
Appeal Decision

Site visit made on 6 August 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Appeal Ref: APP/D0840/3229646

Land off Pill Creek, Pill Lane, Feock TR3 6SE

- 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 Dr Edward Ffrench-Constant against the decision of Cornwall Council.
 - The application Ref PA18/11025, dated 16 November 2018, was refused by notice dated 11 January 2019.
 - The development proposed is a new detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) Whether the site is an acceptable location for a dwelling, having regard to the settlement policies of the development plan;
 - b) The effect of the development on the natural qualities of the Area of Outstanding Natural Beauty (AONB);
 - c) The effect of the development on the living conditions of the occupants of Waterside, with particular regard to privacy; and
 - d) The effect of the development on highway safety.

Reasons

Location

3. The Council's housing strategy is set out in Policy 2 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan). It seeks to maintain the dispersed development pattern of Cornwall and provide housing based on the role and function of each place. Policy 3 of the Local Plan defines how development will be accommodated based on this hierarchy of role and function. Outside specific main towns, housing growth is to be delivered through the identification of sites through Neighbourhood Plans, rounding off of settlements, development of previously developed land within or immediately adjoining settlements, infill schemes and rural exception sites.

4. The appeal site is located outside the settlement boundary as defined by the Feock Neighbourhood Plan 2017 – 2030 (the Neighbourhood Plan) and is therefore not identified for development. It does not constitute previously developed land, and it is not promoted as a rural exception site. In view of the distance between Boswer, to the north-west, and Pentui to the south-east, the proposed dwelling would not fill a small gap in an otherwise continuous built frontage. It would not therefore constitute infilling as described by Policy 3 of the Local Plan, or Policy H1 of the Neighbourhood Plan. However, the appellant argues that the proposal would constitute 'rounding off'.
5. Paragraph 1.68 of the supporting text to Policy 3 of the Local Plan explains that rounding off applies to development on land that is substantially enclosed, but outside the main form of a settlement. It goes on to explain that the edge of such sites should be clearly defined by a physical feature that also acts as a barrier to future growth (such as a road) and that it should not visually extend building into the open countryside. Further guidance on what constitutes 'rounding off' is contained in the Chief Planning Officer's Advice Note: Infill/Rounding Off (CPOAN). However, this does not form part of the Council's adopted planning policy, and therefore carries limited weight. Policy H1 of the Neighbourhood Plan states that rounding off will be approved within the settlement boundary, but it does not explicitly exclude the application of Policy 3 of the Local Plan outside the boundary.
6. The appeal site is a large area of former garden. It is separated from the dwelling it previously served by the road that gives access to the houses overlooking Pill Creek. Whilst the site contains some semblances of its previous use, it has become visually assimilated into the countryside, which rises from the road and provides a verdant backdrop to the waterfront housing. I saw that this road, and the stone walls that bound it, provide a very distinct barrier between the largely continuous row of dwellings on its lower, south-western side, and the wooded and undeveloped land, including the appeal site, that rises to the north-east.
7. Further to the north, there is a row of houses on the eastern side of the road, but these end abruptly at Boswer. There is then no appreciable built development to the east of the waterfront development until Pentui and Carrick, which lie more than 200 metres to the south. The proposed dwelling would be some distance from any other houses to the north or south, with open land to the east. It would not therefore be surrounded by development on at least two sides, and it would not provide a symmetry or completion to a settlement boundary as described in the CPOAN. Rather, it would appear as an isolated house, beyond the established row of dwellings that is contained by the road to the west.
8. There is a track that diverges from the road and runs along the eastern edge of the appeal site. However, this has the character of a rural track, with the wooded appeal site to one side, and farmland to the other. It does not therefore enclose the built form of the settlement. Furthermore, viewed from the opposite side of the Creek, the appeal site forms part of an extensive, undeveloped wooded valley slope, which merges into the wider countryside beyond. The proposed dwelling would therefore visually extend building into the open countryside.

9. I therefore conclude that the proposal would not represent rounding off as described by Policy 3 of the Local Plan and Policy H1 of the Neighbourhood Plan. The proposed open market dwelling does not fall within any of the five exceptions to the strict control of new housing in the countryside as set out in Policy 7 of the Local Plan. I therefore conclude that, having regard to the settlement policies of the development plan, the site is not an acceptable location for a dwelling, as the proposal conflicts with Policies 2, 3 and 7 of the Local Plan and Policy H1 of the Neighbourhood Plan. These policies seek, among other things, to ensure that new housing does not visually extend building into the open countryside.

Natural qualities of AONB

10. The appeal site lies within an AONB. Paragraph 172 of the National Planning Policy Framework (the Framework) requires that great weight should be given to conserving and enhancing landscape and scenic beauty in such locations. The accompanying Landscape and Visual Impact Assessment (LVIA) identifies that the site has a limited zone of visual influence, due to its location within the landscape of a narrow creek, and that this is further reduced by existing vegetation and adjacent properties. The LVIA concludes that the proposed development would not result in unacceptably adverse landscape or visual impacts in relation to the wider landscape. It also identifies that the most important aspect in minimising the visual impact of the development is the retention and protection of the existing vegetation.
11. The trees on the site are protected by Tree Preservation Orders made in 1963 and 2018. The proposals would involve the removal of one sycamore tree, which is categorised as "C" in the accompanying Tree Survey. I saw that this was not a significant tree, and its removal would have little impact on the natural character of the site or the wider landscape. The construction of a house on the site could, however, result in indirect harm to the trees during the construction phase, and/or pressure from future occupants to remove or reduce the trees to improve light and outlook.
12. The submitted drawings and tree survey show that the proposed dwelling would sit outside the Root Protection Area (RPA) of the protected trees. Avoidance of harm to the trees during the construction phase, however, would require very close monitoring, as excavations would be taking place very close to RPAs, and scaffolding may be necessary within the protected areas. There would also be limited space within the site to store materials and equipment. On the evidence before me, however, it would, be possible to construct the dwelling, car-parking area and pedestrian bridge without harm to the trees.
13. The house would, however, be surrounded by tall protected trees. Issues of leaf fall could be addressed using gutter covers, and the threat of branch fall could be reduced through regular maintenance. However, the impact on light and outlook for future residents would not be easily resolved. The tree numbered T21 is identified in the Tree Survey as a 20-metre high beech tree with a branch spread of 8 – 10 metres. It has high amenity value and an expected lifespan of over 40 years. The trunk of this tree would only be about 8 metres from the north elevation of the house, which contains a large first floor window that would serve the main living/dining area. As the tree lies to the south of this window it would significantly reduce the light entering the room.

The tree branches would be so close to this part of the building that it would be difficult for the Council to resist future proposals to reduce the canopy.

14. I therefore find that the proposal would be likely to result in pressure for removal or pruning of protected trees in the future, which would be harmful to the natural appearance of the site, and the contribution it makes to its landscape setting. In any event, even if the trees can be retained in the long-term, the house would still be visible as an isolated dwelling outside the existing well-defined settlement boundary.
15. The LVIA says that the development is likely to be a visible and recognisable feature, though only in very close proximity, and would not be out of context with the existing development in Pill Creek. Viewed from the opposite side of the Creek, however, I saw that the immediate landscape is characterised by dwellings close to the waterfront, framed by trees on the slopes behind. The proposed dwelling would be prominently located above the line of creekside dwellings. However well-designed, it would be an intrusive feature, in an otherwise unbroken stretch of woodland that extends from Boswer to Pentui, which makes a very significant contribution to the landscape setting of the village. The Neighbourhood Plan identifies the settlement boundary adjoining the appeal site as a Critical Settlement Edge, where development is discouraged in order to protect the AONB.
16. Although the impact of the proposal on the wider landscape may be limited, due to its relatively small zone of influence, I conclude that its impact on the natural qualities of this part of the AONB would be harmful. The development would therefore be contrary to Policies 12 and 23 of the Local Plan and Policies D1, BIO2 and LS2 of the Neighbourhood Plan. These policies seek to maintain the natural and historic character of Cornwall; minimise the impact of development on the landscape; conserve and enhance the landscape character and natural beauty of the AONB; and ensure the retention of protected trees.

Living conditions

17. The proposed dwelling would be orientated roughly perpendicular to the road, so most of its doors and windows would face north and south. However, the appeal site is elevated above the road, which allows views to the Creek. To take advantage of these views, a large first floor window is proposed to serve the main living area, facing west. This window would look towards Waterside, a dwelling that lies on the opposite side of the road.
18. As the main outlook from Waterside is towards the Creek, it only has one first-floor window facing the appeal site. This would not be overlooked from the proposed dwelling due to the intervening screen of trees. Any overlooking of the windows in its side elevation would be at a very acute angle, so that no views into the accommodation would be possible. Views of some parts of the garden of Waterside may be possible from the first-floor window. However, any loss of privacy would be limited by the considerable distance involved, and the presence of protected trees along the roadside boundary.
19. I therefore conclude that the development would not have a harmful impact on the living conditions of the occupants of Waterside due to a loss of privacy. In this respect, therefore, the development would comply with Policy 12 of the Local Plan, which seeks to ensure that development proposals protect individuals and property from overlooking and unreasonable loss of privacy. I

also find no conflict with the Framework's aim to achieve well-designed places with a high standard of amenity for existing and future users.

Highway safety

20. Access to the site is gained via a long, largely single-track road, known as Pill Lane, which has a junction with the C101 (West Pill Road) some 370 metres to the north-west. This junction has an acute angle and does not provide the standard of visibility for emerging vehicles that would normally be required of new development. Even using 20 mph stopping distances, the appellants accept that emerging visibility to the north is below the standard advised in Manual for Streets. As the C101 is the main road in and out of the village, a moderate amount of traffic passes the junction each day. I also saw that the junction was not readily visible when travelling downhill into the village on the C101, so emerging vehicles would not be seen from a distance by approaching drivers.
21. The proposed development would lead to an increase in the amount of traffic using this substandard junction. However, Pill Lane already serves more than 20 dwellings, and all the traffic movements generated by those dwellings must use this junction, as it is the only way in and out of the Lane. The additional traffic generated by the appeal proposal would not therefore represent a significant increase in the overall use of the junction. On the evidence before me, there have been no recorded collisions in the vicinity of the junction in the last 20 years, despite its regular use by approximately 20 households.
22. I am mindful that Pill Lane is single-track as it approaches the junction, so it is possible that a driver entering the lane may be forced to reverse back onto the C101 on confronting an emerging vehicle. In view of the lack of visibility from, and of, the junction, this would be a hazardous manoeuvre. However, the additional traffic from one dwelling would not make this eventuality significantly more likely than is already the case, or has been the case over the last 20 years.
23. I therefore conclude that the additional traffic from one dwelling would not have a significant effect on highway safety at the junction of Pill Lane and West Pill Road. The proposal would therefore comply with Policy C27 of the Local Plan, which seeks to ensure that developments provide safe and suitable access to the site for all people and do not cause a significantly adverse impact on the local or strategic road network.

Conclusions

24. I have found that the proposal would not have a harmful impact on the living conditions of the occupants of Waterside, or on highway safety. However, this does not outweigh the harm I have found with regard to the acceptability of the location for a dwelling, and its impact on the natural qualities of this part of the AONB.
25. For the reasons given above I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR