
Appeal Decision

Site visit made on 2 June 2020

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

an Inspector appointed by the Secretary of State

Decision date: 10 June 2020

Appeal Ref: APP/D0840/W/20/3246882

Pengwins, Tresowes, Helston, Cornwall TR13 9SY

- 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 John Francis against the decision of Cornwall Council.
 - The application Ref PA19/09432, dated 25 October 2019, was refused by notice dated 10 January 2020.
 - The development proposed is the construction of 4 bedroom dwelling with additional garage/workshop and ground mounted solar panel array.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 4 bedroom dwelling with additional garage/workshop and ground mounted solar array at Pengwins, Tresowes, Helston, Cornwall TR13 9SY, in accordance with the terms of the application, Ref: PA19/09432, dated 25 October 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency. Furthermore, and again in the interests of consistency, I have used the appeal site address from the appeal form.

Main Issue

3. The main issue is whether or not the proposed development would be in a suitable location for a new dwelling, having regard to the character and appearance of the surrounding area.

Reasons

4. The Council's settlement strategy is contained within Policy 2 of the Cornwall Local Plan Strategic Policies (2010-2030) (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.
5. Policy 3 of the Local Plan sets out the strategy for the delivery of housing. Growth is centred on the named, larger settlements within the county. Criterion 3 of Policy 3 of the Local Plan provides that outside these 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 (PDL) within or immediately adjoining settlements, infill schemes and rural exception sites.
6. There is no evidence before me which indicates that the appeal site has been identified for development within any neighbourhood plan, and the proposal has not been put forward as an exception site. The proposal would not fill a small gap in an otherwise continuous built frontage, so would not meet the definition of infill development.
 7. Accordingly, the proposal would only comply with criterion 3 of Policy 3 of the Local Plan, if it constituted rounding off or development of PDL within or immediately adjoining a settlement. It is necessary for only one of these arguments to succeed for the development to be compliant with criterion 3 of Policy 3 of the Local Plan.
 8. Pengwins is a well-proportioned detached dwelling set within spacious grounds, located at the eastern edge of Tresowes Green. The appeal site occupies a large section of the grounds at Pengwins to the south and east of the detached dwelling, and comprises a predominately flat area of mown grass lawn, groups of trees and substantial areas which have been given over to horticultural activity.
 9. Whilst I acknowledge the submissions of the Council with regards to the lawful use of the site, the appeal site merges seamlessly with the external amenity space surrounding Pengwins and has the appearance of a residential garden area. The boundaries of the appeal site form an enclosure and the proposal would be seen to be visually associated with the existing built form of Tresowes Green. In my view, the appeal site appears to have a greater affinity and relationship to the residential built up area of Tresowes Green rather than with the open countryside which can be found east and southeast of the site.
 10. Accordingly, due to the residential character and appearance of the appeal site, it follows that the appeal site is located within the settlement rather than in open countryside for planning purposes. Consequently, assessment of the proposal against Policy 7 of the Local Plan, which concerns development in the countryside, should not apply in this instance.
 11. The supporting text to Policy 3 of the Local Plan defines rounding off as being development on land that is substantially enclosed and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth. It further confirms that rounding off of settlements should not visually extend building into the open countryside. My attention is also drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) which, whilst being informal guidance, provides clarity on the approach to be adopted in relation to rounding off of settlements, and as such I have had regard to this advice.
 12. In respect of the appeal site, residential development encloses the site to the north and west, with the site being further enclosed by the single track lane which is located adjacent to the entire length of southwest boundary of the site and which serves the residences and buildings which are located thereon. The eastern boundary of the site comprises a substantial well established high Cornish hedge which separates the appeal site from the open agricultural land located east of the site. Consequently, the appeal site is substantially enclosed

within the context of the definition of rounding off as provided by Policy 3 of the Local Plan, with the identified features and residential development acting as a barrier to further growth.

13. Furthermore, due to the position of the proposed development within the logical boundary of the settlement which, in part, is established by the boundary features described above, the appeal scheme would not extend the urban built form out into the countryside. For these above reasons, I find that the proposed development accords with the definition of rounding off as provided by Policy 3 of the Local Plan and the general guidance given in the Chief Planning Officer's Advice Note. Given this conclusion on the issue of rounding off, and the related compliance with Policy 3, I do not consider it necessary to assess the proposal in relation to previously developed land against the provisions of this policy.
14. Policy 21 of the Local Plan concerns making the best use of land and buildings, and provides that encouragement will be given for development which, amongst other matters, makes use of PDL or appropriately increases building density taking account of the effect on character and appearance and the accessibility of services and facilities.
15. Whilst I acknowledge the submissions from the Appellant with regards to whether the appeal site can be considered to be PDL, the evidence from the Council confirms that the site currently does not benefit from lawful use as a garden. However, accordance in respect of Policy 21 of the Local Plan can be achieved if the density of development would be appropriate in the context of the character of the surrounding area and that the site has access to services and facilities which ensure best use of the land.
16. With regards access to services and facilities, it is clear from the evidence and from observations made on my site visit that the closest meaningful services and facilities would be found within Ashton, being located approximately 1km east of the appeal site. Whilst there is no footway adjoining the lanes and the A394 road which connects Ashton to the site, there are public footpaths in very close proximity to the appeal site and which directly lead into the centre of Ashton.
17. Furthermore, Tresowes Green does provide a bus stop close to the appeal site, with connection to the nearby settlements and, in light of the above factors, I consider that the proposal would have suitable access to facilities and services required on a day to day basis, with occupants of the proposed dwelling supporting the services in nearby settlements. The development would therefore be sustainably located in accordance with Policy 21 of the Local Plan with regard to access to services.
18. In respect of the design of the proposed dwelling and its impact on the character and appearance of the surrounding area, I find that the appeal scheme would integrate well within the pattern of development exhibited by Tresowes Green. The scale and mass of the proposed dwelling and garage/workshop would be consistent with the nearby properties in this part of the settlement, with the appeal scheme being set within generous grounds reflecting the substantial dwellings on large plots located within this part of Tresowes Green. In my view, the appeal proposal would be seen in the context of the adjacent residential development and would not be visually discordant when viewed either in close proximity or when viewed from a distance, thereby

protecting the surrounding natural environment. Accordingly, the proposal would comply with Policies 12, 21 and 23 of the Local Plan.

19. Notwithstanding the above and in respect of any benefits arising from the proposal, I also find that the proposed development would provide some limited forms of benefit with regards to employment opportunities during the construction phase, and through the contribution of a dwelling towards housing supply. The proposal would further provide some environmental benefits through the provision of a solar array. Whilst these benefits are limited in scope given the scale of the proposal, they are materially positive and in accordance with the local development plan.
20. In summary, I conclude that the proposed development would be in a suitable location and meets the definition of rounding off of a settlement. For the above reasons, the appeal scheme would comply with Policies 1, 2, 3, 12 and 23 of the Local Plan which, amongst other things, seek to ensure that development maintains the dispersed pattern of development within Cornwall, respects local distinctiveness and protects the natural environment. Whilst there is disagreement regarding whether the site can be considered to be PDL, the proposal would accord with criterion c) of Policy 21 of the Local Plan which seeks to make best use of land. Furthermore, and for the same reasons, the proposal would accord with paragraphs 127 and 170 of the National Planning Policy Framework (the Framework) which, amongst other matters, requires that development is sympathetic to local character and recognises the intrinsic character and beauty of the countryside.

Other Matters

21. The appeal site located within the Cornwall and West Devon Mining Landscape World Heritage Site (the WHS). In accordance with the Framework, great weight should be given to the conservation of this heritage asset.
22. The submissions and evidence from the Council indicates that they did not consider that the appeal scheme would be harmful to the Outstanding Universal Value of the WHS. Whilst I acknowledge the information and submissions of interested parties with regards to the mining heritage of the surrounding area, the Council in their statement indicate that there is no remains or features of mining activity at the site and therefore the development would not harm the historic asset or appreciation of the heritage asset. From the evidence before me and from observations made on my site visit, I have no reason to disagree with this assessment and I conclude that the proposal would not harm the setting or Outstanding Universal Value of the WHS.
23. Interested parties have raised further concerns regarding the appeal scheme and in relation to the effect of the proposal on the access lane and the safety of pedestrians using that lane, and in relation to the potential precedent set by the proposed development.
24. With regards to the access lane which is located west of the appeal site, I conclude that the addition of single dwelling would not significantly increase the usage of the lane and by reason of the good level of visibility along the length of the lane, I find that the proposal would not have a harmful impact on the safety of pedestrians or other vehicle users. Issues of maintenance or damage are matters of civil law. As a planning application is determined on its planning

merits, this is a consideration that has not altered my assessment of the appeal.

25. I also note the comments made regarding potential precedent. However, any future proposals would have to be considered and determined on their individual merits. In any event, as I have not found any reasons to withhold planning permission it could not set an unacceptable precedent in planning terms.

Conditions

26. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Policy Guidance. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. I further find it reasonable to include conditions requiring details of any landscaping, external finish and materials, be agreed with the Local Planning Authority, in the interests preserving the character and appearance of the surrounding area.
27. In the interest of highway safety and public convenience, I have included a condition requiring details of Construction Management Statement be agreed with the Local Planning Authority prior to commencement or any works at the appeal site, and that parking and turning areas be completed prior to occupation of the proposed dwelling.
28. In addition to the above, and in the interests of protecting the environment, I also find it reasonable and proportionate to include a condition requiring that details of the drainage system be approved by the Local Planning Authority.
29. Where necessary, and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance. The wording of the pre-commencement conditions have been agreed by the Appellant and are necessary as pre-commencement conditions due to the nature and scope of these conditions. Whilst I acknowledge the Appellant's concerns regarding the details required by the landscaping condition, in my view the condition is reasonable and necessary to ensure that the entire proposed development preserves the character and appearance of the surrounding area, given the appeal site location at the edge of the settlement and adjoining predominately open agricultural land.

Conclusion

30. For the reasons given above, the appeal succeeds and planning permission is granted subject to the conditions identified.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Solar Panel Array, Drawing Number 1–House elevations and floor plans dated 24 October 2019, Drawing Number 2–Garage elevations and floor plans dated 24 October 2019, Drawing Number 3–Pengwins Garden Layout dated 19 October 2019 and Drawing Number 4–Pengwins Garden Access Statement dated 19 October 2019.
- 3) Before any other building or engineering works are carried out on the site, the access shall be laid out and constructed in accordance with Drawing Number 4 – Pengwins Garden Access Statement; with its gradient, surfacing, drainage and sight lines having first been approved in writing by the Local Planning Authority. The access shall be retained as approved thereafter.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces (walls/doors/windows/ lintels/sills/stonework/roof slates/solar array framework and method of fixing) of the buildings and solar array hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 5) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (v) wheel washing facilities;
 - (vi) measures to control the emission of dust and dirt during construction;
 - (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (viii) hours of working.
- 6) No development shall commence until details of the implementation, maintenance and management of the sustainable urban drainage scheme have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- (i) a timetable for its implementation, and
 - (ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 7) Before any of the development hereby permitted is brought into use, parking and turning areas shall be laid out and constructed in accordance with approved Drawing Number 3 – Penguins Garden Layout; and the said areas shall not thereafter be obstructed or used for any other purpose.
- 8) No development shall commence until a scheme of hard/soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall provide planting plans with written specifications including:
- Details of all existing trees and hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development,
 - Details of any means of enclosure (boundary treatment),
 - Details of any hard surfaces including finishing materials,
 - 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 scheme 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.