



Appeal Decision

Site visit made on 15 May 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2020

Appeal Ref: APP/D0840/W/19/3243662

4 Boscundle Close, Boscundle, St Austell PL25 3RN

- 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 Andrew Wilkinson against Cornwall Council.
 - The application Ref PA18/07915, is dated 23 August 2018.
 - The development proposed is described as proposed demolition of dwelling and erection of 4 nr. Residential apartments and associated works.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Cornwall Local Plan Strategic Policies 2010-2030 (CLP) was adopted in 2016 and replaced the majority of policies in the Restormel Local Plan. Although the appellant's appeal statement refers to a number of policies in the Restormel Local Plan, the available evidence indicates that none of the policies referred to are saved. I have determined the appeal on this basis.
3. The site is within Carylton Parish, which is a designated area for a Neighbourhood Plan. However, although the Parish Council has produced a Neighbourhood Plan, the Carlyon Parish Neighbourhood Development Plan 2020 – 2030 (NDP), the available evidence indicates that it remains in draft form and has not passed the examination stage. Accordingly, it does not form part of the adopted development plan and, given its stage of preparation, I give limited weight to it.

Background and Main Issues

4. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref PA18/07915 within the prescribed period. As such, there is no decision notice. However, the Council's appeal statement sets out its concerns with the proposed development and includes the refusal reasons it would have provided had it made a formal decision.
5. Accordingly, I consider the main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - whether the living conditions of future occupiers of the proposed development would be sufficient, with particular regard to external amenity space;

- whether the proposed development would be suitably located in relation to flood risk, with particular regard to the sequential test; and
- the effect of the proposed development on the living conditions of adjoining occupiers, with particular regard to outlook and privacy.

Reasons

Character and appearance

6. The existing bungalow on the appeal site and the properties in the surrounding area exhibit a variety of designs, styles and appearance. However, the site reflects many of the main characteristics of the built form and the relatively low density environment of Boscombe Close, to which it most closely relates, and it is experienced within this context. This includes modest-sized bungalows, often with roof accommodation but with limited bulk and simple designs, roof forms and appearance. The properties are generally set-back from the highway behind soft landscaping and situated in relatively spacious plots. I observed on my site visit that the site and many other properties in the Close also appear to have a significant extent of soft landscaping. Consequently, the surrounding area has a spacious suburban character and a verdant appearance.
7. The development would be significantly higher and have a substantially greater mass and bulk than the existing bungalow and other properties in the Close. With a larger footprint, limited set back from the highway and restricted space for soft landscaping to the front and sides, it would appear as a dominant and cramped feature. The site would also be dominated by the proposed building and the presence of the extensive hard landscaped parking and turning areas.
8. Accordingly, the development would appear as an incongruous feature that would be out of keeping with the character and appearance of the surrounding area. In coming to this view, I recognise that external materials would be of a traditional design and origin and I have taken account of the lack of designations in the surrounding area relating to aspects such as landscape and the historic environment.
9. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with CLP Policies 1, 2, 12 and 21. Amongst other aspects, these set out the Council's spatial strategy and approach to sustainable development, encourage best use of land which increases density where appropriate, and require high quality development of an appropriate scale which respects and enhances quality of place and provides continuity with existing built form. The proposal would also be inconsistent with the provisions in the National Planning Policy Framework (Framework) in relation to achieving appropriate densities and well-designed places.
10. Although I only give limited weight to the draft NDP, the proposal would also conflict with draft NDP Policy 1. Amongst other aspects, part H1 of that draft policy requires development to integrate with and respect the local character and appearance of the surrounding area.

Living conditions

11. Occupiers in each of the proposed flats would have access to private external amenity space. However, all of the external spaces proposed would be

relatively small and would feel hemmed in by boundary treatment and the proposed building and/or parking and turning areas.

12. It seems to me that the external amenity spaces would be of insufficient size to accommodate both functional and recreational uses that might reasonably be expected of a private garden area. With regard to the recommendations in section 5.5 of the Cornwall Design Guide (2013), this could include for example clothes drying, storage of domestic items such as bicycles, space for gardening and playing and/or seating. Furthermore, although its status is not clear, the size of the amenity spaces falls well short of the minimum sizes suggested in the Chief Planning Officer's Advice Note: Good Design in Cornwall.
13. Occupiers of the upper-floor flats would also not have direct access to their external spaces. Access would instead involve them having to exit the building and cross the vehicular turning area after either walking along the highway or through the on-site parking spaces. This design would be unacceptable.
14. For the above reasons, I conclude that the living conditions of future occupiers of the proposed development would be insufficient, with particular regard to external amenity space. I therefore find that it conflicts with CLP Policies 1, 12 and 13. Amongst other aspects, these seek high quality design and require the provision of high quality open space. The proposal would also be inconsistent with the provisions in the Framework in relation to providing a high standard of amenity for future users and well-designed, high quality places.

Flood Risk

15. The site is located within Flood Zone 1. As set out in the appellant's Flood Risk Assessment (FRA), the site is not at risk from fluvial or tidal flooding. Although located within a Critical Drainage Area, the evidence before me indicates that the site is also at low risk of other forms of flooding, including surface- and ground-water flooding. Accordingly, the development itself does not appear to be at particular risk of flooding. On the basis of the flood risk on the site, the Planning Practice Guidance (PPG) indicates that the proposed development, which is classed as more vulnerable, would be appropriate.
16. However, as identified by the main parties, there are areas of Flood Zones 2, 3 and 3b in close proximity to the site and the FRA confirms that the access to Boscundle Close may be flooded. Although not within the site, flooding of these areas would affect the primary vehicular and pedestrian access route that connects it to the wider area.
17. Amongst other aspects, the PPG sets out that a sequential test is not necessary for development in flood zone 1 unless there are flooding issues in the area. In this instance, there is a clear risk of flooding to parts of the access road of Boscombe Close. Consequently, a sequential test is necessary. However, no such test is before me and the available evidence indicates that the Council has a sufficient supply of housing land in the surrounding area and the district as a whole, and that there are reasonably available sites appropriate for the proposed development within the locality with a lower risk of flooding.
18. The Framework and PPG set out that the sequential test should be applied before the exception test. Applying the exception test is therefore only necessary if the sequential test shows that it is not possible for development to be located in areas with a lower risk of flooding. In this instance, and without a

sequential test to indicate otherwise, it seems to me that there are other sites in areas with a lower risk of flooding that could be considered reasonably available and appropriate for the proposed development. As such, there is no need for me to consider the exception test.

19. The safety of future occupiers could be ensured by them signing up for Environment Agency flood alerts, as recommended by the FRA. The FRA also indicates that surface water runoff from the development, carried out in line with best practice and to industry standard design procedures, would be appropriately managed by a sustainable surface water drainage system. Through either infiltration or attenuation systems and associated maintenance, this would prevent an increase in the risk of flooding on the site and downstream of it. Be that as it may, the Framework is clear that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
20. For the above reasons, I conclude that the proposed development would not be suitably located in relation to flood risk, with particular regard to the sequential test. I therefore find that it conflicts with CLP Policies 2, 16 and 26. Amongst other aspects, these: seek to protect people from unsafe environments and potential hazards and ensure that built assets can adapt and be resilient to climate change; and require development to be sited in a manner that increases flood resilience of the area, taking account of the need to avoid areas of flood risk. The proposal would also be inconsistent with the provisions in the Framework in relation to planning and flood risk.

Adjoining occupiers

21. The proposed development would be noticeably larger and higher than the existing bungalow. However, due to the separation distances to adjoining properties, their orientations and the development's sloping roof, it would not significantly harm the outlook of adjoining occupiers.
22. The proposed first-floor rear windows would be relatively close to the shared boundaries with Anchorage House and Monkey Puzzle and would face towards those properties. However, existing boundary treatment – which I observed on my site visit included some relatively large trees on the other side of the low boundary wall – provides significant screening between the site and those properties and gardens. I have little substantive evidence which indicates that the trees – being on the other side of the boundary wall – would not remain and, despite the likelihood of some pruning and general maintenance, would not continue to provide significant screening between the three plots. On this basis, the proposed development would not result in unacceptable overlooking of Anchorage House or Monkey Puzzle, and a condition securing obscure glazing of the rear dormer windows would not be necessary.
23. The positioning of the proposed development and 3 Boscundle Close, the separation distance between them, and the presence of soft landscaping on the boundary and within the plot of No 3 would prevent significant overlooking from the proposed first-floor side window into No 3. Boundary treatment would also limit overlooking of No 3's rear garden.
24. This is a residential area with several dwellings located in relatively close proximity. As such, a certain degree of mutual overlooking would also not be

unusual. I am therefore satisfied that the proposed development would not introduce an unreasonable level of overlooking.

25. For the above reasons, I conclude that the proposed development would not unacceptably harm the living conditions of adjoining occupiers, with particular regard to outlook and privacy. I therefore find that it accords with CLP Policy 12 in relation to, amongst other aspects, its requirement that development protects individuals and property from overbearing impacts and overlooking. The proposal would also be consistent with the provisions in the Framework in relation to providing a high standard of amenity for existing users.

Other matters

26. I note the appellant's reference to their pre-application discussions with the Council and the subsequent amendments made to the proposed development. I recognise that the planning application was submitted quite some time ago, that the Council did not request the FRA until late in the process, and that the Council failed to issue a decision on the planning application and only responded intermittently to the appellant. However, these matters are not determinative as to the acceptability of the appeal proposal. I have therefore considered the proposal on its merits, based on the evidence before me.

Planning Balance

27. I have found that the proposed development would harm the character and appearance of the surrounding area, would not be suitably located in relation to flood risk, and that the living conditions of future occupiers would be insufficient. The proposal therefore conflicts with relevant policies in the CLP.
28. It has been put to me that, due to house prices in the area, it is necessary to achieve the proposed number of units on the site in order to make the development financially viable. There would be sufficient off-street parking and level access would be provided into and within the proposed building. Any potential land contamination found could also be remediated. Be that as it may, these matters do not provide justification for development that conflicts with the development plan.
29. Located within Boscundle and on the edge of St Austell, the development would provide additional housing in a residential area with various facilities and services. However, given the scale of the development, the benefits would be relatively limited. The provision of three additional residential units would also have only a limited effect on the supply of housing in the area, while the evidence before me indicates that the Council has a sufficient supply of housing land and that the local plan target for the area has been met. Accordingly, I find that the benefits neither outweigh the harm I have identified nor the conflict with the development plan and the provisions in the Framework.

Conclusion

30. For the above reasons, the appeal is dismissed and planning permission is refused.

Tobias Gethin

INSPECTOR