

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: 23 June 2017

Appeal Ref: APP/D0840/W/17/3168034

24 Edgcumbe Road, St Austell, PL25 5DX

- 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 Lomax against the decision of Cornwall Council.
 - The application Ref PA16/08678, dated 13 September 2016, was refused by notice dated 21 December 2016.
 - The development proposed is described in the application form as an 'additional dwelling and associated works'.
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Decision

1. The appeal is allowed and planning permission is granted for an additional dwelling and associated works at 24 Edgcumbe Road, St Austell, PL25 5DX in accordance with the terms of the application Ref PA16/08678, dated 13 September 2016, subject to the schedule of conditions in this decision.

Application for costs

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

Preliminary matters

3. The application was made in outline with matters of appearance, landscaping, layout and scale reserved for future determination (the 'reserved matters'). Therefore, other than in relation to access, the supporting plans are illustrative.¹ Notwithstanding the planning history to the appeal site, I have determined the proposal before me on its particular merits.
4. Paragraph 7.5.3 of the appellant's appeal statement explains: 'following the issuing of a provisional TPO [tree preservation order] on a Lawson Cypress tree within the wider garden the applicant reverted to an access layout which was originally consulted upon...'. Plan PD500/04 Revision D therefore represents the current details of access proposed and shows the Cypress as retained.

Main issue

5. The Council's decision notice sets out specifically that they object to the 'inappropriate density of development' that would result from the development proposed, which in their view would be detrimental to the 'established

¹ Plans PD500/03 Revision D, PD500/04 Revision D and PD500/06 Revision A.

character of the site and surrounding area which... [was formerly designated] as an Area of Special Character'. The main issue in this appeal is therefore the effect of the development proposed on residential density, and in turn to the character and appearance of the area.

Reasons

6. No 24 is a detached property of arts and crafts appearance set in a generous plot. Within an established residential area, the Council do not object in principle to development in this location. No 24 is served by two vehicular accesses with adjacent Edgcumbe Road. The proposal entails the removal of the northernmost access and the remodelling of the other to improve visibility.
7. A new driveway would track close to the southern boundary of No 24. It would run alongside the landscaped gardens of the property to an area of untended garden which is largely screened from No 24 by a bank of mature hedging. The plans, although illustrative, show the proposed dwelling located centrally within this area. To the east the appeal site shares a boundary with the plots of No 1 The Oaks and No 6 Westbourne Drive.
8. Nos 20, 22, 24 and 26 Edgcumbe Road are individually designed dwellings within expansive plots typically featuring mature trees and established planting. This grouping of properties was formerly identified via policy SA4 of the Restormel Local Plan adopted originally in October 2001 ('the former plan') as part of an 'Area of Special Character'. Paragraph 14.11 supporting policy SA4 of the former plan explains that 'these areas comprise properties in large grounds, often with mature gardens which help to give a 'green feel' to areas of the town', a summary which broadly accords with my observations.
9. I note that the proposal would result in the loss of several trees, as shown on plan PD500/04 Revision D. However these trees are not protected, and are either not prominent mature specimens, or their removal is necessary to facilitate the access redesign and improve visibility. In this context the loss of trees proposed would not be unacceptable, and the Council raise no specific objection in this regard. Indeed the Council's decision notice makes no mention of the effect of the development proposed on trees.
10. The topography slopes downwards from the A3058 adjacent to the appeal site towards the south and east. This level change is so pronounced that the ground level of the appeal site is broadly level with the eaves of No 1 The Oaks. There are therefore certain views from near and afar where the comparatively low density character of the surroundings of the appeal site is apparent.
11. However policy SA4 of the former plan is no longer part of the statutory development plan following the adoption of the Cornwall Local Plan Strategic Policies 2010 to 2030 on 22 November 2016 (the 'Local Plan'), and the site is protected by no relevant landscape character or heritage designations. Broadly stated, policy 12 'Design' of the Local Plan establishes that all development must respect local distinctiveness and provide continuity with the existing built form. Similarly the Framework explains that planning should respond to local character and that it is proper to seek to reinforce local distinctiveness.²

² Including paragraphs 58 and 60.

12. Nos 20, 22, 24 and 26 Edgcumbe Road are almost entirely surrounded by a different character of development: relatively modern dwellings of standardised design, regularly arranged in modest rectilinear plots and reflective of the comparatively recent suburban expansion of St Austell. Indeed the properties adjacent to No 26, developed relatively recently on the site of a former hospital, share none of the defining characteristics of Nos 20, 22, 24 and 26.
13. Therefore from almost all vantage points the appeal site is viewed in conjunction with properties of more modest scale and plot size than that of No 24. The appeal site, and hence the plot of the dwelling proposed, would be comparable in size to, or larger than, that of many nearby properties including those along Westbourne Drive.
14. Moreover on account of the form of No 24 and the presence of trees within and bounding the appeal site, many of which would be retained, I observed that there are no significant views of the wider landscape from the A3058 eastwards through, or with reference to the appeal site. Similarly from this vantage point the dwelling proposed would be largely, if not entirely, occluded from view.
15. Therefore whilst the development proposed would increase the density of development in this particular location, I cannot conclude with reference to the surrounding context that this would be detrimental to the character and appearance of the area as opposed to simply representing change. Therefore no conflict arises with policy 12 of the Local Plan or with relevant elements of the Framework.³

Other Matters

16. I have considered all representations before me, including in relation to concerns over the appropriateness of the access proposed, the living conditions of those nearby, surface water run-off, and the potential for this development to establish a precedent. Existing visibility at the vehicular accesses to No 24 is poor, and the Council explain that the amendments proposed in this respect would be beneficial. There is no robust evidence before me to reach a different conclusion.
17. I appreciate that the dwelling proposed would be apparent to the occupants of nearby properties. However given that the plot size of the dwelling proposed would be comparable with those nearby, and as matters of appearance, landscaping, layout and scale reserved for future determination, there is nothing inherent in the proposal before me to indicate that unacceptable effects would result in relation to the living conditions of those nearby. As explained subsequently I have addressed surface water run-off via an associated condition.
18. As each proposal must be determined on its particular merits, the potential for this decision to set an adverse precedent is, in my view, highly limited. As such neither this, nor any other matter, is of sufficient significance so as to outweigh or alter my reasoning in respect of the main issue in this case.

³ I have also taken account of the Cornwall Design Guide published in 2013 in this context, and the Planning Practice Guidance in relation to design.

Conditions

19. 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.
20. The 22-24 Edgcumbe Road St Austell Tree Preservation Order (the 'TPO') was confirmed on 3 May 2017. This protects the Cypress referred to in preliminary matters, which is located by the southern boundary of No 24 within group 'G3' as in the appellant's Tree Protection Plan. A subsequent appeal against the Council's refusal to grant consent for the removal of the Cypress was dismissed.⁴
21. The appellant has explained in correspondence at appeal that the proposal would retain this tree, as is shown on the current iterations of plans. However to ensure that the wellbeing of the Cypress is safeguarded, and hence its positive contribution to the area, I have imposed an associated condition as proposed by the Council in this context (which must necessarily apply before any development is undertaken, as any has the potential to affect the tree if undertaken insensitively).
22. I have also imposed conditions requiring that visibility splays at the access proposed are secured, and access arrangements implemented.⁵ These measures must be undertaken prior to any other development to prevent adverse effects arising to the operation of Edgcumbe Road as both construction and residential use will generate vehicular movements.
23. In order to avoid adverse effects on ecology resulting from the development proposed, and accordingly to comply with policy 23 'Natural environment' of the Local Plan, I have imposed a condition requiring that development complies with the recommendations of the appellant's ecological studies.
24. As the appeal site falls within a critical drainage area, to avoid adverse effects resulting from surface water run-off and to ensure adequate foul drainage provision, I have imposed an associated condition. This condition must apply before any development is undertaken as any has the potential to affect the drainage capacity of the site.

Conclusion

25. For the above reasons, and having taken all other relevant matters into account, the proposal accords with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be allowed subject to the conditions set out below.

Thomas Bristow

INSPECTOR

⁴ Ref APP/TPO/6069.

⁵ The latter essentially combining conditions 5, 7 and 8 as proposed by the Council.

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 three years from the date of this decision, and the development hereby permitted shall begin not later than two 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 (other than in so far as they relate to the reserved matters): PD500/03 Revision D, PD500/04 Revision D, PD500/06 Revision A.
- 4) No development hereby permitted shall take place until a tree protection scheme has been agreed in writing by the local planning authority (which shall include an Arboricultural Method Statement, details of how the method of construction of the driveway will safeguard the wellbeing of the Lawson Cypress protected via the 22-24 Edgcumbe Road St Austell Tree Preservation Order confirmed on 3 May 2017, root protection areas of all trees that may be affected by development and measures for the protection thereof in compliance with British Standard 5837: 2012). The agreed tree protection measures will be implemented before any development hereby permitted is begun, and retained until development is completed. 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 root protection areas of relevant trees. The development shall be carried out in accordance with the tree protection scheme thus agreed.
- 5) No development hereby permitted shall take place until all land within the visibility splays shown on the relevant approved plans have been reduced to a height not exceeding 0.6 metres above the adjoining road level, and thereafter no obstruction shall be emplaced within the approved visibility splays.
- 6) No development hereby permitted shall take place until the access as shown on the approved plans and a boundary scheme has been implemented, the latter as previously agreed in writing by the local planning authority (and which shall include details of the reinstatement of the footway adjoining Edgcumbe Road, any boundary treatments facing Edgcumbe Road including their height, siting, appearance and construction and the means by which existing accesses will be permanently stopped up). The access and the boundary scheme shall thereafter be retained in accordance with the approved plans and agreed details.
- 7) The development hereby permitted shall be undertaken in accordance with the mitigation and recommendations set out in section 3 of the supporting Preliminary Ecological Appraisal Report, prepared by Cornwall Environmental Consultants, reference CEC2647, dated 18 September 2015, and the

additional mitigation requirements as set out in the Cornwall Environmental Consultants Ecological Walkover Survey, dated 15 September 2016.

- 8) No development hereby permitted shall take place until a drainage scheme has been agreed in writing by the local planning authority (which shall include details of surface water and foul drainage systems, associated calculations and layouts, confirmation from South West Water Ltd., that the foul network has sufficient capacity to accommodate the uplift arising from development, a construction environmental management plan, a construction quality control procedure, a plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features, a timetable of construction and implementation, and arrangements for future maintenance and management including in respect of drainage systems and overland flow routes). The development shall be carried out, managed and maintained in accordance with the drainage scheme thus agreed.