



Appeal Decision

Site visit made on 24 June 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/D0840/W/20/3245461

Land Adjacent to 23 Gwealhellis Warren, Helston

- 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 David Martin of Graceloft Ltd against the decision of Cornwall Council.
 - The application Ref PA19/04561, dated 29 May 2019, was refused by notice dated 22 October 2019.
 - The development proposed is the erection of a dwellinghouse.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and,
 - whether or not the proposal would result in the unacceptable loss of open space.

Reasons

Character and appearance

3. The appeal site is an area of grassland within Gwealhellis Warren, a residential street on the east slope of the Cober Valley, at the edge of the town of Helston. The site is open to the highway to the south, with dwellings Nos 33, 32, 31 and 23 Gwealhellis Warren to the west, north west, north and east respectively.
4. The site was to be established and retained as a children's play area pursuant to condition 9 of planning permission granted for Gwealhellis Warren in 1978¹. I understand that condition 11 also intended for the site to be kept open and undeveloped, with the reason given to preserve visual amenity. By all accounts these conditions were not complied with at the time, with the site used instead for storage. Nonetheless, it has more recently been used and maintained by the community for recreation and is clearly held in that esteem by residents.
5. Gwealhellis Warren is an attractive suburban environment characterised by rows of housing set quite spaciouly within pleasantly landscaped, luxuriant gardens. The appeal site, through its open and verdant appearance, reinforces this character and complements the built form, as was originally intended when the street layout was granted planning permission.

¹ Ref 2/01/74/01696/0801

6. Given its incline and elevation, Gwealhellis Warren also consistently offers spectacular views across the valley landscape, notably when travelling along the highway in a downward direction. The appeal site is at a turn in the carriageway at which point panoramic views of the valley are particularly sweeping. The site contributes to this as it suddenly provides unobstructed long-distance views north westwards, as one passes beyond the relative enclosure of the more substantial boundary treatments of No 23.
7. For these reasons, I find the site to make an important contribution to the character and appearance of the area. Consequently, whilst I accept that the proposed dwelling would be a well-designed addition to the built environment, this would not overcome the inherent harm that would arise through the loss of the undeveloped and open appearance of the site, nor the partial loss of the landscape views that these qualities currently allow.
8. I acknowledge that the site could be fenced off or left to become overgrown in the future. However, to my mind any fencing would not be as obstructive or comparable in visual terms to a dwelling, and any increased greenery within the site would not significantly alter its established character.
9. I therefore conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area. It would conflict with the design aims of Policies 1, 2 and 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP) and the National Planning Policy Framework (the Framework).

Open space

10. Policy 13 of the CLP expects development to have proportionate open space based on local need. Policy 16 of the CLP seeks to improve the wellbeing of Cornwall's communities through, for instance, the provision and maximised use of open spaces. Policy 25 of the CLP requires for green infrastructure, which is important to recreation, leisure, community use, townscape and landscape quality and visual amenity, to be protected and enhanced.
11. The Framework defines open space as all open space of public value, including not just land, but also areas of water which offer important opportunities for sport and recreation and can act as a visual amenity. This is similarly echoed by the Planning Practice Guidance. The Town and Country Planning Act 1990 (the TCPA) states that open space means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. To my mind, the TCPA therefore predicates the statutory definition of open space on the ability of the public to access and use the land.
12. Whilst residents have been using the site for recreation and spend time on its upkeep, I understand that the land was not transferred into public ownership nor is there legal public access. This suggests to me that the current activities occur on private land and could be ceased at any time through, for example, a means of enclosure. Moreover, by the Council's own standards, the site would not be considered as open space due to its limited size and usability. Indeed, it is not identified in the Open Space Strategy for Larger Towns in Cornwall (2014). For these reasons, I do not consider the site to constitute open space.

13. I therefore conclude on this issue that the proposal would not result in the unacceptable loss of open space. The proposal would not conflict with Policies 13, 16 and 25 of the CLP and the Framework.

Other Matters

14. Given its role within the street scene, I do not consider the appeal site to be underutilised, nor, in the circumstances, would its development constitute a more efficient or effective reuse of the land.

Planning Balance

15. The scheme would contribute to the local supply of housing in a location with adequate access to services where the principle of infill development is acceptable. Moreover, there is an identified unmet need for windfall sites in Helston². However, given the scale of the proposal, the social benefit of a single dwelling within this context attracts modest weight. The economic benefits of the construction phase would also be modest and temporary. Policy compliance in other regards, such as parking provision, energy efficiency and neighbouring living conditions, are factors of neutral weight in the balance. Overall, the benefits of the scheme would not outweigh the harm I have identified to the character and appearance of the area, to which I attribute significant weight.
16. 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, which outweigh this harm³.

Conclusion

17. For the reasons set out above, and taking all other matters raised into account, including the initial officer recommendation to approve the planning application, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

² Cornwall Site Allocations Development Plan Document (adopted 2019)

³ Taking into account the judgement handed down in *Corbett v Cornwall Council* [2020] EWCA Civ 508