



Appeal Decision

Site visit made on 22 February 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/D0840/W/21/3282279

Little Hendra, Boskerris Road, Carbis Bay TR26 2NQ

- 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 St Clements Hill Ltd against the decision of Cornwall Council.
 - The application Ref PA20/09726, dated 6 November 2020, was refused by notice dated 8 March 2021.
 - The application sought planning permission for demolition of existing dwelling and redevelopment of the site to provide 7no new dwellings and 1no replacement dwelling without complying with a condition attached to planning permission Ref APP/D0840/W/19/3232355, dated 31 December 2019.
 - 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: 01 rev A, 010 rev A, 100 rev A, 101 rev A, 102 rev A, 103 rev A, 104 rev A, 105 rev A, 106 rev A, 201 rev A, 300 rev A and 200 rev A.
 - The reason given for the condition is: For the avoidance of uncertainty and to allow for applications for minor material amendments, a condition is necessary specifying the approved drawings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and redevelopment of the site to provide 7no new dwellings and 1no replacement dwelling at Little Hendra, Boskerris Road, Carbis Bay, TR26 2NQ, in accordance with the application Ref PA20/09726 dated 6 November 2020, without compliance with condition number 2 previously imposed on planning permission Ref APP/D0840/W/19/3232355, dated 31 December 2019, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by St Clements Hill Ltd against Cornwall Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effects of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers at Hendra Parc and Boskerris Crescent, with particular regard to outlook.

Reasons

Character and appearance

4. The area surrounding the appeal site is almost exclusively residential, though with some interspersed hotels and established holiday homes. The land slopes down from St Ives Road (A3074) towards the coastline, with many dwellings orientated to look towards the sea. Much of the area has been redeveloped, or is currently in the process of being redeveloped, meaning that there is a contrast between established C20 housing and many, sizeable C21 redevelopments which feature large extents of glazing.
5. The appeal site has an extant permission for the replacement of a dwelling which has already been demolished, along with the construction of an additional seven dwellings. Work on site is currently ongoing on the dwellings subject of this appeal.
6. The proposal seeks to add a second storey to the five dwellings (plots no 1 – 5 inclusive) which are currently proposed to have accommodation on ground and first floors. Each of the second storeys would be set back from the first floor level and would contain a master bedroom with en-suite. The front (north-west) elevations would be fully glazed but none of the rear or side elevations (where applicable) would contain any windows.
7. The dwellings to the rear of the site in Hendra Parc sit at a higher level than the appeal site. The proposed flat roof level of the dwellings with the additional second storey would be 69.950 AOD, which would be little different when compared to the ridge height of the previous dwelling, Little Hendra, at 69.130 AOD. Though the five new dwellings would occupy a far greater extent of the site with their marginally higher roof height, they would still be sufficiently distant from dwellings in Hendra Parc to the rear, between approximately 21 and 22 metres so as not to appear poorly related to neighbouring dwellings.
8. The additional approximate 2.55 metres of height and mass across the buildings would compare well with the eaves height of the adjacent development at 'The Sands' and with the ridge height of 'Chyringa' at 69.530 AOD and some approximate 19 metres to the west. It would not be an immaterial change, and would be noticeable from those public vantage points and from some private views of neighbouring dwellings. However, the proposal would build the additional storey up to a height that the site can tolerate when considered in context with surrounding built development and where the buildings would be positioned to avoid appearing overly dominant in the streetscene. Additionally, the second storeys would appear as an integral part of the overall design concept rather than as poorly-conceived 'add-ons'.
9. In terms of whether the proposal would reduce the perception of greenery and openness, the layout of the buildings and areas available for landscaping, including on the sedum roofs, would not change under the proposal. Though there would be a modest additional amount of building mass, this would be concentrated in one area and would not block views of spaces between, or over buildings materially more than would have been the case with the extant scheme.
10. Given the manner in which the fallback scheme was found to acceptably integrate with the local mixed character, I do not consider that the additional

scale and mass of the proposal, set within the rearward part of the site, would result in an alternative finding. The proposal would still constitute a high quality of development and would assimilate well with the character and appearance of the surrounding area. The proposal therefore complies with Policies 12 and 23 of the Cornwall Local Plan (2016) (Local Plan) and Policies GD1, BE12 or BE17 of the St Ives Neighbourhood Plan (2016) (NP). These Policies collectively seek to maintain local distinctiveness and appropriate standards of design.

Living conditions

11. The proposed dwellings would be set approximately 21 – 22 metres away from the dwellings to the south at Hendra Parc. The windows on the ground and first floors would not be changed from the originally approved scheme. There would not be any windows at second floor level that would look towards the rear elevations of dwellings in Hendra Parc either. A condition could be added to prevent the insertion of any further doors or windows in the future.
12. In terms of outlook, it is evident that occupants of dwellings within Hendra Park enjoy a relatively unobstructed outlook towards the coast at a lower level. The introduction of additional storeys with a sedum flat roof level at around the ground floor windowsill level of dwellings in Hendra Parc would inevitably result in occupiers having a more interrupted and enclosed sense of view. Such a change would be less apparent from first floor level, as the height advantage would enable occupants to retain a view over the buildings.
13. Despite the modest interruption of the views at garden and ground level, which are not specifically protected, given the distances and level differences between the dwellings, in my view, the alterations proposed would not result in a materially harmful loss of outlook.
14. In terms of the relationship of the development to the dwellings in Boskerris Close, those dwellings lie to the west of the development and are less reliant on an outlook over the site. The proposal would not be any closer to any of the dwellings in Boskerris Close than was previously permitted and the difference in height would not be of particular note given the orientation and level differences. The eventual reestablishment of the vegetated western boundary between the respective properties would also limit any overlooking. As such, whilst there may be a minor reduction in the sense of openness, this would not result in material harm to the living conditions of occupiers in Boskerris Close.
15. In view of the above, the proposal would not result in material harm to the living conditions of neighbouring occupiers and would therefore avoid conflict with, in particular, NP Policy GD1 and Local Plan Policy 12, which seek to ensure development minimises adverse impacts on neighbouring residences, protecting individuals and property from overlooking and overbearing impacts.

