
Appeal Decision

Site visit made on 6 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 21 January 2020

Appeal Ref: APP/D0840/W/19/3238627

Tremenheere Sculpture Garden, Tolver Water Road, Tolver, Long Rock, Penzance TR20 8YL

- 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 Neil Armstrong of Tremenheere Sculpture Gardens against the decision of Cornwall Council.
 - The application Ref PA18/11590, dated 3 December 2018, was refused by notice dated 9 April 2019.
 - The development proposed is the construction of a timber cabin for visiting artists and wedding guests.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.
3. The development plan comprises of the Cornwall Local Plan Strategic Policies 2010-2030¹ (the Local Plan). The evidence before me indicates that the Ludgvan Neighbourhood Plan is currently at examination and that given there are areas of this Neighbourhood Plan which require clarification, I have only attached limited weight to the Ludgvan Neighbourhood Plan in the determination of this appeal.

Main Issue

4. The main issue is whether the proposal would constitute an appropriate form of development with particular regard to the provisions of local and national policy in respect of the location of the development and its accessibility.

Reasons

5. The Council's settlement strategy is contained within Policy 2 of the Local Plan. It sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place.

¹ Adopted November 2016

6. The appeal site is located on rising ground within the northern section of Tremenneheere Sculpture Gardens (the Sculpture Gardens) and away from the main car park, café and gallery that are situated at the entrance to the Sculpture Gardens south of the appeal site. The proposed development would be positioned abutting the eastern boundary of a large area of predominately open land, and separated from neighbouring land by a low bank and vegetation. To the northwest of the appeal site, an unmade trackway continues past the northern boundary of the Sculpture Gardens.
7. The appeal site is not located within a settlement, with the land north of the Sculpture Gardens and land to the east of the appeal site comprising of agricultural fields interspersed with groups of trees and mature woodland. By reason of the predominately open surrounding landscape to the north of the site, high hedges and mature woodland, scatter of dwellings and agricultural holdings, the surrounding area has an intrinsically rural feel such that the appeal site is located within the open countryside for planning purposes.
8. The proposed development is for what is described as a cabin intended for use by visiting artists and wedding guests. On that basis, the Appellant maintains that the proposal should not be assessed against those parts of the Local Development Plan, or of the Framework, which concern housing or isolated homes in the countryside. However, it is established case law that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it, the facilities required for day-to-day private domestic existence. It would not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. In this regard, the proposed cabin includes provision of a bedroom, kitchen and washing facilities, and consequently the structure would exhibit the characteristics of a dwellinghouse and should be assessed accordingly.
9. Policy 3 of the Local Plan seeks to control the distribution of new dwellings across Cornwall and includes provisions to limit rural housing to particular types of windfall development, including dwellings built on previously developed land, rounding off and infill sites, within small settlements. As noted above, the appeal site is not located within a settlement and consequently the provisions of this policy would not apply.
10. Policy 7 of the Local Plan supports development proposals within the open countryside where it is shown that "*special circumstances*" exist such as where there is re-use of a redundant building or where accommodation is required for rural workers. A number of criteria are listed against which proposals may be assessed. The appeal scheme fails to accord with any of these criteria.
11. Policy 5 of the Local Plan is supportive of appropriate business and tourism development, and provides that proposed developments within the countryside must; be of a scale appropriate to its location, demonstrate an overriding business need to be in that location and be well served by public transport.
12. Whilst I acknowledge the modest scale of the proposal, I have only been provided with general comments and assertions regarding the contribution that the appeal scheme would make to the business based at the Sculpture Gardens. Furthermore, and as noted above, the appeal site is not located within any settlement and would be situated some distance away from and outside of the nearest settlements at Ludgvan and Gulval. The site would be located approximately 400 metres away from the main buildings which are

situated close to the main car park at the Sculpture Gardens, and would be approximately 700 metres away from the nearest bus stop which is located on a narrow road which connects Ludgvan to Gulval.

13. The evidence before me indicates that services from this bus stop are somewhat infrequent, and therefore, in combination with the distances between the appeal site and the nearest services and facilities which may be required on a day to day basis, it could not be said that the proposal would be located where it would be well served by public transport. Consequently, future occupants are likely to be reliant on private motor vehicles for most trips. For the above reasons, the proposal would conflict with Policy 5 of the Local Plan.
14. In consideration of the above, the appeal scheme would conflict with Policies 2, 3, 5 and 7 of the Local Plan. Furthermore, the proposal would be contrary to Policy 23 of the Local Plan and would not accord with paragraphs 83 and 170 of the Framework as the development would result in an urban residential feature within the countryside which, in my view, would not reflect or sustain local distinctiveness and would not protect or enhance the natural environment.
15. In addition to the above, the proposed cabin would not be located close to any other buildings, people or places and therefore can be properly described as being 'isolated' within the context of the Framework. As noted above, the proposal would not be for a rural worker and would not involve the subdivision or reuse of an existing building. The proposal would not be enabling development in relation to a heritage asset and, whilst I acknowledge that considerable thought has been put into the design of the proposed cabin, it is not, in my view, a truly outstanding or innovative design. Consequently, the proposal would not accord with paragraph 79 of the Framework.
16. Further to the above, whilst recognising that the appeal scheme could provide some economic benefits to the existing business at the Sculpture Gardens and could provide economic benefits in terms of additional spend by visitors to other local businesses, such visitors are likely to be reliant on private motor vehicles in order to access basic services and facilities that may be required on a day to day basis.
17. This would be contrary to the objectives of the Framework with regards to the transition to a low carbon future, and would be in conflict with the environmental dimension of sustainable development, as would the harm to the character and appearance of the countryside as identified above. Once these matters are considered together, the proposed scheme could not be considered to be sustainable development in terms of paragraph 8 of the Framework or in terms of Policy 1 of the Local Plan for which there is a presumption in favour of.
18. In light of the above, the proposal would conflict with the development plan and would not accord with the provisions of the Framework when taken as a whole. The conflict with the development plan, and the identified harm arising from that conflict, are matters of considerable importance and I have attached significant weight to these considerations in determining this appeal.
19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

20. In this regard, the Appellant has put it to me that the proposal is deliberately sited away from the remaining buildings at the Sculpture Garden so as to provide privacy and discretion for visiting artists and guests. However, there is no information or evidence before me as to why similar levels of seclusion and privacy could not be also maintained if the proposed cabin was sited in closer proximity to the main buildings which serve the Sculpture Gardens, and which would have a less harmful impact on the intrinsic beauty of the countryside.
21. Furthermore, whilst I have acknowledged the potential economic benefits of the proposal above, I have only been provided with limited information in this regard. Nonetheless, I have attached some weight to this factor in the determination of this appeal, and by reason of the scale of the proposal, I have attached moderate weight to the potential economic benefits arising from the proposal.
22. In summary of the above, the proposal's conflict with the development plan when taken as a whole, weighs significantly against the appeal scheme. For the reasons given, I conclude that the potential benefits described above would attract only moderate weight and, consequently, would not outweigh the harm identified in relation to the development plan conflict.
23. The Appellant has further put it to me that the appeal scheme would be comparable to other forms of development which have been permitted outside of settlements. However, I do not have full details of the circumstances that led to those other proposals being accepted and so cannot be sure that they represent direct parallels to the appeal scheme, including in respect of scale, the characteristics of the relevant location and development plan policy. Accordingly, I have determined this appeal on its own merits.

Other Matters

24. It has been put to me by interested parties, that the proposed scheme could be made acceptable in planning terms by imposing a condition that the land would be returned to its current use and appearance, in the event that the cabin was no longer used for accommodation for visiting artists or wedding guests. In this regard, and in light of the provisions of the Framework and Planning Practice Guidance, I conclude that it would not be reasonable to impose such a condition given that the application is not for a temporary structure but rather would result in the construction of a permanent dwellinghouse as described above.

Conclusions

25. For the reasons given above, the scheme conflicts with the development plan when considered as a whole and there are no material considerations to outweigh the identified harm and subsequent development plan conflict in relation to the suitability of the location of the appeal site. I therefore conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR