



Appeal Decision

Site visit made on 11 January 2017

by J F Powis BA (Hons) MSc MRTPI

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

Decision date: 11 May 2017

Appeal Ref: APP/D0840/W/16/3152038

Land NW of Church Road, Four Lanes, Cornwall TR16 6LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mike Warren of Mena Homes Limited against Cornwall Council.
 - The application Ref PA15/11207 is dated 13 November 2015.
 - The development proposed is the erection of 5 dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 5 dwellings and associated works at Land NW of Church Road, Four Lanes, Cornwall TR16 6LT in accordance with the terms of the application, Ref PA15/11207, dated 13 November 2015, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Mike Warren against Cornwall Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal is made against the Council's failure to determine the application within the statutory period. The Council's resolution that it was minded to refuse the application referred to emerging Policies 2 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 Proposed Submission (March 2014), Schedule of Focused Changes (September 2014) and Schedule of Further Significant Changes (January 2016) Combined Document – January 2016. The Cornwall Local Plan Strategic Policies 2010-2030 (CLP) was adopted on 22 November 2016, after submission of this appeal. The Council's appeal statement of the same date refers to Policies 2 and 23 of the CLP. Having regard to all of the submitted material, I have taken the view that adopted Policies 2 and 23 of the CLP are broadly analogous to the emerging policies of the same numbers. My decision is based on the development plan in place at the time of writing.
 4. Two different drawings with the same title, date and drawing number are before me. The drawings in question bear the number 239-04 ('Proposed Floor Plans & Elevations Type 1 Dwelling, 4 Bed', May 2015) and differ principally in terms of the proposed finish for the external walls. I have sought clarification from the Council on the matter and am satisfied that the Council's decision was made on the basis of a revised drawing which was mistakenly not labelled as such. For the avoidance of doubt, my decision has been made on the basis of the same version of drawing ref. 239-04, which shows a natural stone finish on the ground floor section of the
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proposed south-east elevation. This is consistent with the other application drawings and is the plan specified in condition 2 of the schedule to this decision.

Main Issue

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

Reasons

6. The appeal site is a rectangular parcel of land adjacent to Church Road to the south-west end of the village of Four Lanes. The proposed development comprises five new dwellings, of which four would be semi-detached pairs of three bedroom houses and one would be a detached four bedroom house. Five garages are also proposed.
7. The Council's submissions do not raise an objection to the principle of residential development in this location. The officer's report is clear that the appeal site lies within the village of Four Lanes and this echoes the findings of a previous Inspector in his 2015 decision¹ in respect of an earlier proposal for the site. There is no evidence to indicate a contrary finding in terms of this appeal. Notwithstanding this, the Council submits that the proposal would lead to the coalescence of what it regards to be the two separate settlements of Four Lanes and Pencoyls, undermining local distinctiveness.
8. Four Lanes is a linear village, with the bulk of development running along the B3297, Church Road. At the time of my visit, road signs along Church Road demarcated the area of Pencoyls to the south-west of Four Lanes village centre. I have noted local representations that Pencoyls and Four Lanes should be regarded as two distinct settlements. However in a practical sense, there is no obvious physical or visual separation between the two settlement areas. Whilst the appeal site is undeveloped agricultural land, a continuous string of mainly residential development along the opposite side of Church Road connects the area of Pencoyls with the centre of Four Lanes, as does a continuous pedestrian footpath along Church Road.
9. As such, notwithstanding their historical separation, Four Lanes and Pencoyls appear to now function as a single settlement surrounded by open countryside. This finding supports the observation of the previous Inspector in his 2015 decision that there is limited evidence of Pencoyls being retained as a village in its own right. On this basis, I do not find substantive evidence to support concerns that the proposed development would result in a harmful increase in coalescence between Four Lanes and Pencoyls.
10. The site, by its open and undeveloped nature, currently allows long views to the north-west from public viewpoints along Church Road which contribute to strong visual linkages between the village and its surrounding countryside. The proposal would leave a considerable portion of land along the north-western side of Church Road undeveloped, thereby allowing a good degree of visual connection with the village's rural setting to be retained.
11. It has been put to me that the proposed site layout, in which the gaps between houses are closed by recessed garages, would prevent views between the new built form to the surrounding countryside, to the detriment of the area's local

¹ Appeal Ref. APP/D0840/A/14/2227732

character. However during my visit, I noted that in the area east of Pencoy's Hall it is not uncommon for single-storey garages or domestic additions to be placed in the gaps between dwellings on either side of Church Road. In light of the substantial setback of the proposed garages from the road, and the spacing between property no.1 and the adjacent dwelling known as The Vicarage, I am satisfied that the layout and siting of the proposed development would maintain the distinctive character of the south-western part of the village.

12. The proposed houses would be set back from Church Road to an extent that is generally consistent with The Vicarage. This would mirror the setback of properties directly opposite the site along the south-eastern side of Church Road and maintain the spacious pattern of development in the surrounding area that reinforces the village's rural identity. A low wall finished in stone along the front boundary of the site would also take cues from the established built form along the opposite side of Church Road, whilst a new earth and stone hedge would run along the rear of the site in a line that continues the rear boundary of The Vicarage. As such, the development would integrate comfortably with its surroundings.
13. In determining this appeal, I have had regard to the aforementioned 2015 decision of a previous Inspector to dismiss an earlier proposal for the site. I note that in formulating the appeal proposal the appellant has sought to address the issues raised by that decision. The previous scheme comprised ten dwellings whereas the appeal development includes only five. The appeal proposal involves a significantly reduced site area, with a considerably narrower frontage onto Church Road. The individual plot sizes are larger, with greater spacing between dwellings and garages have been set further back from the road. As such, there are a number of material differences between the appeal proposal and the previously dismissed scheme.
14. The proposed dwellings would be two storey in nature, with a simple appearance incorporating walls finished in natural stone and off-white painted render, with hipped natural slate roofs and chimneys. The houses would be of a scale and density comparable with existing properties in the immediate vicinity. Overall, the appearance of the resulting development would not be out-of-keeping with the character of the surrounding built form. Therefore in my view, the proposal would overcome the previous Inspector's concerns in relation to introducing a materially more urban character and grain than is characteristic of the village.
15. I note the concerns in some local representations that allowing the appeal development could set a precedent for future development in the immediate area. However, I must consider the merits of the proposal before me and any future proposals would need to be the subject of a separate application.
16. Taking all of the above matters together, I conclude that the proposed development would not cause unacceptable harm to the character and appearance of the site and surrounding area. As a result, the proposal would be consistent with Policies 2 and 23 of the CLP, which together seek to ensure that new development sustains local distinctiveness and character and protects Cornwall's natural environment. I also find no conflict with paragraphs 58 and 60 of the National Planning Policy Framework insofar as they require proposals to respond to local character and reflect the identity and local distinctiveness of their surroundings.

Other Matters

The Effect on the Setting of Listed Buildings

17. There are three listed buildings in the vicinity of the appeal site, namely Pencoys Villa, the Church of St Andrew and its lychgate, all of which are Grade II listed. The three buildings sit on the opposite side of Church Road to the appeal site. I note that the effect on the setting of nearby listed buildings was a main issue in the 2015 appeal decision referred to above. In that case the Inspector found that the proposal would have an adverse effect on the setting of the church and lychgate.
18. In determining this appeal I have had special regard to the desirability of preserving the setting of listed buildings and my statutory duties² in this respect. The appeal scheme has sought to respond to the issues raised by the earlier decision, most notably by reducing the length of the site frontage onto Church Road such that the land directly opposite the listed church and lychgate would be left undeveloped. The Council's assessment is that the appeal development would give rise to no harm to the setting of the listed buildings or other non-designated heritage assets nearby.
19. The appeal development would avoid extending across the frontage of the church and lychgate, and as such I am satisfied that the harmful sense of enclosure of the assets identified in respect of the previous scheme would be prevented. Therefore having regard to all of the evidence before me, including what I saw during my site visit, I agree with the Council's assessment in this respect. Consequently, I conclude that the proposal would have a neutral effect on the significance of the listed buildings and as such would conserve the setting of these designated heritage assets.

The Effect on Highway Safety

20. A number of local people have raised concerns about the effect of the proposed development on highway safety along Church Road. Whilst I have noted these submissions, I have also had regard to the comments of the Council's highways officer and my own observations on site. Traffic speeds in this part of Church Road are limited to 30mph, although I also note local evidence of breaches to the speed limit and on-road parking in the area. Notwithstanding this, the road in the vicinity of the site is relatively straight and level and the pedestrian footway would be widened, allowing good visibility for road all users. On balance, I am satisfied that the proposed access and parking arrangements, which would be secured by planning condition, would not result in an unacceptable effect on highway safety.

The Effect on Community Infrastructure

21. I have had regard to a number of representations in relation to the effect of the proposal on local services and infrastructure including education, health, community and sewerage facilities. However, I am mindful that the appeal development comprises only five additional dwellings which would constitute a relatively modest increase on pressure for such services.
22. The Planning Practice Guidance³ (the Guidance) is clear that, following the order of the Court of Appeal dated 13 May 2016 which gives legal effect to the policy set

² Under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

³ Paragraph: 031 Reference ID: 23b-031-20161116

out in the written ministerial statement of 28 November 2014, contributions for affordable housing and other tariff style planning obligations should not be sought from small-scale development.

23. The appeal site is located within the village and comprises fewer than ten dwellings with a combined gross floorspace of less than 1000 square metres. In light of the provisions of the Guidance, I therefore agree with the Council's stated view that financial contributions toward affordable housing, education infrastructure or open space provision would not meet the three tests for planning obligations set out at paragraph 204 of the Framework in this case.

Conditions

24. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty. Having regard to the recommendations of the Ecological Survey accompanying the application, and to protect the character and appearance of the area, I have imposed conditions to secure the construction, planting and maintenance of the new earth and stone hedge bank along the rear boundary of the site. I note the appellant's suggestion that the Council's proposed conditions 3 and 4 could be combined with condition 6 but I consider that to keep them separate in this case provides necessary clarity and precision.
25. I have also imposed a condition requiring approval by the Council of external materials to protect the character and appearance of the area. As the agreed external materials may affect the construction method, the details need to be agreed prior to development commencing. It has been necessary to impose a condition requiring that details of all boundary treatments are agreed with the Council and subsequently implemented in order to protect visual amenity. As existing trees, hedgerows and boundary treatments need to be considered as part of this exercise, the details need to be agreed prior to building works commencing.
26. In order to ensure the safe and efficient operation of the public highway, it has been necessary to impose a condition requiring the provision of vehicle parking and turning spaces in accordance with the approved plans. For the same reasons, I have imposed conditions requiring the construction and retention of visibility splays and the pedestrian footway, together with drop kerbs and vehicle cross-overs at the new access points onto Church Road.
27. I have reworded the Council's suggested conditions as necessary to ensure precision and compliance with the tests contained in the Guidance and at paragraph 206 of the Framework.

Conclusions

28. For the reasons given above I conclude that the appeal should be allowed.

J F Powis

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:
 - 239-01 - Location Plan
 - 239-02 - Site Survey
 - 239-03 Rev.B - Proposed Site Plans
 - 0239-04 - Proposed Floor Plans & Elevations Type 1 Dwelling, 4 Bed
 - 0239-05 Rev.A - Proposed Floor Plans & Elevations Type 2 Dwelling, 3 Bed
 - 0239-06 – Proposed Garages, Plots 2 & 5
 - 0239-07 – Proposed Garages, Plots 3 & 4
 - 239-08 Rev.A – Proposed Street Scene
- 3) No dwelling hereby approved shall be occupied until the new earth and stone hedge along the rear boundary of the site has been constructed as shown on drawing no. 239-03 Rev.B, and the hedge shall thereafter be retained.
- 4) Within the first available planting season following the occupation of the first dwelling or the completion of the development, whichever is the sooner, the earth and stone hedge constructed pursuant to Condition 3 above shall be planted in accordance with a planting schedule and specification which shall have first been submitted to and approved in writing by the local planning authority. Any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 6) No development shall commence until details of the proposed height, siting, appearance and construction of all boundary treatments (means of enclosure) have been submitted to and approved in writing by the local planning authority. The approved boundary treatments (means of enclosure) shall be carried out in accordance with the approved details before any part of the development is first occupied and notice shall be given to the local planning authority when the approved scheme has been completed. The boundary treatments (means of enclosure) shall not thereafter be altered or removed, other than by necessary replacement.
- 7) No dwelling shall be occupied until the parking and turning area serving that dwelling has been constructed and finished in accordance with the details shown on Drawing No. 239-03 Rev. B and the parking and turning areas shall thereafter be kept available at all times for those purposes.

- 8) No dwelling shall be occupied until the visibility splay and pedestrian footway, as detailed on Drawing No. 239-03 Rev.B, have been constructed in accordance with the approved details. The visibility splay and pedestrian footway shall thereafter be retained without alteration.
- 9) The new access points hereby permitted shall not be brought into use until drop kerbs have been installed at the carriageway edge and a vehicle cross-over constructed across the new footway fronting the site for the width of the access points. The drop kerbs and vehicle cross-overs shall be retained thereafter.