



Appeal Decision

Site visit made on 4 June 2019

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2019

Appeal Ref: APP/D0840/W/19/3224149

Beach View, Trenance, Mawgan Porth, Newquay, Cornwall, TR8 4DB

- 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 Chris & Fiona Heritage against the decision of Cornwall Council.
 - The application Ref PA18/04468, dated 10 May 2018, was refused by notice dated 25 January 2019.
 - The development proposed is demolition of existing dwelling and construction of replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of replacement dwelling at Beach View, Trenance, Mawgan Porth, Newquay, Cornwall, TR8 4DB in accordance with the terms of the application, Ref. PA18/04468, dated 10 May 2018, and subject to the conditions listed in the Annex to this decision.

Procedural Matter

2. The 2018 National Planning Policy Framework (Framework), referred to in the Council's decision notice, has since been replaced by the February 2019 version of the Framework. However, the policies from the Framework that are relevant to this appeal have not changed.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is located to the north of an unnamed track, on the north western outskirts of Mawgan Porth. It comprises a detached house and annex situated within a large plot.
5. The site is not subject to any landscape policy designation, albeit it does form part of the Newquay and Perranporth Coast Landscape Character Area CA15 (LCA) within the Cornwall and Isles of Scilly Landscape Character Study (2008). It is also not subject to any designations in terms of its environmental, biodiversity or heritage value.
6. The Council's Appeal Statement suggests that the site is within the Mawgan Porth to Newquay County Wildlife Site (Wildlife Site), but this is not reflected in

the plan at paragraph 2.2 of their Statement. This plan shows the appeal site to be located outside the Wildlife Site. The land to the west of the appeal site is also shown as Open Access Land.

7. Both the Council and interested parties have referred to the inclusion of the appeal site within an Area of Special Character (ARC) in the Restormel Local Plan. Whilst that plan has been superseded by the Cornwall Local Plan Strategic Policies 2010 – 2030 (CLP) and the latter has not carried forward the ARC designation, I agree that its broad objectives are reflected in Policies 1, 2, 12 and 23 of the CLP. Combined, these policies seek to ensure that new development maintains and enhances the special character of Cornwall's landscapes and seascapes, secures a high quality of design and layout that responds to and enhances local character and built form, and also protects and enhances the natural environment and landscapes, both designated and undesignated.
8. As I observed on my site visit, the appeal site is located within a sensitive location given its elevated position, proximity to the coastline and its prominence in views from various vantage points in Mawgan Porth. Even so, that description also applies to the properties surrounding the appeal site.
9. The grounds to the appeal site, other than the drive, are largely laid to lawn, with mature boundary trees and hedging, and is well maintained. The Council allege that it has a rugged appearance, which would be lost. I do not agree. There are no features on the appeal site that could be described as rugged. Whilst a number of photographs have been submitted showing how the appeal site and in particular the western part has changed in appearance over the years, I can only determine the appeal on the basis of the site as it exists at present. The open undeveloped land to the west of the appeal site does have a distinctive and pleasing rugged appearance, a result of the combination of exposed rock, gorse and heather. However, those characteristics are not present on the appeal site.
10. The Council have also raised concerns over the loss of the openness of the western part of the site. However, this part of the garden is not identified in any of the planning policy documents as an important gap or buffer, that should be retained or protected. In addition, when seen in various viewpoints, this part of the appeal site reads as a garden and is viewed in the context of the existing dwellings and their gardens that surround it. Of particular note, is the new modern dwelling that has recently been constructed adjoining Westward, which sits immediately behind the western half of the appeal site.
11. The properties surrounding the appeal site and generally within Mawgan Porth, vary in terms of their height, length, style, footprint and age, resulting in an area whose character is very varied and inconsistent. These properties are not of any architectural value and a large number, including the existing house and annex on the appeal site, are painted white, making them more prominent in the landscape, particularly in long range views.
12. Within this context, the larger footprint and westward extension of the new dwelling, would, in my view, be acceptable. I appreciate that the new dwelling would be longer and higher than the existing house, and would therefore be more prominent from various viewpoints, but I am satisfied that any impact would not be significant or harmful.

13. Whilst the proposal would reduce the gap between the existing house and its western boundary, the new building would be offset from the western boundary, where a number of the existing trees are shown to be retained and supplemented by new planting. The open, rugged and undeveloped land to the west would remain unharmed. In addition, the new dwelling would not extend further westward than the new house to the north, or Trenalt and Boscarne/Red Cove, to the south west and north west respectively, which are significantly closer to the coastline and public footpath and would, in my view, remain much more prominent visually than the appeal proposal.
14. The combination of the proposed design, layout, pallet of materials and new landscaping would enable the new dwelling to assimilate with the character of the area and allow it to sit comfortably on the site. Whilst the proposed design is modern and contemporary, in my view, it is of a high quality, which utilises the topography of the site and the large plot that it sits on well. It would make a positive contribution to the character and appearance of the area.
15. The proposed landscaping scheme would complement the design and proposed pallet of materials, which include the use of local stone and timber, as well as a living roof. Combined, these would soften the appearance of the new dwelling and allow it to integrate with its surroundings.
16. A large amount of evidence has been submitted comparing the height, length, footprint and plot coverage of the proposed building with existing houses in Mawgan Porth. Such comparisons can be misleading and unhelpful, but what they do show is the variety of styles, plot sizes, building heights and building footprints that exist throughout the settlement. Even so, the new dwelling would still sit within a significant plot, with well over half retained as either garden or for hard and soft landscaping. For these reasons, the proposal would not, as the Council allege, dominate the plot in terms of its footprint.
17. With regard to the scale of the new building, the Council suggest that it is a three storey house. However, it does not read, in my view, as three storeys. The proposed design, through the use of terracing, recessed glazing and doors, a flat roof and angled walls, would break up the appearance of the building and reduce its perceived scale, whilst at the same time enabling it to nestle into the topography of the site, particularly towards the western end where its scale would take on a single storey appearance.
18. The Council argue that the new building would be closer to and impose itself on the undeveloped coast without any meaningful mitigation. I do not share those views. The submitted plans show that the new building would be set back from the open land to the west and that due to the topography of this part of the site, only the upper part of the new building would largely be visible from the west. The Tree Protection Plan (TPP) shows that these views would be mitigated by the retention of existing boundary trees, supplemented by a large margin of native planting along this boundary, as shown on the Landscape Proposals Plan (LPP). This would assist in softening the transition from the appeal site to the open land to the west and acting as a buffer between the two.
19. The Council also argue that the proposal represents a poor design, but do not expand on that statement. For the reasons set out above, I do not agree. Whilst it is contemporary, it is innovative, which paragraph 127 of the Framework says should not be discouraged. Paragraph 131 of the Framework

expands on this by saying that great weight should be given to innovative designs which promote sustainability and assist in raising the standard of design in an area. As I have found, the appeal proposal would result in a much higher quality of design than the majority of existing development and would therefore make a positive contribution to the character and appearance of the area.

20. The Council have made reference to the proposed roof and suggest that its slopping design draws attention to it, but there is no detailed explanation as to why this would be unacceptable or would result in any harm. The Council have also referred to the Cornwall Design Guide and the LCA, but neither of these documents affects the findings I have reached on this main issue. The extracts provided from the Design Guide emphasise the general parameters and constraints that new developments should have regard to and respond to. In relation to the LCA, as I have found above, the appeal site does not display any of the key characteristics of ruggedness nor the exposed coastal landscapes that the LCA seeks to protect.
21. The Council's Appeal Statement also makes reference to the issue of housing provision, but again they do not expand on the relevance of this to the appeal proposal. I note that this was not an issue that was raised in their reason for refusal and I have, therefore, not considered the matter further.
22. My attention has also been drawn to the comparisons between the proposed development and an appeal for a new dwelling on land at Trenance (ref. APP/D0840/W/16/3164059), which was dismissed in 2017. This site lies further to the south east of the appeal site. However, the context and circumstances of that site are very different to the appeal site. I note that the site was undeveloped and comprised rough grassland and gorse. This led the Inspector to find that its open, rugged and unkempt appearance and lack of urbanisation made an important contribution to the character of the area and to its value as an open native coastal habitat. None of those considerations apply to the appeal site and this decision does not, therefore, affect the findings I have reached.
23. Accordingly, I find that the appeal proposal would not result in any significant harm to the character and appearance of the area and would not be at variance with Policies 1, 2, 12 and 23 of the CLP, the Cornwall Design Guide or the corresponding policies of the Framework and Planning Practice Guidance.

Other Matters

24. Concerns have been raised over the impact of the appeal proposals on the garden to Westward, in terms of loss of privacy. Having observed this relationship on my site visit, I agree with the assessment set out in the Council's Planning Committee Report, which concluded that there would not be an unreasonable level of overlooking as a result of the proposed development. Views between the garden areas already exist and the immediate private amenity areas adjacent to the main house at Westward and the new house adjoining it, would not be affected.
25. In addition, the TPP confirms that the 3 trees that would be removed on this northern corner of the appeal site, would be replaced, as part of a scheme to plant 11 new trees across the site. The existing trees on the western boundary would be retained and the LPP shows additional low level planting in both of

these areas. Whilst there would be a short-term loss of some screening on this boundary with the removal of the three trees, the planting proposals will secure long term benefits by enhancing the screening in this location. I note, in this respect, that the Council have not raised any concerns over the impact of the development on the living condition of neighbouring properties.

26. The St Mawgan Parish Council have referred to the submission of a revised application by the appellant. However, that application is not before me and I can only determine this appeal on the basis of the proposed scheme. They have also made reference to the precedent that might arise in relation to the site to the south, referred to as land west of Three Corners. I understand an application for two dwellings on this site was withdrawn in 2018. Even so, any future proposals that come forward on that site would, as with this appeal, be considered on their individual merits and having regard to the specific circumstances of the case.
27. Questions have also been raised as to whether the western half of the appeal site lawfully falls within its residential curtilage or is within the settlement boundary. Whether the curtilage is lawful or not, is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. I can only determine the proposal that is before me, which is for a replacement dwelling. In relation to the settlement boundary, reference has been made to the Restormel Local Plan, which has been superseded by the CLP. However, there is no evidence before me to suggest that the principle of the proposed development would conflict with the CLP. Indeed, as highlighted in the Council's Planning Committee Report and in the appellant's submissions, the principle of development would still be supported by Policy 3 of the CLP, which permits rounding-off or development on previously developed land, within or immediately adjoining a settlement.

Conditions

28. The Council has suggested a number of conditions and I have considered these against the advice in the Framework and the Planning Practice Guidance on the use of planning conditions.
29. Conditions relating to the time limit for implementing the development; compliance with the submitted plans; the submission and implementation of a full landscaping scheme; and compliance with the recommendations of the Bat & Barn Owl Survey, are all necessary and reasonable in order to secure a high quality sustainable development, to reflect the details included within the application and to preserve protected species and their habitats. I have, however, made minor changes to the wording of condition 3. In relation to the submitted plans, as there was an error on the decision notice, I have included reference to all the approved plans in condition 2, based on the list in Question 05.(c) of the Appeal Form and agreed in a post appeal email from the Council.

Conclusions

30. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR

Annex – Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: drawing No. EX-001 B, EX-101 B, PL-001 C, PL-101A, PL-102 B, PL-103 C, PL-201 B, PL-202 B, PL-203 B, PL-204 B, PCD/150/PL01, and PCD/150/PL02.
- 3) Prior to the occupation of the permitted dwelling a full scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall provide planting plans in line with the recommendations of the Arboricultural Impact Assessment (report ref: 3234 AIA - Rev A) dated 21.11.18 by Evolve Tree Consultancy written specifications including:
 - Full schedule of plants
 - Details of the mix, size, distribution and density of all trees/shrubs/hedges
 - Cultivation proposals for the maintenance and management of the soft landscaping

The protection measures proposed shall be completed in accordance with the approved plan 3234 TPP A before the development hereby permitted commences and shall thereafter be retained until it is completed.

Notice shall be given to the Local Planning Authority when the approved scheme has been completed. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice shall be given to the Local Planning Authority when the approved scheme has been completed. Any trees or plants which within a period of five 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 a similar size and species as those originally planted.

- 4) The development shall be carried out in accordance with the recommendations of the BAT AND BARN OWL SURVEY OF BEACH VIEW, TRENANCE, MAWGAN PORTH, NEWQUAY, CORNWALL (16-139T/A2/Beach View, Mawgan Porth _BBO) by Spalding Associates (Environmental) Ltd., dated 14th August 2017.