



Appeal Decision

Site visit made on 20 December 2022

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal Ref: APP/D0840/W/22/3303562

Pengenna, Pengenna Pasties, Atlantic Road, Tintagel PL34 0DD

- 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 & Mrs Jerry Sanders against the decision of Cornwall Council.
 - The application Ref PA21/06767, dated 30 June 2021, was refused by notice dated 21 January 2022.
 - The development proposed is cottage on site of former two storey garage/store building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the living conditions of the occupiers of The Haven, with particular regard to outlook; and whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of garden space, privacy, and noise and disturbance.

Reasons

Living conditions – The Haven

3. The appeal site is a parcel of land abutting the edge of the pavement alongside Atlantic Road to the north of an area of hardstanding beside Pengenna Pasties shop in Tintagel. A two-storey building comprising a gift shop and residential accommodation wraps around two boundaries of the site and is separated by a walkway that leads to a small courtyard garden of The Haven, which occupies part of the building to the east.
4. The Haven has ground and first floor patio style windows, which are in close proximity to, and have an outlook over, the appeal site. The first-floor window is provided with a Juliet balcony and sliding door.
5. Given the relationship with the existing building, the scale and position of the proposed two-storey cottage close to the boundary would give the courtyard garden and west facing windows of The Haven an enclosed quality, which would be likely to feel oppressive. Whilst I note that the proposed cottage would lie oblique to these windows, it would provide a tunnelling effect, which would feel overbearing and considerably worsen the outlook from The Haven. The proposal would represent a cramped form of development which would harm the living conditions of the occupiers of The Haven.

6. Although the site is within a setting of relatively high-density development, with dwellings arranged close to each other, the pattern of development in general consists of plots arranged side by side, typically affording more open outlook from principal apertures.
7. I have had regard to the Daylight and Sunlight Report submitted and the appellants' suggestion that a two metre high boundary enclosure could be erected under permitted development rights, but these matters do not persuade me that the scheme is acceptable. The appellants have advised that they would be willing to improve the existing boundary treatment by lowering the wall along the common boundary, but this would have little impact on the effect of the proposed two-storey development on the outlook enjoyed at The Haven.
8. The appellants' have advised that the first-floor window serves a bedroom. Even if this information is correct, a bedroom is a habitable room and therefore it is legitimate to consider the effect of the proposed development on the outlook of its occupants. Nevertheless, this does not alter my findings that the proposal would have an overbearing impact on the outlook from this property.
9. The proposal would have a materially harmful impact on the living conditions of the occupiers of The Haven with particular regard to outlook, and I find conflict with Policies 2, 12 and 13 of the Cornwall Local Plan Strategic Policies 2010-2030 (the CLP) in this regard. These seek, amongst other things, to ensure development is high quality and protects individuals and property from overbearing impacts. There would also be conflict with paragraph 130 of the National Planning Policy Framework (the Framework) where it states that developments should create places that promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions – future occupiers

10. The Council has produced a Chief Planning Officer's Advice Note on Good Design in Cornwall, published in March 2022. While this document does not carry the statutory weight of the CLP, it provides additional guidance and provides a *rule of thumb* that private outdoor amenity space, as a minimum, should be "*equal or preferably exceed the footprint of the building it serves*".
11. There would be no functional garden space to three sides of the proposed dwelling. A courtyard garden would be provided to the north side. Although the proposed plan shows that there would be space for bin storage and a table and chairs, this space would be considerably smaller than the footprint of the proposed building. As a two-bedroom dwelling, it is suitable for a family, and there is a reasonable likelihood of children occupying the property.
12. External play space for any child occupier of the property would be very limited, and consequently insufficient. Furthermore, although the garden would be offered privacy from the street through a new boundary enclosure, the west facing windows of The Haven would overlook the courtyard garden at close range. Therefore, the future occupiers of that dwelling would not have sufficient privacy and the inadequate garden space would result in unacceptable living conditions.
13. I note the appellants' suggestion that a canopy or awning could be attached to the proposed dwelling to afford some privacy. However, it should not be

necessary to rely on an improvised measure such as this to create the privacy which future residents deserve. The external space is already shown as being small and the addition of an awning or canopy would reduce the sense of space further, adversely affecting its amenity value.

14. The appellant contends that areas of open space lie within walking distance of the site. However, due to the inconvenience and additional time taken to reach such areas, they would be unlikely to provide sufficient mitigation for the failure to provide adequate adjacent garden space for occupiers of the new dwelling to undertake such usual regular activities as active play or drying washing. As a result, the potential to access such areas does not overcome the harm to living conditions which I have identified above.
15. I have been referred to adjacent properties with limited garden space, notably at The Haven. The circumstances in each case are likely to be different, and in any event the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. With regard to the terraced dwellings opposite, these appear to have large rear gardens. I have considered this appeal proposal on its own merits and these examples do not deflect from my concerns relating to the appeal scheme.
16. The Council refers to the potential impact of noise from the seating area of the adjacent café. This juxtaposition of commercial and residential uses is not uncommon in an area such as this. In any case, the seating occupies a limited area and it could be set away from the new dwelling to prevent disturbance. Consequently, this is not a reason to dismiss the appeal.
17. Nonetheless, I have found that the proposal would provide unacceptable living conditions for future occupiers with particular regard to the provision of garden space and privacy. Therefore, the scheme would conflict with Policies 2, 12 and 13 of the CLP in this regard which, amongst other things, seek to ensure development is high quality and protects individuals and property from overlooking and overbearing impacts. There would also be conflict with paragraph 130 of the Framework.

Planning Balance and Conclusion

18. The Council confirms that it can demonstrate a 5-year housing land supply and this matter is not disputed by the appellant. There would be a benefit from the provision of an additional dwelling that would make a positive, albeit limited, contribution to the housing supply. Economic benefits would also arise from the construction of a new house and future spending by its occupants in nearby businesses. The site is previously developed land in an accessible location. In principle, residential development of the site is acceptable. However, the additional unit would make little difference to the overall supply of housing and the support the extra household would provide to the local economy would also be minimal.
19. The site is located within the Cornwall Area of Outstanding Natural Beauty (AONB). The statutory purpose of AONBs is to conserve and enhance the natural beauty of the area. Paragraph 176 of the Framework attaches great weight to the conservation of landscape and scenic beauty in AONBs. I have taken account of the appellant's view that the proposed development would improve what is currently a rather an unattractive site. This would yield a slight

improvement visually, but not so much that it would justify the proposal, given my findings on the main issues.

20. The proposal would result in unacceptable living conditions for occupiers of The Haven and for future occupiers of the proposed dwelling. This harm weighs significantly against the proposal. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm identified above.
21. The proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which justify a decision otherwise than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR