



Appeal Decision

Site visit made on 16 December 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2020

Appeal Ref: APP/D0840/W/19/3232569

4 Sea Craig, Carrick Way, St Mawes TR2 5BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Leclercq against the decision of Cornwall Council.
 - The application Ref PA19/03415, dated 16 April 2019, was refused by notice dated 13 June 2019.
 - The application sought planning permission for construction of a replacement dwelling house with separate garage and residential amenity space without complying with a condition attached to planning permission Ref APP/D0840/W/16/3158470, dated 26 May 2017.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be carried out in accordance with the following approved plans: 0152-EX-01, 0152-PL-05-B, 0152-PL10-B, 0152-PL-15-A'*.
 - The reason given for the condition is: *'the interests of certainty'*
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Decision

1. The appeal is allowed and planning permission is granted for construction of a replacement dwelling house with separate garage and residential amenity space at 4 Sea Craig, Carrick Way, St Mawes TR2 5BB in accordance with application Ref PA19/03415, dated 16 April 2019, without compliance with condition number 2 previously imposed on planning permission Ref APP/D0840/W/16/3158470, dated 26 May 2017, but subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr and Mrs Leclercq against Cornwall Council. This application is the subject of a separate decision.

Background

3. The appeal site comprises a replacement dwelling at Sea Craig, in the midst of construction at the time of my visit, located within the harbour settlement of St Mawes. The replacement dwelling was granted planning permission pursuant to an appeal decision in 2017¹. Condition 2 to that permission identified the approved plans in the interest of certainty.
4. It is now sought to vary condition 2 to amend the replacement dwelling. The amendments include a simplified design to the fenestration arrangement across the south elevation, reducing the number of lights. The sizes of window openings would be increased at ground and first floor.

¹ Appeal Ref: APP/D0840/W/16/3158470

Main Issue

5. The main issue is the effect of the amendments on the character and appearance of the area, which is within the Cornwall Area of Outstanding Natural Beauty.

Reasons

6. Sea Craig is visible from Carrick Way and also in wider views from the harbour area of St Mawes. From these vantage points it is experienced as an intrinsic part of the village and therefore makes no significant contribution to the landscape and scenic beauty of the Cornwall Area of Outstanding Natural Beauty (the AONB)².
7. Nevertheless, the development plan identifies the importance of high-quality design. The National Planning Policy Framework (the Framework) states that the creation of high-quality buildings is fundamental to what the planning process should achieve. Paragraph 127, amongst other things, requires schemes to be visually attractive as a result of good architecture, and sympathetic to local character, including the surrounding built environment.
8. There is much variety in the architectural treatment of buildings in the residential parts of the village, including around Carrick Way. That said, there is also a general proportionality in the presence of slate roofs, rendered or clad walls and glazed openings, with houses reading as balanced compositions of these elements³. Whilst buildings of a more contemporary design typically have more glazing, in the examples provided by the appellants the balanced use of materials appears to have been generally maintained⁴.
9. The approved replacement of Sea Craig would also adhere to this, achieved, in part, by the repetitive vertical subdivision of its large windows and the ratio of rendered walling and glazing within the south elevation. The amendments to enlarge its window openings, combined with the simplified fenestration arrangement, would diminish the articulation of the building, leaving its principal south elevation harmfully dominated by glass. The limited remaining areas of solid wall would be unable to assist integration of the dwelling into its street scene and wider townscape setting. Appropriate landscaping could not entirely effectively screen the dwelling, particularly its first floor, from view.
10. The appellants have provided photographs of houses which incorporate similar design details and levels of glass within the village of Polzeath⁵. However, the specific circumstances of each property are not before me, and they are a significant distance away from St Mawes in any case. As such, they have carried very limited weight in my assessment.
11. I therefore conclude that, whilst the landscape and scenic beauty of the AONB would be unharmed, the proposal would have a harmful effect on the character and appearance of the area. It would conflict with the design aims of Policies 2, 3 and 12 of the Cornwall Local plan Strategic Policies 2010-2030 (adopted 2017) (CLP), Policies LA1, CV1 and GP2 of the Roseland Neighbourhood Development Plan 2015-2030 (made 2015) (RNDP), the Cornwall Design Guide

² Having had regard to the Cornwall Area of Outstanding Natural Beauty Management Plan 2016-2021.

³ Materials identified in the Cornwall and Isles of Scilly Landscape Character Study

⁴ Examples within appendices PB4, and PB10-PB11

⁵ Appendix FC2

(adopted 2013) and the Framework. There would be no conflict with Policy 23 of the CLP insofar as it relates to the AONB. Although the scheme would conflict with Policy HO8 of the RNDP, given the several appeal decisions brought to my attention, this conflict attracts very limited weight. Nonetheless, the proposal would conflict with the development plan when read as a whole.

Other Considerations

12. The appellant contends that the amendments would improve the living conditions of the future residents of the replacement dwelling. However, the quality of the internal environment would already be very high, and further enhancements would not justify the diminished design in aesthetic terms.
13. In the likely event that the dwelling is completed it will benefit from Permitted Development Rights, and it is put to me that the appellant would utilise such rights to proceed to make the desired alterations to the fenestration⁶. This represents a fallback position and is material to my assessment.
14. Replacing windows to simplify the fenestration would constitute minor work and seems probable at some future point, considering the logical temptation to enhance the coastal views from the property by removing obstructive window frames. Works to widen openings would be more structural, but I understand that the reconstruction of Sea Craig is being carried out in such a way as to aid this later alteration. In these circumstances, I find this fallback position to be a greater than theoretical possibility, and there is a real prospect of the work to the windows and window openings taking place notwithstanding my decision.
15. Consequently, and pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004, I consider that this material consideration provides a compelling justification for making a decision which does not accord with the development plan.

Conditions

16. Development has commenced, leaving no need for a timing condition. Although the Council has brought to my attention a breach of condition 6 of the original permission, which relates to finish materials, given the wording of that condition, the breach occurred after the commencement of development. I have imposed a condition specifying the approved plans to provide certainty. A condition is necessary to secure the implementation of the Construction Method Statement to maintain highway safety and in the interests of the living conditions of neighbouring residents. In the interests of visual amenity, a condition is imposed requiring the implementation of the landscaping scheme. A condition is also necessary to secure the retention of vehicle parking, in the interests of highway safety. However, a condition regarding finish materials is not required as they are specified on the proposed plans.

Conclusion

17. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR

⁶ Under Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 0152 303 Rev A, 0152 301 Rev A, 0152 302 Rev B and 0152-EX-01.
- 2) The 'Construction Traffic Management Plan' dated 18 January 2019, by P Chapman Construction Limited shall be adhered to throughout the construction period for the development.
- 3) The landscaping shall be carried out in accordance with the 'Landscape Proposals' dated 18 January 2018 by Richard Sneesby Landscape Architects. All planting, seeding or turfing 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 or plants which within a period of 5 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 similar size and species.
- 4) The dwelling hereby permitted shall not be occupied until the areas of the double garage and the forecourt shown on drawing no. 0152-PL-05-B have been laid out and made available for the parking of vehicles. Those areas shall thereafter be kept available at all times for the parking of vehicles.