Other Matters

16. I have had regard to the numerous objections from local residents relating to matters in addition to those already addressed. In the context of the extant permission, I am satisfied that the variation of the condition under Section 73A of the Act is the correct route to enable amendments to the scheme. I note the compliance with other previously imposed conditions and, following my visit, do not have reason to believe that the works undertaken deviate from the approved plans.

17. The potential enhancement to the profitability of the scheme is not pertinent to my determination of the appeal. Furthermore, whilst the occupancy restriction requiring the dwellings to be principal homes is a requirement, there are no means to further restrict the value of the dwellings.
18. Whilst I note that concerns have been expressed in relation to tree removals, I note that these trees were not protected and that the redevelopment of the site did not specifically seek to retain any important trees.
19. In terms of the format of the dwellings, I note that the Council did not object to the proposed changes to the bedspaces and garden sizes. I do not find any reason to disagree with this conclusion.
20. Though I note some dispute over the position of a boundary between the site and a neighbouring occupier, this is a civil matter which falls outside of the scope of this appeal.

Conditions

21. As the development has already started, there is no need for the statutory time limit condition to be imposed. A condition specifying the approved plans is, however, necessary in the interests of certainty.
22. In accordance with Policy H2 of the NP and as per the extant permission, there is a need for a condition preventing the dwellings on plots 1-7 from being used as holiday accommodation or second homes.
23. To protect the site from flooding, a condition is necessary requiring provision of a surface water drainage scheme. There are also conditions which seek to remediate any contamination if encountered on site.
24. To protect the character and appearance of the area and to ensure the provision of satisfactory boundaries between the adjacent neighbouring developments on the Boskerris Close side of the site, a condition requiring further details of landscaping is necessary.
25. In order to prevent the potential for overlooking, a condition is needed to prevent any windows or doors being inserted in the second storey rear and side elevations by way of permitted development rights.

Conclusion

26. The proposal complies with the development plan, when considered as a whole. There are no considerations of sufficient materiality that indicate that a decision should be taken other than in accordance therewith.
27. For the reasons set out above, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the plans listed below:
 - Location Plan, Ref 10605_A_100
 - Proposed site plan, Ref 10605_73_102_A
 - Proposed Elevations, Ref 10605_73_120.2_REVA
 - Proposed Floor Plans, Ref type a 10605_73_120.1
 - Proposed Site Sections, Ref 10605_73_120
- 2) With the exception of the dwelling hereby permitted in plot number 8, shown on approved drawing no 10605_73_102 revision A , the other dwellings hereby permitted in plot Nos 1 - 7, also shown on said drawing, shall not be occupied otherwise than by a person as his or her only or principal home. For the avoidance of doubt, the dwellings shall not be occupied as a second home or holiday letting accommodation. The occupants of the affected dwellings shall supply to the local planning authority, within 14 days of the authority's written request to do so, such information as the authority may reasonably require in order to determine whether this condition is being complied with.
- 3) The development shall be carried out in accordance with the risk assessment and detailed remediation scheme approved under conditions 5 and 6 of appeal decision notice APP/D0840/W/19/3232355 (PA18/07686) and subsequently discharged by PA20/06722. Upon completion, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 4) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 5) The development hereby permitted shall not be occupied; until the system for the disposal of surface water has been completed in accordance with the approved details set out within the flood risk assessment including surface water drainage strategy revision A, by MBA Consulting dated July 2018, job number 18114. The system shall be retained and maintained thereafter in accordance with the approved details.
- 6) Before the dwellings hereby approved are occupied, a scheme of landscape proposals shall be submitted to and approved in writing by the local planning authority, which shall include full plans and specifications for all hard and soft landscape works and indications of all existing trees and hedgerows on the land, including those to be retained together with measures for their protection in the course of the development. Soft landscape works shall include: planting plans; written specifications

(including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes, types, forms and proposed numbers/densities, mostly comprising native species; an implementation programme; and a timescale. All of this shall be agreed in writing by the local planning authority and thereafter so implemented. All planting, seeding and/or turfing comprised in the approved details of landscaping 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, shrubs, hedges or plants which within a period of five years from the completion of 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, unless the local planning authority gives written consent to any variation. All hard landscaping comprised in the approved details of landscaping shall be carried out before the completion or first occupation of the development, whichever is the sooner.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, doors or other such forms of glazed opening shall be constructed within the rear or side elevations of the second storeys of plot Nos 1 – 5 inclusive.