
Appeal Decision

Site visit made on 27 March 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/D0840/W/16/3155721

Land to the rear of Chy Gaire, Trescowe Road, Goldsithney TR20 9HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Thornton against the decision of Cornwall Council.
 - The application Ref PA16/04593, dated 18 May 2016, was refused by notice dated 21 July 2016.
 - The development proposed is the erection of 3 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 dwellings at land to the rear of Chy Gaire, Trescowe Road, Goldsithney TR20 9HR in accordance with the terms of the application Ref PA16/04593, dated 18 May 2016, subject to the schedule of conditions below.

Preliminary matters

2. The application was made in outline with details of appearance, landscaping, layout and scale reserved (the 'reserved matters'). As such, other than in so far as they relate to access and to the current features of the appeal site, the plans supporting the application are illustrative of the development proposed.¹
3. The appeal site in this case is the eastern part of the appeal site in planning appeal Ref APP/D0840/A/11/2152341, where two dwellings were permitted (the '2011 appeal'). The 2011 appeal site was subsequently split into different ownerships. Thereafter permission was granted for two dwellings in the western part of the 2011 appeal site, Ref PA15/07823. Permission is sought here for three dwellings within the eastern part of the 2011 appeal site.
4. In refusing permission the Council cited that the proposal would conflict with policies of the Penwith Local Plan, adopted originally in 2004 (the 'former plan'). However the former plan has been superseded by the Cornwall Local Plan Strategic Policies 2010-2030 adopted on 22 November 2016 (the 'Local Plan').²
5. Policies of the Local Plan, then emerging, were however referenced in the Council's decision notice, and the parties have had the opportunity to comment

¹ Plans 001, 002 Rev A, and 004.

² I would note that in the process of examination, policy 13 of the Local Plan as cited by the Council in their decision notice has now become policy 12 'Design'.

upon the changing policy context at appeal. I have therefore determined the appeal in accordance with the development plan unless material considerations indicate otherwise.

Main issue

6. Based on the information before me, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. Policy 12 'Design' of the Local Plan, briefly stated, requires that all development responds appropriately to the character of its surroundings. This is essentially reiterated in section 1 of policy 2 'Spatial Strategy' of the Local Plan which relates to respecting and enhancing quality of place. The Cornwall Design Guide dated 2013 provides further guidance as to how development should reflect and integrate with its environment, whether built or natural.
8. The National Planning Policy Framework (the 'Framework') similarly sets out that planning should always seek to ensure high quality design, that decisions should ensure that development responds to local character, and that it is proper to reinforce local distinctiveness.³
9. The appeal site is a parcel of land to the rear of the properties Chy Gaire and Pine Trees which both front Trescowe Road, a narrow rural carriageway flanked by hedgerows and trees. There is an existing unconsolidated access to the appeal site from Trescowe Road between the side elevations of Chy Gaire and Maryland, I understand established pursuant to application Ref PA15/07823.
10. The appeal site is currently an untended and largely level natural area of land. Aside from to the south where there is a densely wooded patch, the appeal site otherwise shares a common boundary with the gardens of other dwellings, whether existing or permitted. The boundary of the appeal site is, in the main, variously demarcated by an embankment, hedging and trees.
11. The development pattern of the area is notably irregular and changeable. Indeed, given the dispersed arrangement of properties comprising Rosudgeon-Perran Downs, there has been some complexity in defining the extent of the settlement(s) in previous cases, including the 2011 appeal. However in this instance given the presence of dwellings nearby and with regard to the proximity of services and facilities the Council do not object in principle to residential development in this location.
12. The wider landscape is described in the Cornwall and Isles of Scilly Landscape Character Assessment dated June 2008 as constituting part of character area '06 Mounts Bay East', a slightly undulating patchwork of fields enclosed by woodland which is relatively sparsely populated. However the appeal site is clearly within an established residential area on account of the proximity of nearby dwellings. I observed that there are few, if any, vantage points from which development within the appeal site would be prominent within the wider

³ At paragraphs 17, 58 and 60.

landscape. Moreover permission has already been granted by virtue of the 2011 appeal for residential development here.

13. Properties in the immediate vicinity of the appeal site are typically scattered informally at relatively low density, with occasional undeveloped parcels of land and wooded areas between dwellings. The Council's officer report states that the plot size of properties that share a common boundary with that of the appeal site vary in size from 0.15 hectares (Pine Trees) to 0.57 hectares (Maryland) with the average being 0.27 hectares. This amounts to a level of residential density of approximately 4 dwellings per hectare.
14. The appeal site is 0.27 hectares, and therefore if divided in equal proportion, each dwelling proposed would be set in a plot of approximately 0.09 hectares or 900 square metres. The appellant explains that this amounts to a density of approximately 12 dwellings a hectare.
15. A residential density of 12 dwellings a hectare represents a comparatively low level of density in absolute terms. Moreover the pattern of development in the area is highly varied. Nearby there are clusters of significantly denser development with a more suburban grain, notably around Bampfylde Way and Grove Lane. Based on my site visit observations the plot size of dwellings in these locations appears to be comparable, if not smaller, than the plots in which the dwellings proposed via this appeal would likely sit (notwithstanding that layout is a reserved matter).
16. Moreover on account of the boundary features of the appeal site and those of Trescowe Road, the dwellings proposed would not be prominent from public vantage points. Whilst the dwellings proposed would be visible from a number of surroundings properties and their gardens, again the visual impact of the development would be mitigated by the embankment, vegetation and trees bounding the appeal site (which could be safeguarded when matters of landscape are considered). Thus any perceived visual increase in density resulting from the proposal would in my view be highly limited.
17. Therefore whilst the proposal would result in an uplift in density this would not be excessive or markedly out-of-keeping with the variable density of the area, and would not be readily apparent on account of the screening of the appeal site. I therefore conclude that the proposal would result in no undue effect in respect of the character and appearance of the area. Consequently no conflict arises with the relevant provisions of policies 2 or 12 of the Local Plan, or with relevant elements of the Cornwall Design Guide or indeed of the Framework.

Other matters

18. The area is covered by the Trevelyan Plantation Perran Downs Tree Preservation Order made in 2003 (the 'TPO'). However, subject to an appropriate condition, I am satisfied on the basis of the information before me that the development proposed would not result in direct harm to the wellbeing of nearby trees that contribute positively to the character and appearance of

the area.⁴ Any future works to trees proposed in connection with the residential use of the land would remain controllable on account of the TPO.

19. The appeal site also falls within the Tregonning and Gwinear Mining District of the Cornwall and West Devon Mining Landscape World Heritage Site (the 'WHS'). However, as established above, the appeal site is closely associated with nearby dwellings which are of varying ages and design, and is almost imperceptible in the wider landscape. Therefore, notwithstanding the historic origins of Rosudgeon-Perran Downs, I am not of the view that any discernible effect would result from the proposal in relation to the WHS.

Conditions

20. It is necessary to impose conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with relevant legislation, and requiring compliance with the relevant plans in the interests of certainty.
21. I have further imposed a condition requiring that the access to the appeal site is provided in line with details agreed with the Council to prevent adverse highways effects resulting from either construction traffic or from residential vehicular movements (condition 4).
22. In order to safeguard the living conditions of the occupants of nearby properties during construction, and given that Trescowe Road is a relative narrow rural carriageway, I have further imposed a condition requiring that development proceeds in line with an agreed construction management plan (condition 5).
23. With regard to the duty placed upon me by Section 197 of the Town and Country Planning Act 1990, and on account of the TPO covering the appeal site, I have imposed a condition requiring that development proceeds in line with an agreed scheme for the protection of trees (condition 6).
24. Conditions 4, 5 and 6 must necessarily apply before any development is commenced as any works have the potential to generate traffic or to affect the living conditions of the occupants of nearby dwellings or the wellbeing of trees. As appearance is a reserved matter, however, it is unnecessary to impose a condition related to external materials as the Council have suggested.
25. In imposing conditions I have had regard to the tests within the Framework, the Planning Practice Guidance and relevant statute,⁵ and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

Conclusion

26. For the above reasons, and having taking all other matters raised into account, the proposal accords with the development plan taken as a whole and with the

⁴ Indeed the Council does not object to the proposal in this regard subject to the imposition of suitable condition and with reference to the appellant's tree protection plan.

⁵ Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

approach in the Framework. I therefore conclude that the appeal should be allowed subject to the schedule of conditions below.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout and scale of the development proposed (the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place, and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this decision, and the development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002 Rev A.
- 4) No development hereby permitted shall take place until the vehicular access shown on the approved plans has been provided in line with details previously agreed in writing by the local planning authority (which shall include details of surfacing, drainage, gradients and visibility splays). The vehicular access shall thereafter be retained in line with the agreed details.
- 5) No development hereby permitted shall take place until a Construction Management Plan (CMP) has been agreed in writing by the local planning authority (which shall include a programme of works, and details of construction vehicles including their number, size and type, vehicular routes and delivery hours, parking arrangements for all vehicles related to construction, arrangements for loading and unloading of plant and materials and the storage of plant and materials, wheel washing facilities, and measures to control dust and dirt arising from construction). Development shall be carried out in accordance with the CMP thus agreed.
- 6) No development hereby permitted shall take place until a scheme for the protection of trees has been agreed in writing by the local planning authority (which shall include, with reference to British Standard 5837: 2012 Trees in relation to design, demolition and construction- recommendations, details of the Root Protection Areas (RPAs) of all trees that may be affected by development, and details of how RPAs will be enclosed by protective fencing erected before and maintained throughout construction until completion of development to prevent any works occurring within RPAs including storage, access, cement mixing, bonfires, excavations or level changes). Development shall be carried out in accordance with the scheme thus agreed.