



Appeal Decision

Site visit made on 14 January 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/D0840/W/19/3239447

Former Playground, Creeping Lane, Newlyn, Cornwall TR18 5QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Rex Henry of Greenstone Developments Ltd against Cornwall Council.
 - The application Ref PA19/06349, is dated 22 July 2019.
 - The development proposed is the formation of 2 houses with parking and integral garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I used the site address given with the appeal form as it is the most accurate and concise.
3. Amended plans were supplied with the appeal. They provide a loggia and associated first floor openings within each house and amend the roof finish to sedum. The new openings would allow overlooking from the loggias towards neighbouring properties close by and are therefore material and potentially significant. Whilst the amended plans were subject to discussion between the two main parties before the lodging of the appeal, there is no evidence before me that they were put to wider consultation. As such, pursuant to the Wheatcroft principles, I did not accept the amended plans or consider them in my decision as to do so would have prejudiced other parties¹.

Main Issue

4. The Council failed to give notice of its decision within the prescribed period. However, its appeal statement sets out a reason for refusal had the planning application been determined.
5. On the basis of this evidence, I consider the main issue to be whether the proposed development would provide adequate living conditions for future occupants, with reference to outside space.

Reasons

6. The appeal site is a former playground within the town of Newlyn, just inside the Newlyn Conservation Area (the CA). The site has extant permission, granted in 2017, for the erection of a building incorporating a workshop and a

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1980)

one-bedroom dwelling². To the south, beyond Creeping Lane, are apartments within large warehouse conversions and to the north is high density housing along West Terrace. As such, outside spaces tend to be rather small and utilitarian, providing multiple access, refuse, laundry and amenity functions. They are also in many cases enclosed by substantial walls with limited access to outlook and light. There appears to be little opportunity for gardening. This sets the practical context within which the proposal is assessed.

7. Nonetheless, Paragraph 127 of the National Planning Policy Framework (the Framework), in part, requires proposals to function well and provide a high standard of amenity for future users. This is reflected in Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP), which amongst other things, seeks the creation of high-quality, safe private spaces.
8. The proposal seeks two semi-detached 3-bedroom houses. Access would be from Creeping Lane. Bedrooms, bathrooms, utility spaces and recessed outdoor terraces would occupy ground floor level, with an open plan living environment above. The northern unit (House 1) would also have an outside space shared between parking and bin storage and the southern unit (House 2) would have a loggia at first floor within the south east elevation.
9. The Council is concerned that there would be no opportunity for gardening. However, given the relative absence of such in the area, I am not persuaded that this is required. I do agree though that, considering the number of bedrooms proposed in each house, future occupants would likely include families, some with young children. In my view, although policy does not seek to prescribe such, it is logical to conclude that there would be a consequent need for adequate private and safe outdoor space for future occupants. This would not be diminished by the availability of public open space elsewhere.
10. The houses would have internal areas for laundering and outdoor bin stores which would allow the terraces and the loggia to be devoted to leisure. The terraces would be secure but confined and somewhat disconnected from the main living areas. They alone would not provide adequate outside space. The loggia would be secure with high levels of supervision, outlook and a degree of privacy. It would be well located directly off House 2's open plan living area. However, it would be very small and its potential use for leisure, including child's play or family gathering, would be unacceptably limited as a result. As such, even within this area characterised by constrained outside space, I find that the proposal would make insufficient provision for likely future occupants.
11. My attention has been drawn to two previous decisions to grant planning permission in the town, including at the adjacent former Apostolic Church³. Whilst I understand that the schemes contain no outdoor space, I note that they both related to the reuse of buildings and in the former case there was a particular motivation to secure the future of the historic building within the CA. It seems to me therefore that there were different circumstances at play in those cases, and they have carried very limited weight in favour of the scheme.
12. I therefore conclude that the proposed development would not provide adequate living conditions for future occupants, with reference to outside space. It would conflict with Policy 12 of the CLP and the Framework insofar as

² Appeal Ref APP/D0840/W/17/3177968

³ Ref PA19/03937 and Ref PA11/10810

they require schemes to function well and provide a high standard of amenity for future residents.

Other Matters

13. The appellant has referred to the quality of the appearance of the building, the government's Technical housing standards – nationally described space standard (2015) in regard to the internal living environment and also the scheme's renewable energy credentials. Whilst I have no reason to doubt the proposal in these respects, these matters would not overcome or justify the concerns I have identified in relation to outside space.
14. I have had regard to comments about the procedural conduct of the Council. However, this matter is not germane to this s78 appeal, which is confined to the planning merits of the proposal. Likewise, it is not for me to pass comment on any amendments suggested by the Council prior to the appeal.
15. As the site is within the CA, I have had due regard to my statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Having considered the heritage implications of the proposal, and mindful of the extant permission for a similarly designed scheme, I am satisfied that the proposal would have an acceptable effect upon the CA.

Planning Balance and Conclusion

16. The benefits of the housing provision would be outweighed by the harm to the living conditions of future occupants. I therefore find that the proposal would conflict with the development plan when read as a whole and there are no other considerations, including the Framework, that outweigh this conflict.
17. For the reasons outlined above and taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR