised that the development would, to a certain degree, reduce the perception of greenery and openness from these properties. However, the dwellings would be viewed against an urban backdrop where housing styles are varied and there are other examples of higher density development. Within this setting, the proposed housing would not appear out of context.
11. For the reasons given above, there would be no conflict with Policies 12 and 23 of the Local Plan<sup>1</sup> which seek to maintain local distinctiveness and appropriate standards of design. Similarly, the proposed development would not conflict with Policies GD1, BE12 or BE17 of the Neighbourhood Plan<sup>2</sup>. I therefore conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the area.

#### *Other matters*

12. The additional dwellings proposed would clearly lead to an increase in the number of vehicles accessing the site from Boskerris Road. The road bends at this point, which limits visibility to some extent. However, vehicles are likely to be moving slowly and adequate space has been provided on the site for parking and turning. I note the Council's Highways Officer raised no objection.

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<sup>1</sup> Cornwall Local Plan Strategic Policies 2010-2030

<sup>2</sup> St Ives Area Neighbourhood Development Plan 2015 – 2030

Overall, there is little evidence before me to indicate that highway safety would be compromised as a result of the proposal.

13. Surrounding occupiers have expressed concerns that there would be a loss of privacy. However, facing windows would be adequately separated and so would not encourage mutual overlooking. Noise and light generated from the development would be consistent with the urban setting and there is little to suggest that it would be excessive, despite the increase in residential density and number of vehicles accessing the site.
14. Although there would be a substantial increase in the amount of hard surfaces on the site, a Flood Risk Assessment has been provided which recommends a surface water drainage scheme. If such a measure was implemented, it seems to me that adequate drainage could be achieved.
15. While neighbours inform me that trees have been removed from the site, this is a domestic garden and I am not aware that any of the existing flora is protected by planning legislation. However, an ecological survey has been carried out which indicates that the site is a potential habitat for bats. Any development which disturbs these would need to be subject to an appropriate condition to ensure the interests of protected species.
16. I am informed that local services are under pressure and the development would contribute to this. However, the Council has indicated that a Community Infrastructure Levy would be charged. This is used to help fund local services and infrastructure and would therefore help to mitigate the impact of the development in these respects. However, the development is too small to trigger a contribution towards affordable housing.
17. My attention has been drawn to Policy BE16 of the Neighbourhood Plan. This indicates that development will only be supported if 'existing buildings are repaired, renovated and re-used or demonstrates that they are irrevocably beyond repair or reuse before replacing'. In this case, limited information has been provided regarding the condition of the appeal property. However, even if the existing dwelling could be renovated, the policy does not explicitly protect the garden or prevent an increase in residential densities.
18. The development plan must be read as a whole and the appellant refers to the need to provide more housing. My attention has been drawn to Local Plan policies which promote this objective, including Policy 21, which supports an increase in residential densities where appropriate. I am also mindful that the National Planning Policy Framework says that the government seeks to significantly boost the supply of housing. As I have found that the proposal would not be harmful in planning terms, I consider that the policy imperative to increase the supply of housing outweighs any non-compliance with Policy BE16 of the Neighbourhood Plan in this particular case.

## **Conclusion**

19. I appreciate that there is local opposition to this proposal and I have taken into account the concerns that have been raised. However, planning law advises that applications for development should be determined in accordance with the development plan, unless material considerations indicate otherwise. For the reasons given above, I have found that the proposal would comply with the development plan. The appeal is therefore allowed.

## **Conditions**

20. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed. In accordance with Policy H2 of the Neighbourhood Plan, there is a condition preventing the dwellings on plots 1-7 from being used as holiday accommodation or second homes. To protect the site from flooding, a condition has been imposed requiring provision of a surface water drainage scheme. There are also conditions which seek to mitigate any potential contamination. To protect the character and appearance of the area, there is a condition requiring further details of landscaping. Further conditions are imposed to help protect bats found to be on the site.

*C Cresswell*

INSPECTOR

(SCHEDULE OF CONDITIONS ATTACHED)

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 10605\_A\_100\_ Location Plan PL-02, Existing 10605\_A\_101\_ Existing Site Plan PL-02, Proposed 10605\_A\_102\_ Planning Layout PL-08, Proposed 10605\_A\_103\_ External Works Plan PL-04, Existing 10605\_A\_105.1\_ Existing Site Sections PL02, Proposed 10605\_A\_105.2\_ Proposed Site Sections PL03, Proposed 10605\_A\_120.1\_ Type A Plans PL-04, Proposed 10605\_A\_120.2\_ Type A - Elevations and Section PL-04, Proposed 10605\_A\_121.1\_ Type B1 - Plans PL-02, Proposed 10605\_A\_121.2\_ Type B2- Plans PL-02, Proposed 10605\_A\_121.3\_ Type B1- Elevations and Section PL-02, Proposed 10605\_A\_121.4\_ Type B2 - Elevations and Section PL-02, Proposed 10605\_A\_122.1\_ Type C - Plans PL-03, Proposed 10605\_A\_122.2\_ Type C- Elevations and Section PL-03, 3609/PL/30 (Topographical Survey)
3. With the exception of the dwelling hereby permitted in plot number 8, shown on approved drawing no 10605\_A\_102\_ planning layout, the other dwellings hereby permitted in plot Nos 1 - 7, also shown on said drawing, shall not be occupied otherwise than by a person as his or her only or principal home. For the avoidance of doubt, the dwellings shall not be occupied as a second home or holiday letting accommodation. The occupants of the affected dwellings shall supply to the local planning authority, within 14 days of the authority's written request to do so, such information as the authority may reasonably require in order to determine whether this condition is being complied with.
4. No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: a) a survey of the extent, scale and nature of contamination; b) the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
5. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

6. The approved remediation scheme in condition 5 shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
7. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
8. The development hereby permitted shall not be occupied; until the system for the disposal of surface water has been completed in accordance with the approved details set out within the floor risk assessment including surface water drainage strategy revision A, by MBA Consulting dated July 2018, job number 18114. The system shall be retained and maintained thereafter in accordance with the approved details.
9. Before the dwellings hereby approved are occupied, a scheme of landscape proposals shall be submitted to and approved in writing by the local planning authority, which shall include full plans and specifications for all hard and soft landscape works and indications of all existing trees and hedgerows on the land, including those to be retained together with measures for their protection in the course of the development.

Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes, types, forms and proposed numbers/densities, mostly comprising native species; an implementation programme; and a timescale. All of this shall be agreed in writing by the local planning authority and thereafter so implemented. All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner.

10. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.
11. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in accordance with the mitigation measures set out in section 5.3 of the report entitled 'Results of a pair of bat

emergence surveys carried out on Little Hendra, Carbis Bay, St Ives Cornwall dated June-July 2018 by Spalding Associates (Environmental) Ltd.