
Appeal Decision

Site visit made on 10 December 2019

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/D0840/W/19/3236777

Creekvean, Pill Lane, Feock, Truro, Cornwall, 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 Mr Richard Dickinson against the decision of Cornwall Council.
 - The application Ref. PA18/03280, dated 22/3/18, was refused by notice dated 18/3/19.
 - The development proposed is the demolition of existing garage structure and erection of new dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site lies within the Cornwall Area of Outstanding Natural Beauty (AONB)¹ and forms part of the setting of the grade II* listed building² known as Creekvean. The site is also the subject of various Tree Preservation Orders.
3. I have determined the appeal on the basis of the revised plans that were considered by the Council when it refused permission.
4. Following the receipt of an appeal decision³ in respect of a development proposed on a nearby site, the Council withdrew its reason for refusal number 2 in respect of highway safety.

Main Issues

5. The two main issues are: the effect upon the character and appearance of the area and; whether the proposals would preserve the setting of Creekvean.

Reasons

6. The development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (LP) and the Feock Neighbourhood Development Plan⁴ (NP). The most relevant policies to the determination of this appeal are: LP policies 12 (design), 23 (natural environment) and 24 (historic environment) and; NP policies BIO2 (tree protection), HE1 (historic environment) and LS2 (AONB).
7. Whilst not planning policy, my attention has also been drawn to the Cornwall AONB Management Plan 2016-2021 (MP). The appeal site lies within the South

¹ To which the provisions of section 85 of the Countryside and Rights of Way Act 2000 apply.

² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged.

³ APP/D0840/W/19/3229646

⁴ The appeal site lies within the settlement boundary and is part of an identified panoramic view as shown on the constraints & opportunities map.

Coast Central section of the AONB and is part of the Fal Ria landscape character type. The most relevant policies to the determination of this appeal are MD9 and SCC9.01. Amongst other things, these require new development to be appropriately/sensitively located, promote the conservation of the historic environment and to protect trees. The MP has been subject to a process of stakeholder consultation and can be given moderate weight in this appeal.

Character and Appearance

8. The appeal site comprises part of the garden to Creekvean. It includes a rather dilapidated 1960s single storey flat roof concrete garage/store with parking deck and several mature trees, including Monterey pines and a Sessile oak. The site forms part of the steeply sloping, south west facing wooded hillside along Pill Creek. Whilst Creekvean is readily visible in public views from the south west the garage/store, by virtue of its limited size, height, recessive colour and proximity to tall trees, is barely discernible within the landscape.
9. The proposed three bedroom house would form part of a row of dwellings along this side of Pill Lane. It would be steeped down into the hillside and would not break into or intrude upon the skyline of Pill Creek ria. This new house would have a mono-pitched roof, clad in natural slate, with a mix of dark stained boarding and rendered walls. The recessive coloured materials would assist in limiting the landscape and visual impact of the building and would be locally distinctive. This new building would be of a modest sized (measuring 18 metres x 9.5m x 9.8m at its highest point) with a south west facing external balcony. It would be designed and finished to a high standard.
10. However, the proposed house would be sited in very close proximity⁵ to a number of mature and protected trees. These include two tall Monterey pines, a Sessile oak, a Monterey Cypress and a small group of Leyland Cypress trees. As I noted during my visit, these trees form part of the pleasant woodland along the south west facing slope of Pill Creek and the attractive sylvan setting to the dwellings along Pill Lane. Whilst some of these trees, such as the group of Leyland Cypress and the Sessile oak⁶ are not particularly good specimens, they contribute to the natural beauty and scenic qualities of the area. They are also a component of a locally cherished view from the south west.
11. As shown on the appellant's Tree Constraints Plan, the proposed house would intrude into the Root Protection Area (RPA) of three mature trees. On behalf of the appellant, it has been calculated that this would entail incursions into the RPAs of about 10% for the Monterey pines and about 23% for the Sessile oak⁷. The appellant's agent has also informed me that piling would be used to limit the impact upon these trees. However, the RPA is the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain its viability and where the protection of roots and soil structure should be treated as a priority⁸. It also only represents below-ground constraints. The default position is that structures should be located outside RPAs.
12. Notwithstanding the proposed use of piling techniques, the development would be likely cause much disturbance to important tree roots growing within the

⁵ On behalf of the appellant, it has been calculated that the new house would be between 4m away from the trunks of one Monterey pine and the sessile oak, and 6.5m from the trunk of another Monterey pine.

⁶ Utility operators may need to undertake pruning works to this tree as it is in close proximity to overhead cables.

⁷ Those acting on behalf of the appellant have calculated that the existing garage occupies about 25% of this RPA.

⁸ BS 5837:2012 'Trees in relation to design, demolition and construction – Recommendations'.

- site, as well as stress to a number of mature trees growing in and around the site. There is no overriding justification for construction within the RPAs and I have not been provided with any cogent evidence to demonstrate that these trees could remain viable and that the area lost to encroachment could be compensated for elsewhere, contiguous with the RPAs. There is also nothing to show any improvement to the soil environment.
13. The proposed incursions into the RPAs would be likely to compromise the future health/well-being of trees which make a positive contribution to the character and appearance of the area and could ultimately result in their removal. This would harm the character and appearance of the area, including the natural beauty and scenic qualities of the AONB when viewed from the south west.
 14. Even if the trees survived the rigours of the construction phase pressure is likely to be applied on the Council to agree to the pruning and/or felling of these trees from future occupiers of the proposed dwelling. Residents could perceive the very close proximity of the trees to their property as a nuisance in terms of interference with light, obstruction to views (in this regard, residents would be likely to want to maximise the views from the proposed external balcony and south west facing windows) and tree debris. The trees could also be perceived as a risk to the health and safety of occupiers of the dwelling and a potential risk of damage to their property. The Council would have difficulty resisting such pressure.
 15. The proposed development would be poorly sited in relation to important trees growing in and around the site. The likely to harm to these trees would conflict with LP policies 12 and 23, NP policies BIO2 and LS2, MP policies MD9 and SCC9.01, and be at odds with the provisions of the National Planning Policy Framework (the Framework) that are aimed at conserving and enhancing the landscape and scenic beauty of AONBs. This harm to a nationally designated landscape weighs heavily against granting planning permission.

Setting of Creekvean

16. The heritage interest (significance) of Creekvean and its attached entrance bridge and walls is derived primarily from its architectural qualities as a 1960s 'Forticrete' concrete block house that was designed by Team 4 (Norman and Wendy Foster, Richard and Su Rogers) for Marcus and Rene Brumwell⁹. It is an example of the influence of Frank Lloyd Wright on Richard Rogers.
17. This building, which is of more than special interest, occupies a prominent position overlooking Pill Creek with views out to Carrick Roads. I note that the house was "*designed to reach out to the surrounding landscape.*" It has a spacious and pleasant garden setting that includes some mature trees.
18. The garage/store is set well apart from the house and appears to be of a slightly later construction. This ancillary building does not contribute to the significance of Creekvean. The mature garden trees form part of the landscape setting and, to a limited extent, assist in an appreciation and understanding of the siting and appearance of this listed house.
19. The proposed house would be designed to respect the importance and architectural qualities of Creekvean and would be sited so as not to compete with or distract from the architectural interest of this listed building. The likely

⁹ Marcus Brumwell was the founder of the Design Research Unit and father of Su Rogers.

impact upon several mature trees that I have found above would result in some very limited, short term adverse effect to the garden/landscape setting of Creekvean. However, it would not diminish the ability to appreciate and understand the significance of this listed building and replacement planting would maintain its aspect and prospect. In this regard, the appellant has already planted numerous trees¹⁰ since acquiring the property in 2003.

20. The proposal would preserve the setting of Creekvean and accord with the provisions of LP policy 24 and NP policy HE1.

Other Matters

21. The proposed development would entail the more efficient use of previously-developed land for housing. It would help to increase the choice and supply of housing within this part of Cornwall and occupiers of the new dwelling would be likely to support local services and facilities. The proposal would also help to support the construction industry. These benefits weigh in favour of an approval and can be given moderate weight in the overall planning balance.
22. The appellant's bat survey revealed that the storage space within the garage is used for regular day and night roosting by a small number of Greater and Lesser Horseshoe bats. It is of medium conservation significance.
23. The proposed works of demolition would result in the destruction of this bat roost and a licence would need to be obtained from Natural England before such works could lawfully commence. Unless an appropriate replacement roost could be provided the development would harm nature conservation interests.
24. The appellant's consultant has advised that either a purpose built stand-alone replacement roost should be constructed close to the existing garage and completed before demolition, or a designated enclosed space with fly-in entrance should be provided within the new building to secure similar roosting conditions. Either of these options could be dealt with by way of a suitably worded planning condition and could provide adequate mitigation. This would safeguard nature conservation interests.
25. The circumstances in the appeal decisions on other sites in and around Feock that have been drawn to my attention are materially different to the proposal before me. These other decisions do not set a precedent that I must follow.

Planning Balance / Overall Conclusion

26. I have found that the proposal would preserve the setting of Creekvean, would provide a number of benefits and would safeguard nature conservation interests. However, these matters would not overcome or outweigh the harm that I have found to this nationally important landscape. This leads me to find that the proposal would not comprise sustainable development. Whilst it would accord with some aspects of the development plan the proposal would conflict with other policies. When considered overall, it would be at odds with the development plan objective of providing sustainable development. I therefore conclude that the appeal should not succeed.

Neil Pope
Inspector

¹⁰ The appellant has also undertaken a substantial programme of restoration/refurbishment works to the house.