



Appeal Decision

Site Visit made on 10 November 2020

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

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Appeal Ref: APP/D0840/W/20/3257361

Land south of Trelyn, Tuckingmill, Lowertown, TR13 0DB

- 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 C Pascoe against the decision of Cornwall Council.
 - The application Ref PA19/06978, dated 8 August 2019, was refused by notice dated 18 March 2020.
 - The development proposed is a proposed affordable self-build dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. Although the Council has given four reasons for refusal, having reviewed the evidence I have considered it appropriate to identify three main issues.
3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area;
 - The effect of the proposed development on highway safety; and,
 - Whether the proposed development would be in a suitable location for housing with regards to National and Local Planning Policy.

Reasons

Character and Appearance

4. The appeal site comprises a parcel of land situated in an elevated position adjacent to a narrow single track lane. The site slopes gently downhill from west to east, with the incline of the slope increasing significantly close to the point where the site is accessed from the adjacent lane. The site is separated from the adjacent lane by hedgerow with a low wall separating the site from the buildings at Trelyn.
5. Whilst I acknowledge that the Appellant maintains the site was historically garden land associated with Trelyn, there is no substantive evidence before me which would confirm that contention. In my view the site has the character and appearance of agricultural land rather than being part of the domestic amenity space associated with Trelyn, and, in combination with the substantial hedgerow which forms part of the western boundary of the site, makes a

significant and positive contribution to the verdant nature and rural character and appearance of the area.

6. The proposed dwelling would be set into the slope and the evidence indicates that the proposal would have a lower overall height than the dwelling at Trelyn. Nonetheless, the proposed dwelling would not replicate Trelyn in terms of its mass, with the substantially sized garage attached to the dwelling adding significantly to its overall bulk and which would not reflect the appearance of those dwellings which are located closest to the site. Furthermore, the appeal proposal would dramatically alter the agricultural character and appearance of the site, with the urbanisation of the site resulting from domestic paraphernalia associated with residential occupation being harmful to the rural character and appearance of the surrounding area.
7. The appeal scheme proposes that a significant section of the hedgerow which separates the site from the adjoining highway would be removed. In this respect, the Appellant has put it to me that the loss of this section of hedge is required in order to provide visibility for vehicles emerging from the site and that additional planting would be included to help define the proposed access point onto the highway. Whilst I shall return to the concern regarding visibility in the below section, in my view and as noted above, the hedgerow which separates the site from the adjacent narrow lane makes a significant and positive contribution to the character and appearance of the area.
8. The removal of this section of hedge would result in a significant change to the appearance of the rural lane. As a result, this would have an undesirable urbanising effect on the immediate area which would diminish the quality of the surrounding environment. In my opinion the proposal would introduce an urban influence into a rural setting, and this would erode the character and distinctiveness of the locality. While additional planting may help assist in mitigating these harmful effects, such planting will take time to establish itself and, consequently, would not provide sufficient mitigation of the identified harm to the character and appearance of the surrounding area.
9. For the above reasons, the development would have a harmful effect on the character and appearance of the area. The appeal scheme would therefore conflict with Policies 12 and 23 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan), which, amongst other things, seek to ensure that local distinctiveness and the character and appearance of the area is protected. Furthermore, and for the same reasons, the proposal would not accord with those paragraphs of the National Planning Policy Framework (the Framework) which concern achieving well designed places.

Highway Safety

10. It is common ground between the main parties that the existing access onto the narrow single track lane adjacent to the site would not provide sufficient visibility for emerging vehicles, by reason of the curvature of the highway close to the site and due to the presence of the hedgerow described above which separates the site from the adjacent lane.
11. As noted in the above main issue, in order to improve the levels of visibility for emerging vehicles would require the removal of a substantial amount of hedgerow which makes a significant positive contribution to the character and appearance of the area. Whilst it may be possible to improve the level of

visibility for emerging vehicles, and in particular to the south, the removal of a substantial and significant section of hedge would increase the visual prominence of the domestic access and would result in the new dwelling and associated domestic paraphernalia appearing even more visually prominent from the public realm, to the detriment of the character and appearance of the area, thus contributing to the visual harm to the countryside identified above.

12. Notwithstanding the above, and whilst noting that vehicle speeds within the area are likely to be low by reason of the narrow and winding nature of the highway close to the site, even in the event that the hedgerow was removed the evidence indicates that visibility to the south would still be below that which is considered to be acceptable. In this regard, the Appellant has put it to me that vehicles emerging from the site could use the "peep and creep" method.
13. Whilst I acknowledge that this method would assist in providing improved visibility, the width of the highway at the proposed point of access is restricted. From the observations made on my site visit, it was noted that in order to obtain sufficient visibility to the south, an emerging vehicle would be likely to have to occupy almost the full width of the lane before the driver would have adequate visibility. By reason of the narrow nature of the lane, I do not find that employing such a method would assist in ensuring the safety of vehicles emerging from the site and would be detrimental to the safety of users of that lane.
14. The Appellant has referred me to a number of previous appeal decisions which it is maintained indicate that Planning Inspectors have accepted the "peep and creep" method described above. However, I have only been provided with extracts from those appeals and consequently I cannot be sure that the circumstances of those appeals, with regards to matters such as vehicle speeds or the width of the highway, are comparable to the appeal scheme. I have therefore considered the appeal scheme on its own merits.
15. For the above reasons, the appeal proposal fails to demonstrate that the proposal can provide appropriate access arrangements which do not endanger highway safety, and the development would therefore contravene Policy 27 of the Local Plan which requires new development to provide safe and suitable access for all people.

Location of Development

16. 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 and providing jobs in a proportional manner based on the role and function of each place.
17. Policy 3 of the Local Plan seeks to control the distribution of new dwellings across Cornwall and provides that housing within named larger settlements will be allocated according to the Site Allocations Development Plan Document and Neighbourhood Plans. The supporting text to this policy provides that settlements that are not named within Policy 3 of the Local Plan can help meet housing requirement by, amongst other things, identification of sites where required through Neighbourhood Plans and windfall development, including infill sites and rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining that settlement. The

evidence indicates that there is currently no neighbourhood plan which allocates the site for development.

18. There is dispute between the main parties as to whether the appeal site is located within a settlement. In this regard, the main parties have referred me to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (the CPOAN) which provides some guidance on what would constitute a settlement, as well as providing further guidance in relation to matters of rounding off, infill, previously developed land and affordable housing exception sites. Whilst being informal guidance, the CPOAN provides clarity on the approach to be adopted in relation to such matters, and as such I have had regard to this advice.
19. The CPOAN provides that a settlement is a place where people collectively live in permanent buildings and that local residents are often well placed to assist in determining whether a particular group of buildings is considered to be a settlement. The advice note goes on to confirm that smaller villages and hamlets should have a form and shape with clearly definable boundaries, not just a low density straggle of dwellings, with further confirmation that there are no expectations of services and facilities. These matters are confirmed within the supporting text to Policy 3 of the Local Plan.
20. In my view, based on the observations made at my site visit and based on the definitions and guidance contained within Policy 3 of the Local Plan and in relation to the CPOAN, the buildings which are situated close to the appeal site do not display the attributes, role or function of a settlement that is suitable for housing growth.
21. Whilst I acknowledge the Appellant's submissions and connection to the area, Tuckingmill does not have a recognisable centre, its character resembles that of a straggle of low density buildings located close to the narrow single track lane described above and which passes the eastern boundary of the site. In this respect, Tuckingmill is typical of many very small groups of buildings that are scattered across the Cornish countryside and which contribute to the character and appeal of the county.
22. The site is significantly separated from the built form of Lowertown and Gwavas by agricultural land and, by reason of the surrounding predominately open agricultural landscape, narrow highways and high hedges, the appeal site is outside of the boundaries of any settlement and would be located within the countryside for planning purposes. Policy 7 of the Local Plan confirms those forms of development that are permissible within the countryside. The proposal would not accord with any of those forms of development and, accordingly, the appeal scheme gains no support from that policy.
23. However, in the event that Tuckingmill could be considered to be a settlement, either in its own right or in terms of a wider settlement which encompasses Lowertown and Gwavas, then the appeal site would be located outside of but adjacent to that settlement. Consequently, the appeal scheme would not accord with the definition of infill within a settlement. Furthermore, given that the proposal would extend the settlement into the countryside, the proposal would not represent rounding off. As noted above, while I acknowledge the contention that the site historically formed part of the garden land at Trelyn, there is no substantive evidence before me that would confirm that use. The

site has the character and appearance of agricultural land and, as such, is excluded from the definition of PDL as provided within the Framework.

24. Notwithstanding the above, the proposal is for an affordable dwelling, and Policy 3 of the Local Plan provides that proposals which accord with the rural exceptions Policy 9 of the Local Plan may be permissible. In this respect, it is acknowledged that the Appellant has strong local connections to the locality and, as part of the appeal, has submitted a planning obligation that secures the affordable housing unit in accordance with the requirements of the Cornwall Council Housing Supplementary Planning Document (2020).
25. However, Policy 9 of the Local Plan confirms that affordable housing will be supported where the proposal is well related to the physical form of the settlement and is appropriate in terms of scale, character and appearance. For the reasons given above under the first main issue, the appeal scheme would not be well related to those dwellings which are located closest to the appeal site and the proposal would be harmful to the character and appearance of the area. Consequently, the scheme would not comply with the provisions of Policy 9 of the Local Plan.
26. It has also been put to me by the Appellant that the appeal scheme would accord with the definition of "other development within a settlement" as provided for within the CPOAN and, in this regard, would also comply with the provisions of Policy 21 of the Local Plan which concerns best use of land. Policy 21 is supportive of proposals which make use of despoiled or degraded land and PDL. As noted above the appeal site is not considered to be PDL and has the appearance of unspoiled agricultural land.
27. Criterion c. of Policy 21 of the Local Plan provides that encouragement would be given to proposals which increase building density taking into account the character and appearance of the area and the accessibility of services and facilities. In these respects, given the distance to any meaningful services and facilities that may reasonably be required on a daily basis and by reason of the narrow, unlit lanes which do not benefit from pedestrian footpaths, future occupants of the proposed dwelling would be almost entirely reliant on private motor vehicles in order to access even basic services.
28. Whilst dependence on private vehicles may be expected in a rural location such as this, the proposal would be likely to exacerbate this level of reliance. It would be likely to contribute to a pattern of development that could cause environmental harm as a result of increased car journeys and hence carbon emissions. In light of the above, the appeal scheme would not comply with the provisions of Policy 21 of the Local Plan.
29. For the above reasons, I conclude on this issue that the proposed development would not be in a suitable location, having regard to the Council's development plan spatial strategy policies, and would not represent a rural exception site. As such, the appeal scheme would be contrary to Policies 2, 3 and 9 of the Local Plan.

Other Matters

30. The appeal scheme would provide benefits in terms of an additional affordable housing unit and I acknowledge that it would be likely that future occupants of the proposed dwelling would make use of services and facilities across the

area, thereby supporting the local economy. Cumulatively, I attach limited weight to these benefits in the determination of this appeal by reason of the scale of the proposal. Paragraph 68 of the Framework provides that great weight should be given to the benefits of using suitable sites within existing settlements. In this instance and for the reasons given above, the proposal would not be suitable located within a settlement and the weight attached to the identified benefits above is, in my view, therefore reasonable and proportionate.

31. Weighed against these benefits, the appeal proposal would conflict with the development plan and the Framework when taken as a whole. The harm resulting from the conflict with the development plan weighs significantly against the proposal. Future occupants of the proposal would be likely to be heavily reliant on private motor vehicles in order to access even basic services. The identified harm would outweigh the limited benefits of the proposal and would be in conflict with the environmental dimension of sustainable development. Consequently, the appeal scheme could not be considered to be sustainable development in the context of the paragraph 11 of the Framework.
32. The proposed development would be within zone of influence of the Fal and Helford Special Area of Conservation, which is a European Protected Site. While an important issue, I have not found it necessary to examine this matter in greater detail as, for the reasons outlined above, it does not alter my overall conclusion in relation to this appeal.

Conclusion

33. The proposed development would conflict with the development plan and the Framework when taken as a whole. There are no material considerations that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR