



Appeal Decision

Site visit made on 20 March 2023

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/D0840/W/22/3306423

16 Chili Road, Illogan Highway, Cornwall TR15 3JU

- 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 Chris Simmons, Peak Construction and Developments, against the decision of Cornwall Council.
 - The application Ref PA22/03421, dated 6 April 2022, was refused by notice dated 25 July 2022.
 - The development proposed is Construction of two new semi-detached dwellings on redundant land to the rear of 16-18 Chilli Road Illogan (amended design PA21/10970).
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Decision

1. The appeal is allowed and planning permission is granted for construction of two new semi-detached dwellings at 16 Chili Road, Illogan Highway, Cornwall TR15 3JU in accordance with the terms of the application, Ref PA22/03421, dated 6 April 2022, and subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. I have referred to the description of development within my decision only insofar as it relates to the development proposed.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The appeal site is situated in a relatively built-up area containing numerous properties of various designs, ages and sizes. The rows of properties to the west, north and east of the site face Chili Road, Chapel Terrace and Elm Close respectively. However, the pattern of development in the locality is mixed given the differing orientations and set-backs of properties and the ad-hoc presence of outbuildings/garages and areas of hard standing fronting the highway, such as along Chapel Terrace. While properties in Illogan Highway may generally address the highway, I observed on my site visit that several properties in the vicinity of the site also have side elevations facing the public realm, including 3 and 18 Chili Road, 10 Chapel Terrace, 1 Elm Close and 62 Agar Road. In addition, although some properties are set in relatively long, narrow plots, others are in more constrained – and sometimes shorter, wider – plots and thus garden sizes also vary. This includes for example the properties to the east of the site on Elm Close, some on Chapel Terrace and also 16 Chili Road given the fence separating it from the site, which reads as a separate, vacant parcel of land. Accordingly, the

surrounding area has a relatively mixed residential character and contains a varied pattern, layout and form.

5. As the proposed development would have the same orientation as the properties to the east and west, it would not mirror the properties off Chapel Terrace and its gable end would face them. Given the site previously formed part of the rear gardens of 16 and 18 Chili Road, the proposed dwellings and those existing properties would also be set in smaller plots than some other properties in the locality. However, given the varied positions of properties and size of plots in the surrounding area, the development would not read as an incongruous feature. In addition to sufficiently sized gardens and space for soft landscaping of the proposed dwellings and parking area, the degree of separation to existing built form means that the proposed development would neither appear cramped nor too large. With external materials including stone and slate, the proposed development would also be sensitive to the surroundings and add to the area's quality. In coming to this view, I have taken into account that part of the boundary stone wall would be removed.
6. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area. I therefore find that it accords with Policies 1, 2 and 12 of the Cornwall Local Plan Strategic Policies 2010-2030. Amongst other aspects, these set out the Council's approach to decision making and seek high-quality developments with a design that maintains and respects local character. The proposal would also be consistent with the provisions in the National Planning Policy Framework (Framework) in relation to achieving well-designed places.

Other matters

7. Interested parties have raised concerns about the effect of the proposed development on highway safety given, amongst other aspects, the limited width of Chapel Terrace – which is also a well-used pedestrian link – and the restricted visibility to Chili Road. However, the Highway Authority have not objected, the Council have not alleged that the proposal would conflict with any highway/transport-related development plan policies and I have little substantive evidence that the appeal proposal would harm highway safety or access. In addition, the relative increase in trip generation from two additional dwellings would not be significant while the proposed passing place – provision and retention of which can be secured by condition – would be sufficient to allow vehicles to pass on Chapel Terrace.
8. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as lack of engagement with the community; the effect on living conditions of surrounding residents, including in Chapel Terrace and the adjoining properties on Chili Road and Elm Close in relation to garden size, privacy and overshadowing; whether the proposed dwellings would be for local people, affordable and are needed given the Council has already exceeded the housing delivery target; potential effects on wildlife and complying with relevant legislation, and that wildlife would benefit if the site were not developed; the need to enhance biodiversity, maintain green corridors and maintain built heritage in-line with the vision of the Neighbourhood Plan being developed, which does not endorse the site for infill development; the need to move the street light and telegraph pole; lack of details relating to cycle and bin storage; and the presence of Japanese knotweed on the site and the need to deal with it appropriately. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters.

Some of the matters are also commonly dealt with under different regimes. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed.

Conditions

9. I have had regard to the various suggested planning conditions. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents, to ensure that details are submitted to and considered by the Council where relevant and for clarity and consistency.
10. In addition to the standard time limit condition, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. Combining two conditions into one for brevity, I have imposed a condition covering the passing place and parking and turning areas as these are necessary in the interests of highway safety.
11. A condition covering drainage is necessary because the site is within a critical drainage area and further details are required to ensure that the surface water from the development can be adequately managed. Given the limited details available and concerns that infiltration drainage is not appropriate due to mine workings and land contamination in the area, details are needed prior to commencement of the development to demonstrate that a suitable drainage system can be provided. I have however amended the Council's suggested wording because, as it was written, it was not actually implementable.
12. Although the Council has suggested conditions removing various permitted development rights and preventing the installation of further wall and roof openings, the PPG indicates that such conditions may not pass the test of reasonableness or necessity. In this instance, the submitted evidence does not indicate that such conditions are necessary or reasonable, particularly given that permitted development is subject to various restrictive criteria, that many of the rights only allow for relatively minor additions and alterations, and the proposed dwellings already have windows at first floor level. I also have little substantive evidence that such elements would result in any significant harm to the character and appearance of the surrounding area or the living conditions of neighbours were they to be provided under permitted development rights in the future. I have therefore declined to impose these two conditions.
13. In-line with the appellant's suggestion in response to interested party comments, I have however imposed a condition covering external materials. As limited detail has been provided relating to the specifications of external materials, this condition is necessary in the interests of the character and appearance of the area.

Conclusion

14. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development would accord with the development plan as a whole and the Framework. The appeal is therefore allowed.

T Gethin

INSPECTOR

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: Location Block & Site plan (Drawing No 2629-PL-01, Rev C) and Proposed Plans and Elevations (Drawing No 2629-PL-03, Rev A).
- 3) Prior to commencement of the development hereby permitted, details relating to a system for the disposal of surface water on the site and its on-going maintenance shall be submitted to and approved in writing by the local planning authority. The approved system shall be installed and fully operational prior to occupation of the development and shall thereafter be retained and maintained in accordance with the approved details.
- 4) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) The development hereby permitted shall not be occupied until the parking and turning area serving the approved dwellings and the vehicle passing area have been constructed and finished in accordance with the details shown on Drawing No. 2629-PL-01 Rev C. The parking and turning area and the vehicle passing area shall thereafter be retained and kept available at all times for those purposes.

END OF SCHEDULE