



Appeal Decision

Site visit made on 9 June 2020

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

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

Appeal Ref: APP/D0840/W/20/3245100

Grain Store, Tolcarne Merock Farm, St Mawgan, Newquay, Cornwall

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Richard Jackson against Cornwall Council.
 - The application Ref PA19/08403, is dated 23 September 2019.
 - The development proposed is described as the demolition of the existing building and erection of a new dwelling with residential curtilage including a swimming pool with associated works.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr Richard Jackson against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Appellant has provided confirmation that a revised description of development has been agreed with the Council. Consequently, the description of development used in the heading above reflects that which has been agreed between the main parties.

Background and Main Issue

4. The Appellant has submitted this appeal on the basis of non-determination of the planning application. Following the submission of the appeal against non-determination, the Council has identified the reason the Local Planning Authority would have given to refuse planning permission. The Appellant has seen these details and has had the opportunity to respond.
5. In light of the submissions made in this appeal, I consider that 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, and if not, whether there are other material considerations to justify the proposal.

Reasons

6. The development plan comprises the Cornwall Local Plan Strategic Policies 2010-2030¹ (the Local Plan) and Saved Policy 14 of the Restormel Local Plan. The Council's settlement strategy is contained within Policy 2 of the Local Plan, which sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall.
7. The appeal site comprises a parcel of land and an agricultural storage barn, situated southeast and outside of the settlement at Trevarrian and set within an exposed location towards the top of a hillside. The appeal site is bordered by hedgerows and is located adjacent to a single track lane which connects with the B3276 highway. The appeal site slopes downhill from west to east, with the agricultural barn being positioned on a relatively level area of hardstanding in the western section of the appeal site and close to the hedgerow which forms the western boundary of the site.
8. By reason of the predominately open landscape, established hedgerows, narrow lanes and scatter of agricultural buildings, the surrounding area has an intrinsically rural feel such that the appeal site is located within the open countryside for planning purposes.
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. The main parties agree that the site is located outside of any settlement and that the proposal would not accord with the provisions of Policy 3 of the Local Plan.
10. Exceptions in relation to new development in the open countryside are provided under Policy 7 of the Local Plan. This policy supports development proposals within the open countryside where it shown that special circumstances, such as where there is re-use of a redundant building, where the proposal is for a replacement dwelling or where accommodation is required for rural workers, apply. A number of criteria are listed against which proposals may be assessed. The appeal scheme is for new open market residential development and fails to accord with any of these criteria. Consequently, the proposed development would be contrary to Policy 7 of the Local Plan, which seeks to protect the open countryside from inappropriate development.
11. In addition to the above, the proposed dwelling 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 National Planning Policy Framework (the Framework). As noted above, the proposal would not be for rural workers and would not involve the subdivision or reuse of an existing dwelling. Whilst I acknowledge that considerable thought has been put into the design of the proposed dwelling, it is not, in my view, of a truly outstanding or innovative design. Consequently, the proposal would not accord with paragraph 79 of the Framework.
12. The nearest meaningful services and facilities would appear to be located approximately 1.5 miles from the appeal site and within St Mawgan. Additionally, there does appear to be some very limited services within

¹ Adopted November 2016

Trevarrian. However, access to Trevarrian or to St Mawgan from the appeal site is via winding and unlit roads without pavements. From observations made on my site visit and from the evidence before me, there are public footpaths in the area separate from the highways, but these are unlit and involve crossing high, stone stepped stiles and uneven ground. Consequently, travelling along the highway or footpaths would not represent a particularly safe or attractive option for pedestrians or cyclists particularly in adverse weather conditions.

13. It is therefore likely that future occupiers of the proposed dwelling would be reliant on private motor vehicles in order to access even basic services, such as a village shop or school. Whilst dependence on private vehicles may be expected in a rural location such as this, the proposal would only exacerbate this level of reliance. It would contribute to a pattern of development that would cause environmental harm as a result of increased car journeys and hence carbon emissions.
14. The appeal site is situated within the Watergate and Lanherne Area of Great Landscape Value (the AGLV). The site also forms part of the Landscape Character Area LCA15, Newquay and Perranporth Coast, which the Cornwall & Isles of Scilly Landscape Character Study (2008) (the CISLCS), amongst other matters, describes as having an open and exposed landscape with little tree cover. From observations made on my site visit, in my view the appeal site and the predominately open nature of the surrounding land, reflects and positively contributes to the key landscape characteristics as referred to within the CISLCS.
15. The proposal seeks to demolish the existing agricultural building at the site and introduce a new dwelling. Whilst the existing building is substantial in scale, it has a utilitarian appearance and is a typical example of a modern agricultural building and which is part and parcel of a working, farmed landscape. The current agricultural building does not appear out of place within the site or within the locality.
16. The proposed unit would be contemporary in design and, by reason of the complex arrangement of extensions of varying height around a central core building, would be in sharp contrast to the uncomplicated and utilitarian form of the existing agricultural building. Whilst I acknowledge that the dwelling would be set down into the ground and would represent an overall reduction in the footprint when compared to the existing building, it would nonetheless remain substantial in terms of its mass, bulk and spread.
17. The site is visible from the nearby narrow single track lane and from the B3276 road and, due to the undulating and predominately open nature of the surrounding countryside, is visible from a number of locations within the wider landscape including from the network of public footpaths that are located close to the appeal site.
18. The introduction of an isolated dwelling at the appeal site and the parking arrangements and paraphernalia associated with residential occupation, would have an urbanising effect on this rural area. This would be detrimental to local distinctiveness and the character and appearance of the surrounding landscape. The urbanisation and domestication of the appeal site would result in a form of development which would be incongruous within its surroundings and, by reason of its prominent location towards the top of the hillside, would draw the eye.

19. I acknowledge that the Appellant has considered and proposed amendments to the design of the appeal scheme, including the replacement of a glazed balcony with a wire balustrade and the removal of the proposed swimming pool. However, even in the event that these amendments were made, the proposal would, in my view, remain a visually discordant feature within the AGLV.
20. Furthermore, whilst I note the submissions with regards to the potential inclusion of trees to help screen the appeal site and the potential adjustment that could be made to the extent of the curtilage, the proposed substantial residential building would still be visible within the wider surroundings and would remain as a discordant feature within the landscape.
21. In summary of the above, I have found that the site is unsuitable for residential development as it would be remote from services and is not an accessible location and, therefore, the proposal would conflict with Policies 1, 21 and 27 of the Local Plan. Amongst other things, these policies seek to improve environmental conditions within the area, ensuring best use of land which is located in the most accessible locations and sited so as to easily access shops, schools and employment and reduce the need to travel by private car. Additionally, For the same reasons, the appeal scheme would not accord with the provisions of paragraphs 79, 117, 102 and 108 of the Framework.
22. Furthermore, the proposal would erode the rural character of the area and would be harmful to the landscape character of the AGLV. The appeal proposal would conflict with Policies 2, 3, 7, 12, 21 and 23 of the Local Plan and would be contrary to Saved Policy 14 of the Restormel Local Plan which, together and amongst other matters, seek to ensure that the local distinctiveness and character of the area is protected, and that development responds appropriately to its landscape setting. Furthermore, the proposal would also not accord with the provisions of paragraph 170 of the Framework which seeks to protect the intrinsic character and beauty of the countryside.
23. 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. In this regard, I acknowledge the submissions of the Appellant and the references to the Court of Appeal judgement in Mansell².
24. The Appellant has drawn my attention to an existing prior approval for change of use under Schedule 2, Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) of part of the existing building to two dwelling houses³, with a second prior approval for change of use under Schedule 2, Part 3 Class R of the GPDO of part to a flexible use⁴, at the appeal site. The Appellant maintains that the appeal scheme represents an overall improvement in terms of the effect of the development on the character and appearance of the area and provides a better planning solution for the site when compared to the potential fallback position under the aforementioned prior approvals.

² Mansell v Tonbridge and Malling Borough Council [2017] EWCA

³ Local Planning Authority Reference: PA17/05622 granted on 14 August 2017

⁴ Local Planning Authority Reference: PA17/05628 granted on 8 August 2017

25. The Council have put it to me that the potential fallback position under the aforementioned prior approvals would not be likely to be implemented, by reason that the change of use to dwellings must be completed within three years of the permission, and that the change of use to a flexible use is unlikely given the existence of the present planning application which the subject of this appeal.
26. Whilst I note the comments from the Council with regards to whether there is a greater than theoretical possibility that the fallback prior approvals would be implemented, in this instance and by reason of the current Covid19 circumstances, I consider it appropriate to assess the appeal proposal in light of the prior approvals fallback and on the basis that such development may be a possibility.
27. For the reasons set out above, in its current form the existing agricultural building and site do not appear incongruous within, or detract from, their rural surroundings.
28. However, both the appeal proposal and the potential fallback positions described above, would change the use of the site to residential and would introduce domestic paraphernalia associated with residential occupation. The fallback positions would incorporate a similar, relatively substantial amount of glazing to that proposed in relation to the appeal scheme, which, in combination with the above, would somewhat alter the character of the appeal site to that of a more domestic or commercial appearance. However, under the potential fallback positions, the overall form, mass and general appearance of the existing agricultural building would be preserved and therefore would not necessarily look out of place within the context of its surroundings.
29. In contrast the appeal scheme would, as described above, represent an incongruous and discordant feature within the landscape, and whilst both the appeal proposal and the potential fallback positions would result in harm to the character and appearance of the surrounding area, in my view the general form and appearance of the buildings that would result from the fallback positions would be less harmful to the character, appearance and intrinsic beauty of the surrounding countryside than the appeal proposal.
30. Whilst I acknowledge that the fallback position may result in additional trips being taken by private motor vehicle to and from the site when compared to the appeal scheme, and that the appeal proposal could allow for the use of the latest sustainability features which may not be available under the potential fallback positions, by reason of the scale of development, these very limited benefits above those provided for under the fallback positions, would not outweigh the identified significant harm to the character and appearance of the surrounding area, and the harm to the intrinsic character and beauty of the countryside, that would result from the appeal proposal.

Other Matters

31. In support of the appeal, the Appellant has drawn my attention to a number of other developments where there has been a proposed change of use from agricultural to residential and which have been permitted by the Council.

32. With regards to the development at High Cove Farm⁵, it appears from the evidence before me that approval followed an amendment to the design of that scheme by an architect and which resulted in a form of development which was considered to be an overall improvement on the fallback position which applied to that site. As such, whilst I have had regard to the information supplied, it would appear that the development at High Cove Farm is not comparable to the appeal scheme given that I have found, in this instance, that the fallback position would be less harmful than the appeal proposal.
33. Furthermore, with regards to the development at Tresaddern⁶, the evidence indicates that the design of that development would be appropriate for its setting by retaining the simple form and appearance of the original agricultural building. Here the appeal proposal would result in a building which would be in stark contrast to the simple form of the existing agricultural building. Accordingly, the two matters are not comparable.
34. Additionally, in relation to the developments at Penmount⁷ and Skinners Bottom⁸, whilst I have only a limited amount of information before me, it appears that those developments preserved and maintained the simple utilitarian form and appearance of the original agricultural buildings. In this instance, and as described above, the appeal proposal would not preserve or reflect the existing agricultural character and appearance of the building and, accordingly, the developments at Penmount and Skinners Bottom are not comparable to the appeal scheme.
35. I note the Appellant's frustrations with the Council's communication and the way in which it handled the application. However, these matters do not impact on the planning merits of the proposal.

Conclusions

36. 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 and the effect of the proposal on the character and appearance of the area. I therefore conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR

⁵ Local Planning Authority Reference: PA19/06928

⁶ Local Planning Authority Reference: PA18/09109

⁷ Local Planning Authority Reference: PA15/00747

⁸ Local Planning Authority Reference: PA18/07304