



Appeal Decision

Site visit made on 22 March 2023

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 09 May 2023

Appeal Ref: APP/D0840/W/22/3305587

Half Moon House, South Road, Stithians, Cornwall TR3 7AD

- 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 Adrian Lea against the decision of Cornwall Council.
 - The application Ref PA22/02409, dated 9 March 2022, was refused by notice dated 22 June 2022.
 - The development proposed is described as a proposed new detached dwelling to replace existing garage and subdivision of plot.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed new detached dwelling to replace existing garage and subdivision of plot at Half Moon House, South Road, Stithians, Cornwall TR3 7AD in accordance with the terms of the application, Ref PA22/02409, dated 9 March 2022, subject to the conditions in the attached schedule.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding area; and,
 - The effect of the proposed development on the living conditions of residents at Tremull Barns with particular reference to overshadowing and loss of outlook.

Reasons

Character and Appearance

3. The appeal site comprises land and a single storey double garage located within the settlement at Stithians. The garage structure is attached to a single storey dwelling known as Tremull Barn positioned southwest of the site, and to the host dwelling at Half Moon House. The appeal proposal seeks to demolish the existing single storey garage structure, which appears modern in design with a flat roof, and construct a two storey detached dwelling.
4. Half Moon House is a substantial two storey, double fronted, dwelling with a hipped roof and stonework façade, set back and elevated above the adjacent highway. Half Moon House is not a listed building and is not located within a Conservation Area. Nonetheless, a copy of an 1839 Tithe Map extract has been provided which shows Half Moon House, and attached structures, with a first edition county map (1875 -1901) showing that dwelling as forming Half Moon

public house. The Council maintains that on account of its scale, traditional style, and its historic social importance as a former public house, Half Moon House is considered to be a non-designated heritage asset (NDHA). However, by reason of alterations and additions made to Half Moon House, the Council states that “the building would fall at the lower end of importance”.

5. The Appellant acknowledges that Half Moon House is an attractive building and does not dispute that aspects of Half Moon House have architectural merit. However, the Appellant raises concerns regarding the procedure followed when the Council assessed that dwelling as being a NDHA.
6. The National Planning Policy Framework (the Framework) defines a heritage asset as “a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes assets identified by the local planning authority (including local listing)”.
7. I acknowledge the Appellants submissions regarding the procedure followed by the Council in determining that Half Moon House is a NDHA. However, it appears that Cornwall Council has identified the building to be a NDHA as part of its assessment of the planning application. Paragraph 195 of the Framework requires that local planning authorities identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. Whilst the Framework advises that it is important that all NDHAs are clearly identified as such, the Planning Practice Guidance also advises that local planning authorities may also identify NDHAs as part of the decision-making process on planning applications.
8. Notwithstanding the above, in my view, and by reason of its design, historic local importance and attractive frontage which has architectural merit, Half Moon House could be properly described as being a NDHA. Paragraph 203 of the Framework requires that, in weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required, having regard to the scale of any harm or loss, and the significance of the heritage asset.
9. Whilst the local importance context and features as described above are noted, Half Moon House appears to have been much altered since it was a public house and is now in residential use. The garage structure that is to be demolished and replaced, may be positioned where former outbuildings or stables in association with the public house were positioned. However, by reason of the alterations previously made, to include construction of the garages which are flat roofed and overtly modern in design, as well as substantial and unsympathetic additions to the rear and northeast elevation of Half Moon House, the visual significance of that building has been significantly diminished, with little, if any, semblance of the historic use of the building as a public house remaining.
10. The proposed dwelling would be contemporary in design and would have a form and use of materials that would not reflect the appearance of Half Moon House. However, this area of the settlement is characterised by residential development comprising a mix of detached dwellings and more modestly sized terraced dwellings. Here variety is the rule, with modern properties interspersed amongst more traditional forms of development. Buildings within the settlement are constructed in a variety of materials, with buildings close to

the site exhibiting a varied palette of external finishes and substantially scaled glazed openings. As a result, within the setting of Half Moon House exists a range of varied, modern development.

11. The proposed dwelling would be set back from Half Moon House and would have a lower overall height. Given that the proposed dwelling would reflect other nearby modern development in terms of design and separation distance between buildings, there would be no harm to the character and appearance of the surrounding area. Nearby developments have enclosed Half Moon House to the northwest, and which has impinged upon the setting of the NDHA, and which currently draws the eye away from the visual interest of Half Moon House. In these respects, and given the unsympathetic nature of existing additions which the Council concedes has reduced the significance of the NDHA, the proposal would not further erode the remaining significance of Half Moon House as a NDHA.
12. Therefore, although the front of Half Moon House has some architectural merit, the proposal would not have an adverse effect on the setting and visual interest of the building. Consequently, taking this and the wider character considerations, such as the varied nature and appearance of nearby development, into account, the proposal would accord with the character and appearance of the surrounding area and would preserve the remaining limited significance that Half Moon House has as a NDHA.
13. For the above reasons, I find no conflict with Policies 12 and 24 of the Cornwall Local Plan Strategic Policies 2010-2030 ('the Local Plan') which concern design and the protection and conservation of heritage assets, and which seek to protect local distinctiveness and the settings of heritage assets. Further, I also find that the proposal would comply with those parts of Policy 2 of the Local Plan which concern the protection and conservation of heritage assets. For the same reasons, there would be no conflict with those sections of the Framework that concern achieving well designed places, nor would the proposal fail to accord with paragraph 203 of the Framework.

Living Conditions

14. Amongst other matters described above, Policy 12 of the Local Plan also seeks to ensure that development protects individuals and property from overbearing and overshadowing impacts. Policy 13 of the Local Plan concerns development standards.
15. The proposed dwelling would be positioned close to the shared boundary with the neighbouring single storey dwelling at Tremull Barn. The garden space to the rear of that neighbouring property slopes uphill away from the dwelling. Part of the rear of the proposed dwelling would extend beyond the rear of the neighbouring dwelling and would wrap around the protruding northeast elevation of that dwelling.
16. Whilst the appeal scheme would have an overall height greater than that of Tremull Barn, its roof form would be sloped away from the neighbouring dwelling and its garden space, and would be largely obscured in views from the rear of the neighbouring building by planting at the boundary. The height of the proposed dwelling would result in some enclosure of the neighbouring garden. However, the open aspects to the rear of that neighbouring dwelling towards the northwest would be preserved and unaffected by the proposed

development. Whilst the development would be visible from the neighbouring rear garden space, I do not find that it would have a significant overbearing effect. Submitted daylight analysis details confirms that no significant overshadowing would occur at Tremull Barn which, as above, is situated to southwest of the appeal site.

17. I therefore conclude that the proposal would not have an unacceptable adverse effect on residents at Tremull Barn with regards to overshadowing or loss of outlook. The scheme would therefore accord with paragraph 130 of the Framework and would comply with Policy 12 of the Local Plan which, amongst other matters described above under the first main issue, seeks to ensure that development protects individuals and property from overbearing and overshadowing impacts. Policy 13 of the Local Plan concerns development standards and I find no conflict with the provisions or aims of that policy.

Other Matters

18. Although not included as a reason for refusal, the Council's appeal statement identifies that the site lies within the zone of influence for the Fal and Helford Special Area of Conservation (the SAC). The Council has adopted a strategic approach to the mitigation and monitoring of the effects of development on the SAC within its European Sites Mitigation Supplementary Planning Document (July 2021) (the SPD). The SPD sets out that financial contributions on a per dwelling basis, to fund mitigation measures, will ensure that residential development in the zone of influence will not have significant effects upon the protected habitats.
19. The Council has confirmed that Appellant has submitted a planning obligation and has made the necessary financial contribution to fund mitigation measures. Consequently, I am satisfied that it is not necessary for me to consider the proposal any further in respect of the Conservation of Habitats and Species Regulations 2017.
20. Interested parties raise additional concerns on grounds of effects on the living conditions of nearby residents with regards to overlooking and loss of privacy, highway safety and flooding. In terms of highway safety, the proposal would make use of an existing point of access onto the highway and further to approval of details to be secured by condition described below, I do not find that the scheme would have an adverse effect on highway safety.
21. With regards to impact on living conditions, further to observations made on my visit, by reason of the change in land levels and given the separation distance between buildings, I do not find that there would be an unacceptable impact on the living conditions in respect of overlooking or loss of privacy for residents of properties located to the northwest of the site at Tremall Parc. Noise and disturbance during construction can be adequately controlled by planning condition requiring submission and approval of a Construction Method Statement as described below.
22. In terms of flooding, the scheme provides that surface water would be directed towards a soakaway thereby reducing potential runoff from the site and reducing flood risk. Further to the details provided it is noted that South West Water raised no objections to the proposal. In the absence of substantive evidence to the contrary, I do not find that the proposal would result in an increase in flood risk.

Conditions

23. I have considered the planning conditions suggested by the Council in light of paragraph 56 of the Framework and the advice in the Planning Policy Guidance. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. However, as sufficient information on external materials has been provided on the submitted plans, the materials condition suggested by the Council in this respect is not necessary.
24. It is important that the construction process takes place without significant detriment to the living conditions of existing residents, or to the operation of the highway network. Accordingly, a pre-commencement condition is necessary to require the submission of a Construction Method Statement for approval by the Local Planning Authority. Furthermore, a condition requiring the fixing shut of certain window openings on the west elevation of the proposed dwelling is necessary and reasonable to protect the living conditions of neighbours at Tremull Barn.
25. The Council has further suggested a planning condition that requires approval of details concerning the gradient, surface, drainage and sight lines for the access to the site. Whilst I acknowledge the Appellant's submissions in that regard, it is noted that there would be a change to the access through the installation of a surface water soakaway and the widening of the driveway. As such, in the interests of highway safety, I find that the condition is necessary and reasonable.
26. Where necessary, and also in the interests of clarity and precision, I have altered the wording of conditions to better reflect the relevant guidance. The pre-commencement condition is necessary as a pre-commencement condition due to the nature and scope of that planning condition. The Appellant has not objected to the inclusion of the pre-commencement planning condition.

Conclusion

27. The appeal scheme would make a limited contribution towards housing stock and would be located in the settlement where there is convenient access to services and facilities. Some very limited economic benefits would arise from employment opportunities during construction and through the future spend of residents within local businesses.
28. For the reasons given I conclude that the appeal should succeed.

Mr A Spencer-Peet

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 approved shall in all respects accord strictly with drawing number: Illustrative Purposes Only 03 A, Site Location Plan 01 A, Proposed Ground Floor Plan 11, Proposed First Floor Plan 12 A, Proposed North Elevation 13, Proposed East and South Elevations 14, Proposed West Elevation 15 received by the Local Planning Authority on 9 March 2022 and drawing number: Block Plan 10 A received by the Local Planning Authority on 31 March 2022.
3. Before any other building or engineering works are carried out on the site, the access shall be laid out and constructed in accordance with drawing number: Block Plan 10 A; with its gradient, surfacing, drainage and sight lines having first been approved in writing by the Local Planning Authority. The access shall be retained as approved thereafter.
4. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Construction Method Statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (v) wheel washing facilities;
 - (vi) measures to control the emission of dust and dirt during construction;
 - (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (viii) hours of working.
5. The building hereby permitted shall not be occupied until the roof windows on the west elevation have been fitted such that no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once fitted they shall be retained as such.