
Appeal Decision

Site visit made on 15 May 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 15 June 2017

Appeal Ref: APP/D0840/W/17/3167951

11 Cotsland Road, Truro TR1 1YR

- 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 S Clarke against the decision of Cornwall Council.
 - The application Ref PA16/04426, dated 12 May 2016, was refused by notice dated 25 July 2016.
 - The development proposed is described in the application form as 'one detached dwelling on the land adjacent to 11 Cotsland Road, Truro.'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Clarke against Cornwall Council, which is the subject of a separate decision.

Preliminary matters

3. The Council's decision notice cited that the development proposed would conflict with policies 3F and 6B-6BB(i) of the Carrick District Wide Local Plan adopted originally in April 1998. However these policies have been superseded by the Cornwall Local Plan Strategic Policies 2010-2030 adopted on 22 November 2016 (the 'Local Plan').
4. Nevertheless policies of the Local Plan, then emerging, were referenced within the Council's decision notice and all parties have had appropriate opportunity to comment on this changing policy context at appeal. Consequently I have determined the appeal in accordance with the development plan unless material considerations indicate otherwise.
5. There is some previous planning history to the appeal site, including in respect of works to trees.¹ Whilst I have referred to this history as necessary, I have determined the proposal before me on its particular merits.² I would note at this stage that there is some ambiguity in the information before me as to the

¹ Including applications Ref PA13/06134, PA14/00232, PA15/10058, C1/TP03/1501/07/F and PA16/00552/PREAPP.

² Plans E1045922.01, P1045922.01 REV. A, P1045922.02 REV. B, P1045922.03, 'Tree protection plan' dated January 2016, 'Tree planting plan' dated January 2016.

extent to which trees present within the appeal site would be affected by the proposal, a matter I will address subsequently.

Main issue

6. Based on the information before me I consider the main issue in this case to be the effect of the proposal on two protected sycamore trees within the appeal site and, by consequence, to the character and appearance of the area.

Relevant policies

7. In brief policy 2 'Spatial strategy' of the Local Plan requires that all development maintains and respects the character of its surroundings. Similarly policies 12 'Design' and 23 'Natural environment' of the Local Plan set out that development should integrate appropriately with local character. The Cornwall Design Guide published in 2013, whilst not part of the development plan, provides guidance in this context as to how development can be brought forward with appropriate regard to its surrounding context (whether natural or man-made).
8. The Truro and Kenwyn Neighbourhood Plan (the 'NP') was made as part of the statutory development plan on 29 December 2017. Policy E4 'Building quality' thereof requires that development represents high quality design which adds to the character of the area. Likewise the Framework explains that it is proper to seek to reinforce local distinctiveness, which the Planning Practice Guidance (the 'Guidance') explains may result from natural features, including trees.³

Reasons

9. The appeal site is part of the garden of No 11 Cotsland Road, a relatively modern detached dwelling. Within an established suburban residential area of Truro the Council do not object, in principle, to residential development in this location. The topography of the appeal site rises significantly from Cotsland Road to Tregolls Road, the A390, which lies immediately beyond. Retaining walls and embankments provide for useable garden space in tiered levels.

Trees that would be affected

10. The appeal site contains a number of trees including two mature sycamores, close to the boundary thereof with Cotsland Road. These are identified as 'T2' and 'T3' within the tree protection plan supporting the application.⁴ A Tree Preservation Order ('TPO') encompasses all trees within the appeal site.⁵
11. The appellant's tree survey indicates that T2 has an estimated height of 16 metres and T3 of 18 metres. T2 is proposed for removal. The plans before me

³ In particular Reference ID: 26-020-20140306.

⁴ The proposal may also result in some incursion into the root protection area of a further tree within the appeal site, a yew tree identified as T1 in the appellant's tree protection plan. However any incursion here would be very limited and there is nothing in the information before me to indicate that its wellbeing would be demonstrably compromised (indeed the Council do not raise concerns in this regard).

⁵ The St Clements Veian Tree Preservation Order 1988 dated 21 July 1988, a copy of which is before me, notwithstanding that there is also reference in the Council's officer report to TPO Ref C1/CK55.

show that T3 would be retained, although the Council contend that this may not be possible in actuality.⁶

12. There is, however, some ambiguity here. The appellant's explain that T3 will be retained only 'until newly planted trees have become established'.⁷ Whilst the proposal includes some new planting, it is unclear as to whether this intended approach relates instead in whole or in part to the planting related to former application Ref C1/TP03/1501/07/F.
13. T3 falls some distance from the footprint of the dwelling proposed. In the abstract, and through the adoption of sensitively-undertaken construction works, I accept that it may be possible to retain T3 during construction.⁸ However the appellant has clarified that no site investigation work has been undertaken to investigate the root spread of T3,⁹ which prevents me from establishing definitively whether this would be the case.
14. Moreover from the information before me it appears that some reduction to both T2 and T3 was enabled via application Ref C1/TP03/1501/07/F. Given that both trees are mature and their crown spreads extend close to both No 11 and Milford House adjacent, in my view it is highly likely that the dwelling proposed would result in pressure for pruning or removal of tree T3 in the future given that it would result in a dwelling located significantly closer to T3 than is presently the case.¹⁰
15. Such works to T3 resulting, indirectly, from the development proposed may be exempt from the protection otherwise accorded by the TPO on safety or nuisance grounds.¹¹ Accordingly, I have approach this appeal on the basis that its effect would be to result in the removal of tree T2 and a significant reduction to tree T3.

Effect on character and appearance

16. As viewed from along Cotsland Road, on account of their size and location, T2 and T3 are readily apparent. They serve to soften the character of the built environment not only on account of their presence alone, but also as they provide a visual buffer between Cotsland Road and Tregolls Road beyond (the latter being the principal arterial route through Truro). Mature trees are a characteristic feature of the surrounding area, many of which are accordingly protected via TPO, notwithstanding that this protection was established some time ago.
17. The canopies of T2 and T3 are also partially visible from the surrounding area, including I observed from certain vantage points along Penair Crescent and Tregolls Road. I accept from these and wider vantage points the trees are viewed in conjunction with the cluster of trees of which they are a constituent part rather than as individual specimens. Nevertheless, they do in my view also contribute to a modest extent to the character of the wider area.

⁶ As referenced in particular in paragraph 5.41- 5.43 of their appeal statement.

⁷ At paragraph 3.8.1 of the appellant's Planning, Design and Access Statement.

⁸ A position which appears to be taken within paragraph 2.11.1 of the appellant's Arboricultural Report.

⁹ In final comments submitted at appeal.

¹⁰ Indeed in final comments the appellant accepts that 'it is difficult to determine precisely how much [canopy of T3] would be lost'.

¹¹ With reference to Guidance Reference ID: 36-060-20140306.

18. In this context it is therefore reasonable to describe the effect of the proposal on T2 and T3 as resulting in moderate harm to the character and appearance of the area. I would note here that the appellant's Tree Survey and Arboricultural Method Statement,¹² classes T2 and T3 as category 'C' with reference to British Standard 5837:2012, Trees in relation to design, demolition and construction ('BS 5837:2012'). I will turn to consider the health of the trees, however for the above reasons I cannot concur that the trees should be defined as category C in respect of their contribution to the character of the area as this would mean that they are 'unremarkable', have 'low' landscape benefits' and are of 'no material' conservation value.¹³
19. There are 3 key documents before me prepared by the appellant related to the quality of trees T2 and T3: a Planning Design and Access Statement ('PDAS'),¹⁴ a note entitled 'Further Tree Inspection',¹⁵ and an Arboricultural Report.¹⁶ The PDAS references a supporting tree survey, arboricultural impact assessment and tree protection plan.¹⁷ Whilst the Arboricultural Report was submitted following the original application, I am satisfied that all parties have had appropriate opportunity to comment on it at appeal and as such there is no reason to disregard it here.
20. I understand that the ground level around trees T2 and T3 was increased by in excess of 750mm around 18 years ago (although this date is not precise). There is no clear evidence before me as to the circumstances that led to this change, or to suggest that this was undertaken as a deliberate attempt to undermine the wellbeing of these trees. Nevertheless this change in ground level, in respect of tree physiology, is identified in the appellant's arboricultural impact assessment as increasing the susceptibility of the trees to be adversely affected by decay fungi. It is potentially this which has led to their classification as category C with reference to BS 5837:2012.¹⁸
21. The Further Tree Inspection identifies some evidence of decay and injury to the trees that may limit their lifespan. Whilst the appellant's subsequent Arboricultural Report indicates that there is some potential for the changing ground levels to adversely affect the wellbeing of the trees in time, it also explains that 'the trees have successfully adapted to the change in levels and represent a low risk of failure now'.¹⁹
22. Therefore on the basis of the evidence before me, particularly the appellant's Arboricultural Report, the current health of trees T2 and T3 carries negligible weight in justifying either their removal or substantial reduction now. It appears conversely that there is no clear evidence that their health is presently unduly compromised by the change in ground levels referred to above or in other respects.

¹² Prepared by Tretec, dated January 2016

¹³ As set out in Table 1 of BS 5837:2012

¹⁴ Prepared by Savills (UK) Ltd., Ref TRP 1694 dated May 2016.

¹⁵ Prepared by consultancy Tretec, dated July 2016.

¹⁶ Prepared by Evolve tree consultancy, Ref 2679-TSE, dated January 2017.

¹⁷ All prepared by consultancy Tretec, dated January 2016.

¹⁸ Where life expectancy is expressed as 'at least 10 years' as opposed to 'at least 20 years' as is required for trees to be within category B, i.e. 'trees of moderate quality'.

¹⁹ Paragraph 2.5

23. I accept that T2 and T3 are in close proximity to nearby dwellings and are therefore likely to require some future management to ensure they do not cause adverse effects to these properties and their occupants. However in the light of my reasoning above, there is no compelling evidence before me that the removal or significant reduction of either would be required in the foreseeable future.
24. The proposal also includes some replacement planting. I would note that this planting scheme appears necessary only by consequence of the development proposed. Indeed this element of the proposal is somewhat inconsistent with the appellant's arguments that the value of the trees is at present highly limited, in which case no replacement would logically be necessary, and indeed with the argument that the health of the trees is presently cause for concern.
25. Moreover in my view a condition requiring replacement planting that would match the value of trees T2 and T3 to the character of the area would be unreasonable. As established above T2 and T3 are mature specimens which are not therefore readily replaceable. Indeed requiring comparable specimens in close proximity to the dwelling proposed may in turn result in practical problems (for example falling branches).
26. For the above reasons the proposal would entail the removal of T2 and a significant reduction to tree T3, if not its removal. These trees in my view contribute to the character of the area, albeit that this contribution may overall fairly be described as modest. I have also identified that there is no compelling evidence to justify their removal or significant modification based on their current wellbeing, and that new planting would not in my view materially reduce the adverse effects of the development proposed.
27. I therefore conclude that the proposal would result in a moderate adverse effect to the character and appearance of the area in conflict with the relevant provisions of policies 2, 12, and 23 of the Local Plan, policy E4 of the NP, and with relevant elements of the Cornwall Design Guide and the Framework.

Planning balance

28. I accept that the proposal would have certain benefits, which must be considered in order to determine whether the proposal is acceptable as a whole. If implemented the proposal would result in the creation of a new home in Cornwall, consistent with the support for new housing given in general terms within the Local Plan, where the housing requirement is expressed as a minimum level, and in the Framework.
29. However there is no evidence before me to counter the Council's position that they are presently able to demonstrate a 5 year supply of deliverable housing sites relative to needs.²⁰ As such the benefit of the proposal in respect of housing provision is limited to representing an incremental numerical addition rather than in terms of appropriateness.

²⁰ With particular regard to the Council's document entitled Cornwall 5 Year Supply Housing Statement, dated September 2016.

30. I also acknowledge that the delivery of a new home would result in social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities. However such benefits would inevitably be modest in respect of one new home. The significant level of housing growth planned for around Truro via policy 2a of the Local Plan further tempers the weight that can be accorded to the specific benefits of the proposal.²¹
31. I have also considered the representations before me from nearby residents. These include concerns regarding the potential effects of the development proposed in relation to design, additional parking pressure, the living conditions of those nearby and disruption during construction. Given that the design and layout of the dwelling proposed would be broadly consistent with those nearby, represent an incremental addition to an established residential area, and various such matters could be addressed via condition, I am not of the view that adverse effects would result from the development proposed in these or other respects. However that the proposal would not be unacceptable in these regards is effectively neutral in the planning balance rather than weighing positively in favour of the development proposed.
32. Consequently neither the benefits of the proposal, nor any other matters, are of sufficient significance so as to outweigh the harm that I have identified above would result or to alter my reasoning in respect of the main issue in this appeal.

Conclusion

33. For the above reasons, and having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

²¹ 3,900 homes as set out in the table supporting policy 2a 'Key targets' of the Local Plan.