
Appeal Decisions

Site visit made on 14 November 2016

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 December 2016

APPEAL A

Appeal Ref: APP/D0840/W/16/3152447

Plot 1, Land off Trewall Hill, Downderry, Torpoint, Cornwall PL11 3LA

- 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 G Marshall against the decision of Cornwall Council.
 - The application Ref PA15/11477, dated 1 December 2015, was refused by notice dated 9 February 2016.
 - The development proposed is described on the application form as 'residential development for a detached dwelling with garage.'
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APPEAL B

Appeal Ref: APP/D0840/W/16/3152452

Plot 2, Land off Trewall Hill, Downderry, Torpoint, Cornwall PL11 3LA

- 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 Brison Estates Ltd against the decision of Cornwall Council.
 - The application Ref PA15/11488, dated 1 December 2015, was refused by notice dated 9 February 2016.
 - The development proposed is described on the application form as 'residential development for a detached dwelling with garage'.
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Decision

1. The appeals are dismissed.

Procedural Matters

2. Applications Ref PA15/11477 and PA15/11488 were for development of the same description on adjacent sites, refused by the Council for the same reasons, and the cases made at appeal address both proposals. I have therefore considered these appeals collectively in this decision, drawing distinctions between common and individual issues where necessary.¹
3. In refusing permission for both applications the Council cited that the development proposed would conflict with the approach in saved policies of the Caradon Local Plan, adopted originally in December 1999, and a first alteration version thereof adopted in August 2007 (collectively referred to as the 'former

¹ With regard to *Hope & Ors v Secretary of State for Communities and Local Government & Anor* [2012] EWHC 684 (Admin).

- plan'). Conflict with elements of the National Planning Policy Framework (the 'Framework') was also cited in the relevant decision notices.
4. The Council adopted the Cornwall Local Plan: Strategic Policies 2010-2030 on 22 November 2016 (the 'Local Plan'), which supersedes the majority of the former plan. However certain policies of the Local Plan, then emerging rather than adopted, were referenced within the Council's decision notices. As the appellants have had the opportunity to comment upon the changing policy context, I have determined the appeals in accordance with the extant development plan unless material considerations indicate otherwise.
 5. The applications to which both appeals relate were made in outline with details of access, appearance, landscaping, layout and scale reserved (the 'reserved matters'). I have therefore treated the plans supporting the applications as illustrative of the development proposed. However it is relevant to note that access to both the proposed dwellings is intended to be via Trewall Hill, and that several alterations related to this carriageway are also proposed.²
 6. Plots 1 and 2 are within land encompassed by planning permission Ref E2/00/00414/FUL, notwithstanding that this permission does not enable the creation of dwellings within these plots. This permission, hereafter referred to as the '2002 permission' enabled the creation of 43 dwellings. These dwellings collectively and the carriageway serving them are also referred to in the information before me as Trerose Coombe. I understand that the 2002 permission has been implemented, at least in part.

Main Issues

7. The Council's second given reason for refusal given within their decision notices was that the proposals had been brought forward separately in an attempt to circumvent the need to make provision for affordable housing, which at the time the applications were made was in the Council's view contrary to the approach within policy 8 of the then emerging Local Plan.
8. However the Council have clarified at appeal as a consequence of change to The Planning Practice Guidance (the 'Guidance') following their decisions,³ that no contribution towards affordable housing would in any event be required for the development of two homes.⁴ The second reason for refusal is therefore no longer in dispute in either case, and I have approached the appeals on this basis.
9. The appeal sites are within the South East Caradon Area of Great Landscape Value. However the Council do not object to the effect of the proposals on the character and appearance of the area, notwithstanding representations on this matter from interested parties, particularly as the applications were made in outline. I have no reason to arrive at a different assessment of the proposals in this respect.
10. The main issue in these appeals is consequently whether or not the dwellings proposed would be acceptably located, with particular reference to the appropriateness of vehicular access.

² As illustrated in particular plans 11:02/0S revision B and 11:02/11 supporting application Ref PA15/11477 and plan 11:02/11 supporting application Ref PA15/11488.

³ Reference ID: 23b-031-20160519.

⁴ At paragraph 1.5 of their appeal statement.

Reasons

11. The adjoining appeal sites fall at a northerly reach of the village of Downderry, just within the development boundary of the village set within the former plan. It is common ground that they are approximately 800 metres distant by foot from the heart of the village, approximately 350 metres of which is along Trewall Hill. Enclosed by Cornish banks and trees on both sides, Trewall Hill in this location has the feel of a tranquil rural track, and serves few properties to the north of the appeal sites.
12. The Council has explained that the inclusion of the appeal sites within the former development boundary resulted from their being within the application site of the 2002 permission, which is instead accessed initially via Treliddon Lane. The Council explain that there is some uncertainty as to whether at the time of the 2002 permission these plots were intended to be 'residential curtilage' or alternatively 'spare land'. Whilst the original intended purpose of plots 1 and 2 is not relevant, the nature of the appeal sites and their relationship to other dwellings nearby is.
13. The land immediately around the carriageway Trerose Coombe and its junction with Treliddon Lane is largely level. However it rises very sharply to the east towards the location of the appeal sites; Plan 11:02/01A in relation to plot 1 and plan 11:02/01B in relation to plot 2 indicate a substantial rise exceeding 10 metres at certain points between land nearer to the carriageway Trerose Coombe and Trewall Hill adjacent to both plots. The proposed dwellings would be set within this steeply sloping ground in plots which are presently rocky ground sparsely covered by vegetation.
14. Given this level change, access to plots 1 and 2 is clearly more practicable via Trewall Hill than via Treliddon Lane and Trerose Coombe. Nevertheless this level change and as access would be via Trewall Hill clearly in my view separates both plots 1 and 2 visually and physically from the permitted dwellings at Trerose Coombe and from the main built form of Downderry given the absence of neighbouring properties along Trewall Hill. Whilst I appreciate that some dwellings have been erected and permitted closer to the junction of Trewall Hill and Main Road, the appeal sites are divorced from the location of these dwellings by some distance.
15. As set out above the former plan has now largely been superseded and there is no development boundary presently set for Downderry. Policy 3 'Role and Function of Places' of the Local Plan now guides development to suitable locations. Criterion 3 thereof sets out that outside of identified main towns, as is the location of the appeal site, development will be brought forward through neighbourhood plans, affordable housing led schemes and via infill development.
16. I note that Deviock Parish has been designated for the purposes of preparing a neighbourhood plan, however it appears that the emerging plan is at an early stage of preparation and no specific policies thereof have been brought to my attention. Neither proposal is for affordable housing. 'Infill' is further defined within policy 3, including that such development 'must clearly relate to part of an established settlement'. For the reasons given above in my view neither of

the appeal sites can be said to clearly relate to the established settlement including when considered in relation to the 2002 permission.

17. Trewall Hill rises significantly in level towards the north, the location of the appeal sites, from the junction with Main Road. Whilst I appreciate that many carriageways in rural Cornwall are narrow and steep, it appears that Trewall Hill is exceptional so in these respects. In width it is such that only one vehicle may pass at a time for the majority of its length, and indeed is so narrow on account of being bounded by substantial banks and vegetation that it appeared to me that certain larger vehicles would not be able to make use of it. At the time of my site visit I was unable to pass a pedestrian walking along Trewall Hill for a considerable distance as a consequence of its enclosure on both sides.
18. The steep gradient of Trewall Hill makes vehicle manoeuvring for passing challenging, where this is rarely possible. Whilst I appreciate that various vehicle passing places and other measures including removal of obstacles and signage have been proposed via the appeals to improve the ease of vehicular use of the carriageway, these would have a highly limited effect given the general nature of the carriageway. Similarly more extensive pruning of vegetation along Trewall Hill would have little effect on its usability given that its narrowness is principally as a result of substantial banks rather than vegetation alone.
19. Policy 27 'Transport and Accessibility' of the Local Plan requires that development is located such that the use of sustainable modes of transport can be maximised, is designed to provide appropriate pedestrian access, and that it does not result in significant adverse impacts in respect of highways.⁵ Likewise the Framework sets out that planning should actively manage patterns of growth to make the fullest use of public transport, and that consideration should be given in decision-taking as to whether safe and suitable access can be achieved. This approach is reiterated in the Planning Practice Guidance (the 'Guidance').
20. Notwithstanding that the appeal sites are in relatively close proximity to the services and facilities of Donderry, as a consequence of the gradient of Trewall Hill and its narrowness, walking or cycling along it is inconvenient for pedestrians or cyclists. Future occupants of either dwelling are therefore highly to rely on the use of private vehicles in conflict with the approach in Local Plan policy 27 and the Framework to encouraging sustainable modes of transport. I would further note that this is unlike the situation of the Trerose Coombe dwellings, which are more conveniently located in respect of walking to the centre of the village.
21. There is a Highway and Traffic Assessment before me related to the proposals (the 'Assessment').⁶ Whilst this indicates that Trewall Hill is lightly trafficked, and that there are no recent recorded safety incidents in the immediate area, it also addresses the adequacy of the junction between Trewall Hill and Main Road. The Assessment indicates that visibility at the junction of Trewall Hill and Main Road is approximately 28 metres in one direction and 20 metres in the

⁵ Thereby both superseding and broadly reiterating the relevant provisions of saved policies EV11 'Highways' and ALT2 'General Design Principles' of the former plan.

⁶ Which is dated 15 November 2015, and, for the avoidance of doubt, is before me in respect of both appeals.

other. Such measurements appear to be taken to the centre of the carriageway, as is referred to within the Assessment.

22. There is an interaction between the Assessment and a Speed Survey undertaken.⁷ Within the summary table the Speed Survey indicates that approximately 60% of vehicle movements during the survey period along Main Road were observed to exceed the 20 miles per hour speed limit that applies here.
23. Whilst the Government's Manual for Streets (MfS) sets out that its recommendations should be applied with due flexibility, paragraph 7.7.3 thereof sets out that visibility at junctions should be calculated along the nearside curb rather than to the centre of the carriageway as has been undertaken in the Assessment. Section 7 of MfS establishes that the stopping site distance adjusted for vehicle bonnet length, i.e. the typical distance required for vehicles to come safely to a stop, for a carriageway where vehicles travel at 20 miles per hour is 25 metres. However the Speed Survey shows that the majority of vehicles travelling along Main Road exceed 20 miles per hour. As such I am not satisfied that appropriate visibility at the junction of Trewall and Main Road has been demonstrated.
24. It appeared to me that the limited visibility at the junction of Trewall Hill and Main Road arises chiefly from the orientation of the roads and certain boundary features of nearby properties, and there is no robust evidence before me to indicate that they could be modified to significantly improve the current situation. I would further note that practically the sharp turn that must be navigated travelling eastwards along Main Road onto Trewall Hill changes significantly in level such that executing this turn is awkward. Collectively, based on the information before me and my site visit observations, I am of the view that the junction between Trewall Hill and Main Road is substandard in both visibility and practicality of use.
25. I note that a number of other homes have been permitted since the 2002 permission which would be accessed via Trewall Hill. However from the limited information before me as to the planning considerations that applied to such permissions, these all appear to be substantially closer to Main Road than the appeal sites and therefore a significantly shorter stretch of Trewall Hill must be navigated in order to reach them. In any event the presence of such permissions does not justify development that would be unacceptable in the present.
26. I appreciate that the effect of two dwellings, or indeed of a single dwelling, in the location of the appeal sites may not be severe in respect of highways effects given the level of car usage that would arise. Nevertheless policy 27 of the Local Plan and the Framework clearly establish that the safety and suitability of access to development proposed may be taken into account in the balance of establishing whether development is appropriate. There is little to commend the access of Trewall Hill or its junction with Main Road in terms of its suitability to accommodate additional vehicular movements whether arising from an individual or from two dwellings.

⁷ RadarClass, B3247 Main Road, Donderry Site 2, January 2015 Report, prepared by CORMAC which is before me in respect of both appeals.

27. Therefore by virtue of their location and the nature of the access to the plots, in my view the future occupants of the dwellings proposed via appeals A and B would likely rely on the use of private vehicles. Either dwelling would therefore result in additional vehicular usage of Trewall Hill and the junction thereof with Main Road, which, for the reasons given above, are in my view unsuitable for such additional use. I have explained above given the nature of Trewall Hill and its junction with Main Road, the measures proposed to improve the ease of use of the carriageway would not have a significant beneficial effect.
28. For the above reasons, I therefore conclude that neither dwelling proposed via appeal A nor appeal B would be acceptably located, with particular reference to the appropriateness of vehicular access. The proposals therefore conflict with the relevant provisions of policies 3 and 27 of the Local Plan and with relevant elements of the Framework and the Guidance.

Other Matters

29. Any new home or homes would have some social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities. Such benefits, which are recognised in the Local Plan and the Framework, in respect of one or two homes would, however, inevitably be modest. Similarly the proposals would separately or collectively result in an incremental increase in housing stock in Cornwall in line with the encouragement given within the Framework to boosting significantly the supply of housing. However the benefits of either proposal or the two collectively in terms of housing stock would essentially be confined to a small numerical addition rather in terms of appropriately located dwellings.
30. It is disputed whether the Council are currently able to demonstrate a five-year supply of deliverable sites to meet housing needs, notwithstanding the recent adoption of the Local Plan. However even if the Council are unable to demonstrate such a supply, the adverse impacts resulting from either proposal that I have identified above would significantly and demonstrably outweigh the benefits thereof in line with the approach in the Framework. Consequently neither the benefits of the proposals, nor any other matter, is sufficient to outweigh my findings in respect of the main issue in this case.

Conclusion

31. I therefore conclude, having taken into consideration all other matters raised, that the proposals in appeals A and B conflict with the development plan as a whole and with the approach in the Framework. Accordingly I dismiss the appeals.

Thomas Bristow

INSPECTOR