



Appeal Decision

Site visit made on 10 December 2021

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2022

Appeal Ref: APP/D0840/W/21/3281746

Beach View, Trenance, Mawgan Porth, Newquay TR8 4DB

- 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 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 Chris and Fiona Heritage against Cornwall Council.
 - The application Ref PA21/03826, is dated 9 April 2021.
 - The application sought planning permission for demolition of existing dwelling and construction of replacement dwelling without complying with a condition attached to the planning permission given by appeal Ref APP/D0840/W/19/3224149 dated 16 July 2019 relating to planning application Ref PA18/04468.
 - The condition in dispute is No 2 which states that: *the development hereby permitted shall be carried out in accordance with the following plans: drawing No. EX-001 B, EX-101 B, PL-001 C, PL-101 A, PL-102 B, PL-103 C, PL-201 B, PL-202 B, PL-203 B, PL-204 B, PCD/150/PL01, and PCD/150/PL02.*
 - The reason given for the condition is: *in order to secure a high quality sustainable development, to reflect the details included within the application.*
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and construction of replacement dwelling at Beach View, Trenance, Mawgan Porth, Newquay TR8 4DB in accordance with the application PA21/03826 dated 9 April 2021, without compliance with condition number 2 previously imposed on planning permission given by appeal Ref APP/D0840/W/19/3224149 dated 16 July 2019 relating to planning application Ref PA18/04468, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Chris and Fiona Heritage against Cornwall Council (the Council). This application is the subject of a separate Decision.

Background and Main Issues

3. The appeal site comprises a large plot with a detached dormer bungalow and annexe building. A planning permission for the demolition of the existing dwelling and the construction of the replacement dwelling was granted on

appeal¹. The appellant wishes to vary condition 2 attached to this permission in order to enable the substitution of drawings, to allow for the re-siting of the dwelling, raising part of the roofline and other revisions to internal and external stairways.

4. In their statement the Council have raised objections on the grounds that this alternative material would result in a development of undue prominence that would be incongruous in its setting to the detriment of the character and appearance of the area.
5. It is noted that subsequent to the appeal being allowed the Council granted planning permission for an application² with minor amendments to that granted on appeal and have also granted a separate planning approval³ for demolition of the detached annexe on the appeal site and construction of a replacement.
6. The main issue is whether the variation of condition 2 would be acceptable, having regard to the character and appearance of the surrounding area.

Reasons

7. The appeal site is a large plot occupied by a detached house and annexe, driveway, parking area and with a generous garden space mostly laid to lawn. The site is in an elevated position towards the edge of the somewhat dispersed seaside village of Mawgan Porth.
8. I concur with the Inspector for the previous appeal in concluding that the appeal site is within a sensitive location, in that it is prominent in views across the village and in close proximity to the coast. It is likewise clear from my site visit that the appeal site is not an isolated one on the very outer edge of the village, but is surrounded by other detached properties in a similar elevated position, and that make up the local site context. Along with its neighbours, the appeal site affords extensive views across the village, its beach as well as expansive sea views.
9. The appellants have been clear in their objective of maximising the opportunities to take advantage of these views whilst developing the contemporary design of the detached dwelling approved on appeal and the revisions that they are seeking through the planning application that is the subject of this appeal.
10. The proposal would result in the replacement dwelling being located approximately 2 metres to the south and very slightly east of the location previously approved. The proposal would also result in part of the roof line of the replacement dwelling being slightly raised. Changes to internal and external staircases of the proposed dwelling are also proposed to manage the change in levels that would be required by the proposed change in position of the replacement dwelling.
11. The Council are of the view that this proposed change in position and increase in height would result in the replacement dwelling being proud of the hillside and encroaching on an open area, resulting in it appearing as more prominent

¹ Appeal Ref: APP/D0840/W/19/3224149

² Planning Ref: PA21/01837

³ Planning Ref: PA20/04667

in views across the wider area and with a monotonous roofline when considered alongside the more stepped roof line of that previously approved.

12. I find, however that, within the context of the site and wider views, the proposed location would still result in the replacement dwelling being set within the natural topography of the site rather than imposing on it. Its appearance would also be softened in this regard by the proposed landscaping, even though this will inevitably take some seasons of growth before reaching its full potential.
13. Whilst the Council have raised concerns over the proposed slight relocation of the replacement dwelling into an existing open area, this is part of the existing garden area and is not an area that has been otherwise formally identified as needing to be retained or protected in any of the planning policy documents that the Council have set before me. I also find that the proposed location would maintain the situation established by the appeal proposal, in that it would not appear as more prominent than the existing directly neighbouring dwellings, especially that newly developed to the North of the appeal site.
14. Although the appeal site is within the Newquay and Perranporth Coast Landscape Area CA15 (LCA) identified in the Cornwall and Isles of Scilly Landscape Character Study (2008), I agree with the Inspector for the previous appeal that the site, especially the area of open lawned garden, does not display any of the key characteristics of ruggedness or the exposed coastal landscape that the LCA is seeking to protect and I find that the proposal would be in accordance with the objectives of the LCA.
15. I further find that although the proposal would increase the height of the western section of the roof line of the replacement dwelling, it would be a relatively small increase in height within the context of the scale of the replacement dwelling, its neighbours and the topography of the area and would not result in any undue prominence in wider views of the area, where the westernmost part of the replacement dwelling would be read as a large single storey element navigating a sloped site. Overall, the proposal would result in the replacement dwelling sitting comfortably on this large open site, including in conjunction with the recently approved replacement annexe.
16. Although the proposed change would result in the roof line of the replacement dwelling appearing to be less stepped in some but not all views, when compared to that approved on appeal, it would still retain significant variation in its heights and angles and would not generally appear as a monotonous roof line. In this regards the proposal accords with the provisions of the Cornwall Design Guide (2013).
17. I note that the appellant appears to have been partly motivated to pursue the proposed changes to the location and design of the replacement dwelling by the erection of a fence on a neighbouring property that would appear to screen some existing private views. However, for the reasons given above, I do not agree with the Council that this would result in an increase in prominence of the replacement dwelling or undue monotony of its roof line that would fundamentally alter the design and acceptability of the replacement dwelling.

18. The Council's appeal statement sets out the Council's positive position with regard to housing delivery within their area based on the Government's 2019 Housing Delivery Test Measurements. However, no link is made between this position and their reasons given in the statement for objecting to the proposal. Since the submission of the Council's appeal statement the 2020 Housing Delivery Test Measurements have been published and, as these do not show any material change in the Council's position, I have not considered this further.
19. For the reasons given above, the proposal to vary Condition 2 of the planning permission would not result in the replacement dwelling being so significantly different from that previously approved that it would result in any undue harm to the character and appearance of the local area. I find, therefore, that the proposal is in accordance with Policies 1, 2, 12 and 23 of the Cornwall Local Plan (2016), the Cornwall Design Guide (2013), the National Planning Policy Framework (2021) and Planning Practice guidance, which collectively seek to ensure that development is sustainable, accords with local special strategy, is of high quality design, sustains local distinctiveness and character and protects or enhances the natural environment.

Conditions

20. The appeal site is located in the Area of Influence for the Penhale Dunes Special Area of Conservation (the SAC) as designated in accordance with the Habitat Regulations and Directive. The Council have suggested that a planning Condition be attached to any planning permission to require that it should not commence until they have approved in writing a scheme to secure mitigation of the additional recreational pressures to the SAC, together with an appropriate mechanism to secure delivery of the mitigation. Paragraph 24 of the Council's adopted Cornwall European Sites Mitigation Supplementary Planning Document 2021 (the SPD) sets out that this applies to all new housing, student accommodation and tourist accommodation where there is an increase in units. However, as the proposal would not result in any additional residential units this requirement does not apply. Consequently, I have not applied this suggested condition.
21. The council have proposed a pre-commencement condition relating to datum and heights to be provided by the appellant on drawings and approved by the Council. However, this appeal relates to a change of plans condition on an existing approval and the appropriate plans detailed in the condition schedule attached to that approval can be listed in a standard plans condition along with the changed plans. As the revised plans submitted for the proposal for a single dwelling are scalable, I see no need for additional plans to be submitted in this instance. Consequently, I have not imposed the suggested condition but have imposed the standard condition specifying that the development approved is constructed in accordance with the relevant drawings, including the substitute plans, which is intended to provide certainty in this regard.
22. For clarity and certainty, and because a new planning permission is created in allowing this appeal, along with the conditions relating to the time limit for implementing the development I have applied conditions requiring the submission and implementation of a landscaping scheme and compliance with the recommendations of the Bat and Barn Owl Survey, which are reasonable

and necessary to secure a sustainable development and preserves protected species and their habitats.

Conclusion

23. For the reasons given above, the appeal is allowed.

Victor Callister

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: drawing No. EX-001 B, EX-101 B, PL-001 D, PL-101 C, PL-102 D, PL-103 E, PL-201 D, PL-202 D, PL-203 D, PL-204 D, PCD/150/PL01, and PCD/150/PL02.
- 3) Prior to the occupation of the permitted dwelling a full scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall provide planting plans in line with the recommendations of the Arboricultural Impact Assessment (report ref: 3234 AIA - Rev A) dated 21.11.18 by Evolve Tree Consultancy written specifications including:
 - Full schedule of plants
 - Details of the mix, size, distribution and density of all trees/shrubs/hedges
 - Cultivation proposals for the maintenance and management of the soft landscaping

The protection measures proposed shall be completed in accordance with the approved plan 3234 TPP A before the development hereby permitted commences and shall thereafter be retained until it is completed. Notice shall be given to the Local Planning Authority when the approved scheme has been completed. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice shall be given to the Local Planning Authority when the approved scheme has been completed. Any trees or plants which within a period of five 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 a similar size and species as those originally planted.

- 4) The development shall be carried out in accordance with the recommendations of the BAT AND BARN OWL SURVEY OF BEACH VIEW, TRENANCE, MAWGAN PORTH, NEWQUAY, CORNWALL (16-139T/A2/Beach View, Mawgan Porth _BBO) by Spalding Associates (Environmental) Ltd., dated 14 August 2017.

END OF SCHEDULE