



Appeal Decision

Site visit made on 5 November 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/D0840/W/24/3346585

Former Chy Karenza, North Pool Road, Illogan, Redruth, Cornwall, TR15 3JQ

- 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 Glenn Leader against the decision of Cornwall Council.
 - The application Ref is PA23/10184.
 - The development proposed is retention and alterations to two dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. On 19 February 2018 planning permission was granted for the construction of two semi-detached dwellings on the appeal site, replacing an existing bungalow (Ref PA17/11404). A revised scheme with the new dwellings set back further into the site was then approved on 1 February 2019 (Ref PA18/11552). In June 2020 the Council visited the site and found that the dwellings were not being constructed in accordance with the approved plans. An application to retain and complete the dwellings "*as built*" was subsequently submitted and refused on 16 December 2020 (Ref PA20/08849).
4. In March 2021 the Council issued an Enforcement Notice (EN), which was then appealed. On 11 May 2022 an Inspector upheld the EN with certain variations (Ref APP/D0840/C/21/3272757 & 3272758 & 3272759) (the 2022 Appeal). The variations to the EN related to its requirements to remedy the breach of planning control, namely to either demolish the two semi-detached dwellings constructed on site or to alter the two dwellings to comply with the terms of the planning permission Ref PA18/11552 (the 2019 Permission). The time for complying with the EN was also extended from nine to twelve months.
5. The period for compliance with the EN expired on 11 May 2023 after which the Appellant submitted a revised scheme which is now the subject of this appeal.
6. Based on the submitted evidence and my observations on site, I understand that the two dwellings that exist on site are the same as the "*as built*" dwellings considered by the Inspector in the 2022 Appeal. I mention this as

- the submitted plans show the existing first floor elevations and gable ends to be timber clad, whereas on site they remain rendered. The timber cladding is shown on the proposed plans and I have determined the appeal on that basis.
7. In refusing planning permission, pursuant to ground a) of the EN, the previous Inspector identified a number of differences between the "*as built*" dwellings and the 2019 Permission. However, the Inspector found that the development was unacceptable as: the roof had been constructed with gable ends rather than a hipped roof as approved; the ridge height was nearly a full metre higher than that approved; enclosed side-entry porches had been constructed under a single gabled roof rather than the approved open fronted mono pitch porches; and the dwellings had three storeys of accommodation compared to the approved two storeys.
 8. The current appeal seeks planning permission to retain and alter the two dwellings. The alterations include cladding to all the first floor elevations and the introduction of new roof hips to the end of each gable.
 9. As I observed on my site visit, this part of North Pool Road forms a cul-de-sac. There is a two storey older house opposite and other two storey houses further to the north and further south of the cul-de-sac. However, the properties either side of the appeal site are single storey bungalows. There are further bungalows to the north, north east and south west of the appeal site. As I confirmed earlier, I understand the appeal site was previously occupied by a bungalow and it would, therefore, have formed part of a row of four similar bungalows.
 10. In paragraph 17 of the 2022 Appeal decision the Inspector found that: in views from the street it was clear that the constructed dwellings have three storeys of accommodation; that their scale dominated the modest form of the bungalows either side; that this adverse impact was heightened by the addition of the enclosed side entry porches; and that the expanse of the tall gable end wall was a prominent and intrusive element on the approach from the rise along North Pool Road disrupting the low lying roofscape to this side of the street. Based on my observations on site I fully concur with these findings.
 11. As the current proposal retains the constructed porches, the bulk that these add to the appeal building remains. In relation to the new cladding, I accept that this would add some interest to the upper elevations of the building, but it would not, in my view, have any meaningful effect on the scale or the adverse visual impact of the constructed roof and gable ends. In relation to the new hips, I agree with the Council that these are very small and are certainly not large as the Appellant contends. Combined, the proposed changes are, in my judgement, modest and they do not address the previous Inspectors concerns.
 12. The ridge line, other than where the new hips are proposed, would remain as constructed, almost one metre higher than approved in the 2019 Permission. Moreover, the submitted existing elevation plan includes a broken red line to denote the outline of the approved front elevation. When this is overlayed with the proposed elevation, the small size of the new hips is very clear and evident. This also shows that the scale and bulk of the constructed roof and gable ends, even with the proposed changes, would continue to appear excessive and would visually dominate this part of the streetscene, including the low lying roofscape on this side of the road.

13. The proposed changes would also not alter the appearance of the dwellings as three storeys of accommodation. This would be evident from the fact that the majority of the large steeply slopping gabled roof would be retained, with only small relief provided by the new hips. The majority of ridgeline would also remain at the same height. As the Inspector in the 2022 Appeal found this ridgeline is nearly one metre higher than that in the 2019 permission. The latter approval included a roof with wide hips that sloped away from the bungalows either side to not only reflect the two floors of accommodation proposed but also the two storey property opposite. The three storey appearance is also evident from the existing rooflights, which would remain, and from the second floor gable end windows. For these reasons, I disagree with the Appellants contention that the dwellings would appear as two storeys and note, in putting forward that view, that they do not appear to have included reference to second floor gable end windows.
14. Moreover, the proposed hips appear, in my view, to be a somewhat contrived design feature that has been added on, as they would be and not part of any thought out design process. Even so, the introduction of these new hips and the cladding would not have any material impact on the building relationships that arise with the bungalows either side. The dwellings, as altered, would continue to appear overbearing and would dominate the bungalows visually. The proposal would also remain an incongruous feature within the streetscene and that adverse visual impact would be accentuated by the "*as built*" porches.
15. Overall, the constructed dwellings, even with the proposed changes, would not sit comfortably on the appeal site. They would continue to have an adverse visual impact on the character and appearance of the area and represent a poor quality design. As such, the appeal proposal would conflict with policies 1 (Presumption in favour of Sustainable Development), 2 (Spatial Strategy) and 12 (Design) of the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016) (CLP), policies H1 (Location & Scale for New Housing Development), H6 (Protection of Carn Brea's Existing Housing Stock) and D2 (Design, Heritage & Local Distinctiveness) of the emerging Carn Brea Neighbourhood Plan 2023-2030 (Made version March 2024) (CBNP) and policy C1 of the Climate Emergency Development Plan Document (February 2023) (SPD).
16. These policies require, amongst other matters, that new development is: of a high quality of design; respects and enhances the special character of Cornwall and local distinctiveness; is of an appropriate scale, density, layout, height and mass in relation to the site and its surrounds; seeks to increase built and natural environments distinctiveness through locally distinctive, high quality and sustainable design; and, in relation to replacement dwellings, that they are proportionate to the original dwelling, of an appropriate design, do not have an unacceptable impact on local character and respect existing relationships with adjoining buildings (the latter is from part 2 of policy H6).
17. All of these policies remain consistent with those in paragraphs 8, 135 and 139 of the National Planning Policy Framework (December 2023) (NPPF). I also note that the CBNP has now been the subject of a successful referendum and should therefore be accorded significant weight.
18. In reaching the above findings I have had regard to the Appellant's submission on local distinctiveness and their references to the Cornwall Design Guide (December 2021). As I confirmed above, local distinctiveness forms one of the

requirements to be assessed in determining the acceptability of any new development. It is one of the considerations I have addressed above as part of my assessment of the character and appearance of the area, and the appeal sites local context. My findings in relation to the latter concurred with those reached by the previous Inspector and also by the Council in its Delegated Report and Statement of Case. As in all similar cases, assessments of an areas character and appearance involve planning judgements, on which opinions will differ.

19. The Appellant refers to the fallback option of the dwellings being altered to comply with the 2019 Permission, with a hip to gable roof extension then added under permitted development rights (PD). I accept that a fallback option is a material consideration, but for significant weight to be attached to it there must be a more than theoretical possibility of that option proceeding. As the previous Inspector confirmed dwellings only benefit from PD rights once they have been completed. In this case, that would require the dwellings to be altered and completed in accordance with the 2019 Permission and then, assuming a hip to gable extension was shown to be PD, for the dwellings to be altered again to incorporate hip to gable roof extensions. However, paragraph 8.1.60 of the Appellants Statement of Case (ASOC) clearly suggests that the requirements of the EN are significant to the Applicant, in particular, in terms of the amount of works and capital required to resolve the issue. In view of this, I am not convinced on the evidence before me that this fallback would represent a viable and realistic option.
20. Even assuming this was a realistic fallback option, as the Inspector found in paragraph 25 of the 2022 Appeal, in considering such PD rights with the 2019 Permission, *"the ridge height would have been nearly a full metre lower than that of the current dwellings, and the resulting visual impact would not have been so adverse"*. I concur with those findings and consider that even with the minor changes now proposed, the scale and visual impact of the retained roof and gable ends to the dwellings would still be far more adverse and significant than that which could theoretically be secured under such a fallback option.
21. The Appellants submissions include a number of references to the 2022 Appeal decision and the requirements of the EN. However, those matters are not before me and they are not issues that I can revisit or comment on in the context of an appeal that has been submitted under section 78 of the Town and Country Planning Act 1990 and simply seeks planning permission to retain and alter the two dwellings. I note that the 2022 Appeal decision was not challenged and that, in response to the submissions made by the Appellant at the time, the EN was varied as its requirements were considered excessive in terms of remedying the breach of planning control and that the period of compliance also fell also short of what was reasonable.
22. Turning to the January 2021 appeal decision on land west of 29 Grenville Road in Padstow, referred to in the ASOC, the circumstances that arose in that case are not, in my view, comparable to those in the current appeal. From reading that decision it is clear that the Inspector found that the appeal scheme would result in harm to the living conditions of neighbouring occupiers but then went onto state that *"However, in this instance and with the approved scheme representing a viable fallback scenario that would not cause substantially less harm, I find that the above material considerations outweigh the limited additional harm that I have identified would arise as a result of the appeal"*

proposal." There was therefore both a realistic and viable fallback option and an approved scheme where the difference in the harm to the neighbours living conditions compared to that of the appeal proposal were found to be limited. The Inspector also found that the material considerations included a large extension which the evidence suggested could be built onto the approved scheme under PD resulting in far greater harm to the neighbours living conditions, whereas those PD rights could be removed from the appeal proposal.

23. I have, of course, had regard to the Appellants personal circumstances and I do recognise the attempts that they have made to resolve the breach of planning control. Even so, I would only accord these considerations limited weight and they are not sufficient, either individually or cumulatively, to outweigh the significant harm that I have identified and the conflict with development plan policies, that are consistent with those in the NPPF.
24. I have also had regard to the letters of support, but note from the Council's Delegated Report that there were also objections to the proposal from the Parish Council as well as a neighbouring occupier. Even so, the letters of support do not negate the need for the proposal to be assessed against the relevant development plan policies. Neither do they provide a justification for allowing development that, as I have found, is of a poor quality design and would be harmful to the character and appearance of the streetscene.
25. Accordingly, I find that the appeal proposal would fail to comply with policies 1, 2 and 12 of the CLP, policies H1, H6 and D2 of the CBNP, policy C1 of the SPD and the corresponding policies of the NPPF.

Conclusion

26. For the reasons given above and having taken all other the matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR