



Appeal Decision

Site visit made on 16 December 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/D0840/W/19/3233146

The Eyrie, Battery Hill, Portreath, Cornwall TR16 4NP

- 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 Stuart Powell against the decision of Cornwall Council.
 - The application Ref PA18/11111, dated 22 November 2018, was refused by notice dated 21 January 2019.
 - The development proposed is the construction of two dwellings.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Stuart Powell against Cornwall Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the Cornwall Area of Outstanding Natural Beauty.

Reasons

4. The appeal site is the bungalows 'The Eyrie' and 'The Lookout' and their grounds, located centrally on the hillside at the southern side of Portreath, above the core of the village. Access is via a shared path from the Public Right of Way (PROW) Green Lane, which runs along the site's south boundary. There is extant permission, approved under Ref PA17/08911, for the replacement of the bungalows with two dwellings at the upper end of the site.
5. The hillside is within the Cornwall Area of Outstanding Natural Beauty (AONB). The National Planning Policy Framework (the Framework) identifies that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in these regards. Consistent to this, Policy 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP) requires schemes to conserve and enhance the landscape character and natural beauty of the AONB.
6. As Portreath has grown outwards, dwellings have appeared up the hillside. The appeal site is influenced by this established residential context, and many dwellings around the site are larger replacements or have been enlarged themselves. Much of the housing is along the ridgeline, which itself visually disconnects this part of the AONB from the larger part of the 'Godrevy to Portreath' section of the AONB to the south.

7. That being said, the hillside is predominated by a tract of verdant and open coastal habitat which stretches horizontally across it. With its steep topography, the incisions of its former quarry sites and its rough scrubland fabric, the hillside remains a significant landscape feature¹. This is particularly appreciable from the beach and along Lighthouse Hill to the north. As such, whilst I agree that the hillside is within the village of Portreath, it equally contributes to the AONB's landscape and scenic beauty and to Portreath's impressive coastal setting. Its sensitivity to further development is directly recognised by the Cornwall AONB Management Plan 2016-2021 (AONBMP).
8. Although tired and non-descript, the small scale and coupled siting of The Eyrie and The Lookout reduces their presence, and their outlying position allows the appeal site to form an integral part of the natural hillside. Whilst this would be diminished by the approved dwellings, they would also have a peripheral location at the top of the site, and The Eyrie and The Outlook would be removed prior to construction. Given such, the appeal site will continue to contribute to the hillside as a landscape feature.
9. The proposal seeks to demolish the bungalows and erect two, three-bedroom dwellings, Units 1 and 2, which would be erected at the east end and the middle of the site respectively. Parking areas atop 7.5m high walls would be created off Green Lane, and stepped paths would turn back and forth down the slope for access. The design approach for the houses has been led by a Landscape Visual Impact Assessment (LVIA). It seeks to provide a recessive response, employing stepped, horizontal forms under green roofs, finished in muted materials.
10. Whilst there is much to be said for this approach, the houses would be nonetheless taller, wider, and more heavily glazed than the bungalows, with a greater visual presence, across a great deal more of the appeal site. Moreover, the paths would follow notably contrived routes, far more intensive than the existing, innocuous arrangement. The parking areas, with standing vehicles, would reduce and further urbanise the fine coastal views from within the AONB along the Green Lane PROW. Consequently, the scenic beauty of the AONB and the village setting would be visually diminished. In landscape terms, the steep topography would be much altered, with a loss of vegetative landcover.
11. The LVIA places some reliance on the softening effect of new landscaping. However, planting appropriate for this site would be inherently low profile, with few trees, which is reflected in the landscaping scheme and the illustrative images of the development. Due to the prominence and cumulative scale of the buildings, and the way they would be directly experienced in important public views across the village, I am not persuaded that the landscaping would have a meaningful mitigatory effect. As such, whilst there is much to commend in the LVIA, I find it to have understated the permanent effect of the proposal. In my view, the landscape and scenic beauty of the AONB would not be conserved.
12. The appellant has drawn my attention to planning permission recently granted at appeal for the replacement of nearby Trungle House with two dwellings². However, Trungle House is less prominently located further inland and at a lower level than the appeal site, set partially inside a former quarry. That proposal would not have a significantly greater visual effect, and the Inspector

¹ Characteristics identified within this National Character Area 152 and the Local Character Area no. CA11

² Appeal Ref: APP/D0840/W/19/3223797

noted the quality of the natural hillside outwith the Trungle House site in his reasoning. Given such, that decision was made under significantly different circumstances and has carried little weight in my assessment.

13. Similarly, whilst I have had regard to the previous appeal decision at the appeal site³, it relates to a far smaller and simpler proposal and was made under a different local and national planning policy context. The dwellings approved under Ref PA17/08911 would be placed in a different part of the appeal site and constitute the effective relocation of the existing quantum of housing. That scheme is therefore also materially different to the appeal scheme and I am not bound by its reasoning. The appellant has also noted the absence of any new representation from the AONB Unit during the appeal, but this infers no evidence and carries no weight.
14. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area, with particular regard to the Cornwall Area of Outstanding Natural Beauty. It would conflict with Policies 2 and 23 of the CLP and the Framework insofar as the seek to conserve the landscape and scenic beauty of AONBs.

Other Matters

15. I have considered to the appellant's concerns in regard to the procedural conduct of the Council before and during the appeal. However, the matters raised are not germane to my assessment of this section 78 appeal, which is limited to the planning merits of the proposal.

Planning Balance

16. The appellant opines that Policy 26 of the CLP, 'Flood risk management and coastal change', is out of date, leading to the application of Paragraph 11 d) of the Framework. However, even if that were the case, Paragraph 11 d) states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Pursuant to footnote 6, this includes AONBs. Given my findings in regard to the AONB, the 'tilted balance' does not therefore apply in any event.
17. The scheme would provide two dwellings in a village location with access to services and facilities. Small schemes can make important contributions to supply and I don't doubt that the houses would be built out quickly. There would be modest economic benefits during the construction phase, and the regeneration of scrubland would also lead to modest biodiversity enhancement.
18. As noted in the AONBMP, Portreath is to face increased flood risk because of climate change, and the houses would be located away from areas at such risk, thereby increasing Portreath's resilience to this important, evolving issue. This is an undisputed benefit of the scheme which leads it to comply with the relevant aims of Policies 2 and 26 of the CLP and the Framework.
19. However, Portreath's long term housing needs, and to what extent the scheme would successfully address them, has not been substantiated. I am mindful of the evidence that affordable housing is the priority⁴. Moreover, whilst I note the

³ Appeal Ref: APP/D0840/W/15/3027383

⁴ From the evidence base of the emerging Portreath Neighbourhood Development Plan

appellant's evidence that the growth of the village is effectively limited to this hillside, the assessment of available land appears to be restricted to the 1994 settlement boundary, and therefore precludes the prospect of growth in other outlying locations⁵. Given such, on the evidence before me, I can only attribute the social and environmental benefits of the housing limited weight.

20. The proposal would harm the character and appearance of the area, with particular regard to the Cornwall Area of Outstanding Natural Beauty, the landscape and scenic beauty of which has the highest status of protection. It follows that the site would not be suitable for the scheme, nor would the scheme achieve the efficient or effective reuse of the land, as its design would not fit in with the form and layout of its surroundings. The harm to the AONB attracts great weight and would outweigh the collective benefits of the proposal.
21. I therefore find that the proposal would conflict with the development plan when read as a whole and that there are no other considerations, including the Framework, that outweigh the conflict.

Conclusion

22. For the reasons outlined above and taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

⁵ Report on Flood Risk Aspects Relating to Proposed Development of the Site (2019)