

Appeal Decision

Site visit made on 10 January 2017

by Colin Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/D0840/W/16/3156041

Tregytreath, Road From Marble Head Cottage to the Old Barn, Restronguet Point, Feock TR3 6RB

- 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 & Mrs Martin Denny against the decision of Cornwall Council.
 - The application Ref PA16/02242, dated 8 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is erection of a dwelling and extension of existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and extension of existing garage at Tregytreath, Road From Marble Head Cottage to the Old Barn, Restronguet Point, Feock TR3 6RB in accordance with the terms of the application, Ref: PA16/02242, dated 8 March 2016, subject to the conditions set out in the Schedule at the end of this Decision.

Procedural Matters

2. The Carrick District Wide Local Plan no longer forms part of the statutory development plan for the area. I have determined this appeal in accordance with the policies of the Cornwall Local Plan, which was formally adopted by the Council during the course of the appeal process.
3. The site address in the application and appeal forms refer to "Tregyreath". However, the appellant has since confirmed that the name of the property is "Tregytreath". I have amended the site address in the heading above to reflect this. I am satisfied that correcting this minor typographical error would not prejudice any party.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of surrounding occupiers, having particular regard to noise, disturbance and privacy.

Reasons

5. Tregytreath is a large detached house. It benefits from expansive views of Restronguet Creek and has a lengthy rear garden which slopes steeply downwards towards the water. The neighbouring properties on either side, Tremanor and The Anchorage, follow a similar building line and also have lengthy rear gardens. Hence, the private areas to the rear of these dwellings form a continuous band of undeveloped garden space.
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6. The front courtyard of Tregytreath contains a double garage and turning area which is accessed from the road via a gated entrance. Vehicle movements are therefore concentrated within this area. Although there is also a driveway running to the side of the property (next to the boundary of The Anchorage) this only provides access to the rear garden and waterfront and is hence unlikely to be in regular use by any vehicles.
7. The appeal proposal would alter this arrangement. Whilst the new dwelling would have use of a single garage to the front of Tregytreath, additional garaging would also be provided next to the proposed dwelling itself. This would be accessed from the driveway which runs to the side of Tregytreath into the existing rear garden. As such, the development would clearly result in increased pedestrian activity and vehicular movements between Tregytreath and The Anchorage, as well as within the presently undeveloped rear garden space. Although occupiers of the new dwelling would have the option of parking in the garage to the front of Tregytreath, they may equally choose to park next to where they live. Hence, the provision of a garage near the road frontage would not necessarily lead to a reduction in the frequency that the driveway is accessed.
8. I recognise that the gap between Tregytreath and The Anchorage is relatively narrow, meaning that any vehicles using the drive would pass close to both properties. The Council argue that the proposed wall between the rear garden of Tregytreath and the driveway would reflect sound towards The Anchorage. It is also suggested that engine noise would become elevated as vehicles ascend the sloping driveway. However, even if these things did contribute to the vehicle noise generated within the driveway, relatively little evidence has been put forward to show that this noise would reach unacceptable levels. Vehicles would be travelling slowly and as the driveway would only serve a single two-bedroom dwelling it is unlikely to generate a great deal of pedestrian or traffic movements or be in constant use.
9. The fact that the appellant plans to block a door and install obscure glazing on the side elevation of Tregytreath does not infer that pedestrians or vehicles would cause unacceptable disturbance, although I recognise that it would help to improve privacy. Although the side elevation of The Anchorage also faces the driveway, the existing hedge screens views towards the ground floor windows of the neighbouring property. Whilst it is argued that retention of this hedge is beyond the control of the appellant, I am nonetheless mindful that the driveway is already an existing feature which the occupants of Tregytreath can access. The proposed development would maintain the existing situation, insofar as the driveway would continue to be accessed by a single household. Although the drive would clearly be used more intensively given that it would provide the only access to the new dwelling, the volume of pedestrian and vehicular activity would remain modest. It is also unlikely that the driveway would be a place where people would regularly chose to linger for very long. An acceptable level of privacy would be maintained.
10. The driveway would lead to a parking and turning area next to the proposed dwelling. In addition to the sound of vehicles, a certain amount of noise and activity might be expected from future occupiers in terms of shutting doors, talking or otherwise carrying out their everyday activities. I also recognise the Council's point that the hard surfaces would help to propagate sound. However, whilst the proposal would intensify use of the site, the overall density

of development would remain relatively low and the parking area would be distanced from the balconies and indoor living areas of neighbouring dwellings. I accept that the undeveloped character of the area to the rear of the existing properties would change and some degree of noise would inevitably be overheard from neighbouring gardens. Headlights may also be seen through windows, particularly when vehicles ascend the driveway. However, the proposal is only for a single dwelling and there is little to indicate that any disturbance generated would be of such an extent that it could be said to undermine the living conditions of surrounding occupiers.

11. I note the concerns in respect of potential damage to parts of The Anchorage if development were to take place close to the boundary. There is no reason to expect this to be the case, however, this would ultimately be a civil matter between the parties.
12. Both parties refer to an Appeal Decision at Creek Bank¹ where planning permission was granted for residential development which involved passing a driveway between two existing dwellings. Whilst the appeal mainly concerned character and appearance, I note that there was greater clearance between the proposed driveway and the side elevation of neighbouring dwellings in that particular case. However, even though the driveway in the current appeal passes closer to neighbouring dwellings than in the Creek Bank case, I have found that it would not result in harm.
13. I therefore conclude on this issue that the proposed development would have an acceptable effect on the living conditions of surrounding occupiers. It would comply with Policies 13 and 14 of the Cornwall Local Plan in terms of protecting individuals from unacceptable loss of privacy, noise and disturbance. There would be no conflict with the provisions of the Cornwall Design Guide in these respects. There would also be no conflict with paragraph 123 of the National Planning Policy Framework. This aims to avoid noise from giving rise to significant adverse impacts and also seeks to protect the tranquillity of areas prized for their recreational and amenity value.

Other matters

14. Interested parties express concern regarding the effect of the proposal on the character and appearance of the area. With this in mind, I am conscious that the site occupies a coastal location within a designated Area of Outstanding Natural Beauty (AONB). Such areas have the highest status of protection in relation to landscape and scenic beauty. However, in this particular case, a Landscape and Visual Impact Assessment has been supplied which provides evidence that the overall impact on landscape character would be negligible. In the absence of any substantial countervailing evidence, I find the conclusions of this assessment convincing, even taking into account the 'great weight' that is given to the protection of the AONB within national planning policy.
15. Nonetheless, I recognise that the effect of cumulative development within Restronguet Point has some potential to harm the character of the area. Individual proposals should be treated on their own merits and the outcome of this appeal (or the appeal at Creek Bank) does not necessarily set a precedent for future development elsewhere in the vicinity. Differing circumstances

¹ Appeal Decision: APP/D0840/A/13/2206360

between sites and the potential for cumulative harm would represent matters to be considered were other similar proposals to be advanced.

16. I note the concerns raised by interested parties regarding the proposed access onto the road, but there is little evidence before me to indicate that it would undermine highway safety or harm the appearance of the street scene.

Conditions

17. In the interests of certainty a condition requiring compliance with the approved plans has been imposed, together with the standard time limit condition. To help protect the character and appearance of the area I have imposed a condition requiring that electricity and telephone lines are placed underground. For the same reasons, I have imposed conditions requiring further details of tree protection and of the external materials to be used in the construction of the new dwelling. There is also a condition requiring further details of boundary treatments. In the interests of privacy I have imposed a condition requiring obscure glazing in the southern elevation of Tregytreat, and in the interests of highway safety there is a condition requiring that parking and access arrangements are in place before the proposed dwelling is first occupied. In order to ensure appropriate drainage, conditions are also imposed requiring details of surface water drainage and sewage disposal.
18. Given that the proposed dwelling would share a satisfactory road access with Tregytreat, I have not imposed a condition to lay out visibility splays as suggested by the Council. I note the neighbouring occupiers' request for a wall to be constructed along the boundary with The Anchorage, but as I have found that the proposal would not lead to harm in terms of privacy and noise, I do not consider that such a condition is necessary in this case.

Conclusion

19. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

Colin Cresswell

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2195.D.100A , 2195.D.101A , 2195.D.102A , 2195.D.103A, 2195.D.104A , 2195.D.105A , 2195.D.107
3. All new electricity and telephone lines shall be laid underground.
4. No development shall commence until details of the materials to be used in the construction of the external surfaces (doors/windows/lintels/sills/stonework/timber cladding/roof covering and method of fixing) of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter
5. Before the first occupation of the dwelling hereby permitted the windows on the ground floor of the southern gable elevation of the host property, Tregytreat, shall be fitted with obscure glazing and the windows shall be permanently retained in that condition thereafter.
6. Before the development hereby permitted is commenced, details of the proposed height, siting, appearance and construction of all boundary treatments (means of enclosure) shall be submitted to and approved in writing by the local planning authority. The approved boundary treatment (means of enclosure) shall be completed in accordance with the approved details prior to the first occupation of the development (or the use hereby approved is commenced) and notice shall be given to the Local Planning Authority when the approved scheme has been completed. The boundary treatment (means of enclosure) shall not thereafter be altered or removed, other than by necessary replacement.
7. Before the dwelling hereby permitted is occupied, access, parking and turning areas shall be laid out and constructed in accordance with approved drawing no. 2195.D.102 and 2195.D.105; and the said areas shall not thereafter be obstructed or used for any other purpose.
8. Before the development hereby approved is commenced, details of a scheme for the management of the site's surface water shall be submitted to and approved in writing by the local planning authority. The details shall include as a minimum:
 - Details of the final drainage scheme, including pathways and flow routes for excess surface water during extreme weather;
 - A construction quality control procedure;
 - A plan for the future maintenance of the system and of any overland flow routes.Prior to the occupation of the site it shall be demonstrated to the satisfaction of the local planning authority that the scheme is completed in accordance with the agreed details. The scheme shall thereafter be maintained in accordance with the approved details.

9. The development hereby permitted shall not be occupied until sewage disposal works serving the development have been completed in accordance with details that have been submitted to and approved in writing by the local planning authority. These works shall be implemented in accordance with the approved details and shall not thereafter be altered or removed.
10. Prior to the commencement of any works associated with the development a scheme depicting the method by which trees shall be protected during the course of the development shall be submitted and approved in writing by the local planning authority. The scheme shall identify a Root Protection Area (RPA) that will be enclosed by tree protection fencing which will be erected in accordance with the specification given in the British Standard BS 5837. The tree protection fencing will be erected prior to commencement of any works associated with the development and be retained and maintained until the completion of the development. At no time shall any works in connection with the development, including storage, access, cement mixing, bonfires, excavations or other level changes occur within the protected area. The development shall be implemented in strict accordance with the agreed tree protection methods.