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# Appeal Decision

Site visit made on 16 April 2024

**by S Harrington MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 April 2024**

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**Appeal Ref: APP/D0840/W/23/3327983**

**Tregonhawke Cliff, Trelowen, Military Road, Torpoint, Cornwall PL10 1JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Hill against the decision of Cornwall Council.
  - The application Ref is PA22/10539.
  - The development proposed is demolition of the existing chalet and replacement with a sustainable and energy efficient new chalet.
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## Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing chalet and replacement with a sustainable and energy efficient new chalet at Tregonhawke Cliff, Trelowen, Military Road, Torpoint, Cornwall PL10 1JU, in accordance with the terms of the application, Ref PA22/10539, subject to the conditions in the attached annex.

## Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework (Framework) was published. The main parties have had the opportunity to make comment on any implications of this change within the appeal timetable.
3. The Chief Planning Officer's Advice Note – Whitsand Bay (The CPOAN) was published following submission of the appeal. The CPOAN does not form part of the statutory development plan and is to be regarded as informal guidance. However, it does provide some clarity on the locally adopted approach to decision making within the Whitsand Bay area. The appellant has had opportunity to make comment on the CPOAN, and as such I have had regard to it in the determination of this appeal.

## Main Issues

4. The main issues are the effect of the proposal on:
  - the character and appearance of the area; and
  - the living conditions of the occupiers of 'Belair', with particular regard to overshadowing, and whether it would be overbearing.

## Reasons

### *Character and appearance*

5. The appeal site is located below Military Road and is one of a large number of modest chalets situated on the side of a cliff overlooking Whitsand Bay.

Although the appeal chalet is in close proximity to neighbouring chalets to either side, in general chalets in the area are well-spaced out and separated by extensive undeveloped areas of steep roughly vegetated cliff. Despite the number of chalets, due to their modest size and the prevalence of open spaces, the area retains an attractive open coastal character and has been locally designated as an Area of Great Landscape Value (AGLV).

6. Chalets in this area are predominantly timber built structures, although there is a variety of appearances and materials, including contemporary design features such as large windows, standing seam roofs and glazed terrace panels which also now forms part of the character of the area.
7. Policy W1 of the Caradon Local Plan First Alteration, adopted August 2007 ('CLPFA') states that the extension or replacement of chalets will only be permitted under certain circumstance, including where the resultant area does not exceed 28m<sup>2</sup> or 10% more than the existing gross area of the chalet (measured externally and excluding outbuildings); all external sheds and detached structures are removed; and there is no material increase in roof height.
8. The CPOAN outlines that the intention of CLPFA Policy W1 is to prevent significant increases in the size and prominence of the chalets and ensure that proposals do not harm the distinctive characteristics of this visually sensitive area.
9. I am mindful that even small or minor additions and changes could have a cumulatively harmful effect on the character of the area. Whilst the evidence indicates that the original footprint would have been around 37m<sup>2</sup>, it is nevertheless the case that the existing chalet is 65m<sup>2</sup> and the proposal does not seek to increase the gross area occupied by the chalet. Furthermore, whilst a change to the pitch roof form is proposed, with the ridge line being moved towards the front elevation, there would be no material increase in ridge height and the ridge line would continue to run parallel to the longest side of the building.
10. Moreover, materials, including vertical timber board cladding and a standing seam roof would appear recessive and not add to the prominence of the building in the local landscape, particularly given the use of such materials nearby. The proposal would also result in the beneficial removal of an external outbuilding.
11. Although the proposal would incorporate large areas of full height glazing, some full height glazing in the form of patio doors is already evident in the existing chalet. Moreover, oversized windows are also prevalent in the surrounding area, including on chalets in more prominent locations along Military Road. I accept that the glazing proposed could result in some light spill. However, the lack of rooflights, the chalet's position below Military Road and close proximity to other chalets would minimise the visual effect of any additional light spill so as to not harmfully impact on the surrounding landscape.
12. Given the above, the proposal, whilst incorporating some contemporary detailing similar to that reflected elsewhere in the near vicinity, would, importantly, retain a simple modest shed like form of similar scale and

massing to other chalets in the area, reflecting the character of surrounding development.

13. An extended terrace is proposed with upper and lower terraces. The proposed terraces would respond to the levels of the surrounding sloping topography, be reflective of similar garden areas I observed in the area and would not visually decrease the existing space between the building and its boundaries. Furthermore, the soft landscaping scheme would assist in successfully assimilating the proposal into the wider landscape without the proposal appearing inappropriately suburban.
14. A number of other appeal decisions have been drawn to my attention relating to chalets within the area. However, I do not have specific details of all the schemes the subject of these decisions to ascertain the relevance in terms of design or spatial relationship with other chalets. Furthermore, two of the decisions<sup>1</sup> related to a material increase in size and/or ridge height. The Inspector also noted within a further decision<sup>2</sup> that that proposal would result in an overly large extension to a chalet, with a footprint that is not subservient to it. This limits the equivalence of the other cases to the current proposal. Moreover, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.
15. To conclude, the proposal would not adversely affect the character and appearance of the area. As such, it would accord with Policies 1, 12, and 23 of the Cornwall Local Plan Strategic Policies 2010–2030 (LP), and CLPFA policies CL9 and W1 which, amongst other things, seek development to be of high-quality design, and maintain the distinctive character of the area and landscape qualities of the AGLV. The proposal would also accord with guidance provided within the Whitsand Bay Chalets Guidelines for Development Control 2001 which seeks amongst other things to ensure development is not any more prominent in the landscape than existing development.

#### *Living conditions*

16. The existing chalet features a lower roofed lean-to element directly adjacent neighbouring 'Belair', which due to the topography is set lower than the appeal site. Although the Council claim that the proposal would result in overshadowing, no substantive evidence has been provided by either party to demonstrate whether this is the case and, if so, how much overshadowing there would be.
17. The proposal, featuring a ridgeline offset to the front of the property and running the full length of the chalet, would result in some additional massing when viewed from Belair. Notwithstanding, given the increased separation distance between built form, relative heights of the chalets and spatial relationship maintaining the building line and openness to the front of the chalets, any overbearing effects on occupants of Belair would be minimal. For similar reasons and noting the orientation of the front of the chalets, the proposal would not result in a significant increase in overshadowing over and above that created by the existing chalet throughout the course of the day.
18. An interested party has also raised concerns in relation to overlooking into Belair. Whilst the proposal does feature two windows on the side elevation

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<sup>1</sup> APP/D0840/A/09/2100345 & APP/D0840/W/18/3197347

<sup>2</sup> APP/D0840/C/22/3304909

facing Belair where no windows currently exist, a planning condition can be imposed to ensure that these are obscure glazed, which would prevent any significant overlooking.

19. To conclude, the proposal would not have a harmful effect on the living conditions of the occupiers of Belair, by way of overshadowing, or any overbearing effects. The proposal would therefore accord with LP policies 1 and 12. These policies seek, amongst other things, for development to protect individuals and property from overshadowing and overbearing impacts.

### **Other Matters**

20. As well as the main issues I have covered above, interested parties have raised a number of other concerns including those relating to land stability, a hot tub, impact on biodiversity and wildlife, access, occupancy, noise, solar panel placement and loss of a view.
21. With regards to lands stability, the site is not within a coastal erosion vulnerability risk zone and I have no substantive evidence before me to lead me to find that the proposal would result in an land stability issues, providing full details of retaining walls and structures are provided. Such information can be secured by a planning condition. Whilst the scheme may have previously incorporated details of a hot tub, this does not form part of the appeal proposal before me.
22. In terms of biodiversity, although some additional hardstanding is proposed, the proposal seeks to retain existing boundary hedgerows with the addition of further native planting. Furthermore, the design of the proposed chalet takes a 'low-carbon' approach, and a scheme to provide bird and bat boxes and bee bricks to further enhance bio-diversity can be secured by planning condition.
23. The proposal would not result in any additional movements attracted to the site and does not change existing access arrangements. The use of the existing chalet is as a holiday let, and the proposed chalet would remain as such, resulting in no material change in occupancy or noise levels associated with that use. The provision of solar panels on the roof is reflective of other developments in the area and would provide a benefit in terms of a renewable energy source. Finally, a change or loss of a view from a private window is not in itself regarded as a material planning consideration.

### **Conditions**

24. The Council has provided a list of conditions in the event that the appeal is allowed, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty.
25. A Condition is necessary to ensure obscure glazing is fitted and retained in order to protect the living conditions of neighbouring occupiers. Given the location of the appeal site and in accordance with the Council's spatial strategy, a condition is necessary limiting the accommodation to holiday occupation.
26. Conditions are necessary to ensure the submission and approval of a scheme for the provision of bird and bat boxes and bee bricks in the interests of bio-

diversity and details of retaining walls in the interests of maintaining the stability of the site.

27. The appellant has also suggested a condition in relation to glazing. Even if such a condition were enforceable, given my findings above in the first main issue, such a condition would not be necessary.

**Conclusion**

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

*S Harrington*

INSPECTOR

## **Annex**

### **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 approved plans: 2134 3 0601 C; 2134 3 0101 REV C; 2134 3 0001 REV A; 2134 3 0302 REV B; 2134 3 0303 REV C; 2134 3 0304 REV B; 2134 3 0305 REV C.
3. Before the first occupation of the chalet hereby permitted the windows on the north-west elevation shall be fitted with obscure glazing and fixed closed and the windows shall be permanently retained in that condition thereafter;
4. The development hereby permitted shall be used as holiday accommodation only and shall not be occupied as a person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority;
5. No works beyond slab level shall commence until a scheme for the incorporation of bat boxes and bird boxes and bee bricks shall be submitted to and approved in writing by the local planning authority. Such details shall include the location and specific details of each feature. The approved features shall be installed prior to the occupation of the chalet and shall thereafter be retained and maintained as such;
6. Prior to the commencement of the development hereby permitted, exact details of any new retaining walls/structures required including structural drawings and calculations shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

\*\*\*End of Conditions\*\*\*