The Planning Inspectorate

Appeal Decision

Site visit made on 24 October 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 20th January 2017

Appeal Ref: APP/D0840/W/16/3150958
Bar Meadows, Malpas, Truro, Cornwall TR1 1SS

- 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 J Mitchell against the decision of Cornwall Council.
- The application Ref PA15/09490, dated 5 October 2015, was refused by notice dated 22 December 2015.
- The development proposed is a new dwelling/garages.

Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council's decision notice describes the proposal as "new dwelling and detached garages with annexed accommodation". This more fully portrays what is intended and I shall deal with the proposal on this basis.

3. Since the making of the appeal, the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) was adopted in November 2016. The CLP supersedes the policies of the Carrick District Wide Local Plan, and I have taken it into account in my decision.

Main Issues

4. Although not referred to in the reasons for refusal, the Council's statement raises the issue of the suitability of the location for new residential development. As the appellant has had the opportunity to address this, I have taken it as an issue to be determined.

5. Accordingly, the main issues are:

   i) the effect of the proposal on the character and appearance of the countryside which lies within the Cornwall Area of Outstanding Natural Beauty (AONB);

   ii) whether the occupiers of the proposed dwelling would have satisfactory access to services and facilities;

   iii) the effect of the proposal on biodiversity, and

   iv) whether the proposed dwelling would provide satisfactory access.

Reasons

Character and appearance

6. The appeal site comprises a large overgrown field which slopes steeply down to the bank of an inlet off the Tresillian river. It lies on the north-eastern edge of built development of Malpas. Houses to the south-west are served by a drive leading from the main road through Malpas, but the proposal would be served by a track which adjoins the site to the north-west. The lower part of the site, adjacent a public footpath, is well-wooded, but the upper part is open, with overgrown vegetation. In my judgement, the proposal would clearly encroach into the undeveloped countryside.

7. CLP Policy 7 deals with housing in the countryside, and provides that new dwellings in the open countryside should only be permitted in special circumstances none of which applies here. The plan defines open countryside as being the area outside of the physical boundaries of existing settlements (where they have a clear form and shape). In my view, the existing houses to the south of the site form a distinct edge to the settlement and the site lies clearly outside it. The proposal would thus conflict with policy.

8. The area is characterised by the river and its tributaries being flanked by steep sided and generally well-vegetated valleys, with more open fields on the higher ground. Although there are sporadic settlements along the lower parts of the river banks, and isolated farms and dwellings elsewhere, much of the beauty of the area is derived from the attractive scenery of the open and undeveloped countryside. Whilst the site forms neither woodland nor pasture, which is more characteristic of the wider countryside, it is not unattractive, and complements the wider landscape.

9. A public footpath runs along the lower part of the site, but an adjacent belt of trees would screen most views of the proposed house and garage. However, as the house and garage would be positioned near the highest part of the site, they would be clearly visible from the estuary and from lanes on the opposite side of the river. The dwelling's extensive use of glass would exacerbate its prominence. The river appears to be well used for recreation, and I noted several boats moored in the river visible from the appeal site, and I expect that during warmer weather, many people would see the development. The proposed dwelling would be a large one, and together with the garage and accommodation above it, the development would appear as a substantial incursion into the undeveloped countryside which would relate poorly to the existing built development lower down the slope.

10. I find that it would fail to conserve the natural beauty of the AONB, which has the highest status of protection in relation to landscape and scenic beauty and to which great weight should be given.

11. I have been referred to other developments which have taken place within Malpas, but these seem mainly to be within the existing built-up area, and can be readily distinguished from this site which lies outside it. The photograph in the newspaper advertisement for a new house at Mylor bears some similarities to the proposal, but I have not been provided with all of the circumstances which led to its approval, and so I have dealt with this proposal on the basis of the evidence before me.

12. I therefore conclude on the first main issue that the proposal would result in significant harm to the character and appearance of the countryside, and would conflict with CLP Policy 7 to which I have referred above, as well as with CLP Policies 12 and 23 which respectively deal with design and natural environments. I would also conflict with the aims of the Cornwall AONB Management Plan 2016 -2021, which seek to protect and enhance the natural beauty, character and special qualities of the AONB.

Accessibility to services and facilities

13. Paragraph 55 of the National Planning Policy Framework says that new isolated homes in the countryside unless there are special circumstances, none of which apply here. Although the site is not physically isolated, in that it adjoins existing built development, it is distant from services and facilities.

14. There are few facilities in Malpas itself, and occupiers would be likely to be heavily dependent on travel by car to Truro, about 3km away. One of the aims of CLP Policy 7, referred to above, is to ensure that development occurs in the most sustainable locations in order to protect the open countryside from inappropriate development. In my view, the relatively isolated position of the proposed dwelling would not be consistent with this aim, and the proposal would conflict with the policy's restrictive approach to housing in locations such as this.

15. I therefore conclude on the second main issue that the proposal would not provide satisfactory accessibility to services and facilities and would conflict with CLP Policy 7.

Biodiversity

16. The appeal was accompanied by a Preliminary Ecological Appraisal Report in response to the Council's reason for refusal which alleged that insufficient information had been provided to show that the proposal would not harm any European Protected Species or other biodiversity features of interest. The report indicated that the site may provide a habitat for badgers, otters, dormice and reptiles, including protected species. The report concludes that further survey work is required, in particular a botanical survey, an assessment as to whether reptiles are present, and whether otters and kingfishers would be affected by the proposed sewage treatment outfall.

17. I recognise that most of the development would be confined to the upper slopes of the site. Even so, protected reptiles may be present there, and the ecological report only serves to reinforce that there is a realistic likelihood of their being present and potentially affected by the development. Similarly the sewage works required at the lower part of the site may affect several species including otters.

18. Circular 06/05 *Biodiversity and Geological Conservation- Statutory Obligations and their Impact within the Planning System* says that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by a proposal, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It also goes on to say that bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

19. I have taken into account the appellant's lawful uses of the site and foreshore, but the appellant's evidence clearly establishes that further work is required before the test set out in the circular can be met. I therefore conclude on this issue that insufficient information has been submitted to show that there would be no harm to biodiversity interests of importance. The proposal would conflict with the circular advice.

Access

20. The access to the site from the public highway would be along a mainly single track private way. It is largely unsurfaced, undulating and lacks formal passing places, although there may be opportunities for two cars to pass in places. At present it appears to have only minimal use, serving farm land, but with greater use, particularly by heavier construction traffic, I consider that its physical condition would be likely to deteriorate over time.

21. There are no proposals to upgrade the track or to provide passing places. I consider that it would only be suitable for access by vehicles capable of off-road driving, and that its narrowness and alignment would be likely to require lengthy reversing manoeuvres should two vehicles meet along its length. Whilst this is a risk that occupiers might be prepared to accept, I consider that it would not provide safe or suitable access for visitors, delivery drivers and others who might need to travel to the premises.

22. I conclude on this issue that the proposal would not provide suitable access to the site.

Other matters

23. The proposed dwelling would be angled towards the house at Tree Tops. Windows and balconies at ground and first floor level would look down on the small patio area and the ground floor kitchen/dining room window of Tree Tops. The higher level of the proposed dwelling in relation to Tree Tops would increase the perception of being overlooked. However, the distance between the windows, considerably in excess of the 21m that is often used as a yardstick of acceptability, would be sufficient to ensure that privacy would not be materially harmed.

24. I have also take into account that the sewage treatment plant would be located fairly close to the boundary, but in my experience, modern installations should not give rise to smells or noise to an extent that would result in material harm to neighbours' living conditions at such a distance.

25. I have had regard to the agricultural uses to which the land may be put, should the appeal be dismissed, but this does not outweigh the harm that I have found.

Conclusion

26. For the reasons I have explained, the proposal does not amount to sustainable development, and conflicts with the development plan as a whole, and therefore the appeal is dismissed.

JP Roberts

INSPECTOR