
Appeal Decision

Site visit made on 7 January 2022

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2022

Appeal Ref: APP/D0840/W/21/3279802

Former Play Area, Creeping Lane, Newlyn, Cornwall TR18 5QE

- 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 Rex Henry of Greenstone Developments Ltd against the decision of Cornwall Council.
 - The application Ref PA21/02403, dated 4 March 2021, was refused by notice dated 7 July 2021.
 - The development proposed is 'two storey apartment building with 2 no. 1 bed units and 2 no. 2 bed units.'
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Decision

1. The appeal is allowed and planning permission is granted for the development of a 2 storey apartment building with 2 no. 1 bed units and 2 no. 2 bed units at the Former Play Area, Creeping Lane, Newlyn, Cornwall TR18 5QE, in accordance with the terms of the application, Ref PA21/02403, dated 4 March 2021, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Preliminary matters

2. A new version of the National Planning Policy Framework (the Framework) came into effect in July 2021. I have not considered it necessary to seek views from the appeal parties on this change, as the Framework's policy content, insofar as it relates to the main issue, is largely unchanged. However, I have referred to the current Framework paragraph numbering rather than the former numbering that appears in Cornwall Council's (the Council) refusal reason.
3. On 14 January 2022, the Government published the 2021 Housing Delivery Test (HDT) results. As the HDT results for Cornwall Council do not result in any policy change consequences, I have not considered it necessary to consult the parties on the latest publication.

The appeal site and background to the appeal

4. The appeal site is a former playground within the centre of the town of Newlyn and within the northern part of the Newlyn Conservation Area (NCA). It forms the greater part of a small triangular parcel of land on the eastern side of Creeping Lane and is bounded by lanes on its other sides. The main part of the site is hard surfaced, with its margins now overgrown with small trees and

vegetation, and enclosed by old chain link fencing. The site has a poor and neglected appearance.

5. The site is situated within a densely developed area which includes the rear of a row of terraced properties to the north-east (West Terrace), a former church building now in residential use to the south, and a residential flats complex to the west of Creeping Lane, incorporating the converted former Old Pilchard Works. To the north, and forming the tip of the triangular parcel, is an electricity substation contained within a blockwork enclosure.
6. There is some planning history, including 2 appeal decisions, that is relevant to this appeal and to informing the identification of the main issue. In 2017, planning permission was granted on appeal¹ for the erection of a building incorporating a workshop, garaging and a 1-bedroom dwelling (the 2017 scheme). The Inspector assessed the contemporary design and modest height to be acceptable in this part of the NCA and that it reflected, in modern form, the essentially utilitarian design of the surrounding historic buildings. That permission was not implemented and has now lapsed. However, given that the decision was made under the same statutory development plan policy provisions, it remains relevant to the current appeal and carries moderate weight.
7. The second appeal decision² concerned a different development for a pair of semi-detached 3 bedroomed dwellings. The appeal was dismissed in January 2020, the Inspector assessing that future occupants of the proposed development would likely include families and that the scheme would not provide adequate outside space to achieve appropriate living conditions for future occupants.
8. The current appeal proposal relates to a scheme that would comprise 4 apartments. In design terms, the proposal would be similar in appearance and form to the previously approved 2017 scheme, with some adjustments and refinements. Based on the submissions before me, the Council's only objection to the proposal relates to the lack of off-street parking.

Main issue

9. In the light of the above, the main issue is whether the proposed development would be acceptable in terms of its parking implications with regard to national and local planning policies.

Reasons

10. The appeal site is situated in a densely developed part of the town, where car parking opportunities are very limited. When I walked up Creeping Lane from the junction with New Road, I observed that, for most of its length, there are double yellow line parking restrictions in place. There are a small number of on-street spaces, the closest to the site being 2 spaces adjacent to Lower Mill Flats. The lane is narrow and winding and, on its west side, includes accesses to limited areas of private forecourt and covered parking, serving the large flats complex. I also observed that there appear to be no parking restrictions in the streets of terraced housing to the north-east of the site at Treneglos Terrace and Charles Street.

¹ APP/D0840/W/19/3239447

² APP/D0840/W/19/3239447

11. There is also limited private off-street parking and it is a characteristic of the area that most residential properties do not have any on-plot parking. I have noted the appellant's submissions that there have been a number of nearby residential development conversions approved over the years without parking to the south of the site. I further noted that there is limited off-street public parking available in this central part of Newlyn town. I have also taken account of submissions and photographs from interested parties concerning local parking conditions and issues.
12. The pattern is not uncharacteristic of many Cornish towns and larger seaside villages, where the settlement form is often close knit and largely predates the age of the modern car. It inevitably results in parking pressures and consequential environmental issues, which may be heightened in the summer season by the influx of visitors, albeit that this is a side effect of a vibrant and successful tourist industry.
13. The appeal proposal would comprise 4 apartments (2 x 1 bed and 2 x 2 beds) and does not include the provision of any off-street parking. The Council is concerned that the lack of any provision of off-street parking will lead to increased traffic pressures in the locality and that this will diminish the environmental quality of the locality and increase conflict between road users. The Council draws attention to the fact that previous schemes on the site have included at least some off-street parking. Whilst noting the Council's understandable concerns, there are a number of factors that weigh against its view.
14. First, the appeal site is situated in a highly sustainable location. There is easy access to a range of goods and services within a short walk, and there are nearby bus stops located on New Road with regular services to the larger town of Penzance. As such, the location means that future occupants would have access to a genuine choice of sustainable modes of travel to access services, facilities and job opportunities in Newlyn and Penzance, without the need to rely on the use of a private car. Indeed, whilst recognising the diverse rural characteristics of Cornwall, this is a location where future occupants need not be dependent on private car ownership and use.
15. Second, by virtue of their size and design, the apartments are aimed at smaller households which may be less likely to be reliant on private car ownership and use. The Council has not submitted any evidence to support, or quantify, its view that additional parking pressures would arise from the development, and what specific additional environmental harm may arise, over and above the existing baseline conditions. Without such evidence, I cannot reach a conclusion that any such effects would be significant.
16. Third, there is no clear policy support for refusing this otherwise sustainable development on grounds of lack of off-street parking. Policy 13 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) addresses 'development standards' but does not prescribe set parking standards. Rather, it expects the achievement of 'an appropriate level of off-street parking and cycle parking taking into account the accessibility of the location in terms of public transport and proximity to facilities and services'. Similarly, the Framework's paragraph 130³, which addresses broad design considerations, does not prescribe set parking standards. Given the highly sustainable location of the appeal site and

³ The Council's reason refers to the former paragraph 127

the type of accommodation proposed, I do not consider that there is any evidenced conflict with these policies in this particular case.

17. In conclusion on the main issue there is no evidence to demonstrate that the proposed development would be unacceptable in terms of its parking implications. The highly sustainable location of the proposal, along with the type of accommodation proposed, means that there would be no conflict with CLP policy 13 or paragraph 130 of the Framework.

Other matters

18. As the site is within the NCA, 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 NCA. Having considered the heritage implications of the proposal, and the previously approved 2017 scheme for a similarly designed scheme, I am satisfied that the proposal would have an acceptable effect upon the NCA.
19. I have considered the submissions of interested parties concerning the design, effect of the development on living conditions for neighbours, and sewage capacity matters. Whilst I have noted these concerns, I am mindful of the planning history of this site and note that the Council has not raised any objections on these matters. However, foul sewage details can be secured by a planning condition.

Conditions

20. In addition to the standard time limit conditions, a condition specifying the approved plans is included for certainty. A condition requiring the approval of external facing materials is also necessary to ensure a high standard of appearance in the interests of the character and appearance of the NCA. A condition requiring surface water and foul water drainage details is necessary to ensure that the development is adequately drained. Finally, given the location and nature of the site, a condition requiring a Construction Method Statement (CMS) is necessary to ensure that the construction stages are properly managed.

Conclusion

21. Having regard to the above reasons, I conclude that this appeal should be allowed, and planning permission is granted subject to the conditions listed in the Schedule attached to this decision.

P. Staddon

INSPECTOR

Attached: Schedule of conditions

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site/location Plan 073/GA/100 A; Proposed 73/GA/101 A; Proposed 73/GA/102 A; Proposed 73/GA/103 A; Proposed 73/GA/104 A; Proposed 73/GA/105 A; Proposed 73/GA/106 A; Proposed 73/GA/107 A.
- 3) Notwithstanding condition 2, no development hereby permitted, other than site preparation and groundworks, shall be carried out until details of the external materials to be used have been agreed in writing by the local planning authority. Development shall be carried out in accordance with the agreed details.
- 4) No development shall commence until a scheme for the disposal of surface and foul water has been completed in accordance with details which shall first have been submitted to, and approved in writing by, the local planning authority. The details shall include a programme for maintaining the system. The system shall be implemented, retained and maintained thereafter in accordance with the approved details.
- 5) No development hereby permitted shall take place until a Construction Method Statement (CMS) has been agreed in writing by the local planning authority. The CMS shall include details of the parking arrangements for site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials; the erection and maintenance of security hoardings; measures to control the emission of dust, mud and dirt; a scheme for the recycling and disposal of waste resulting from demolition and construction; and hours of working. The approved CMS shall be adhered to throughout the construction period of the development.