
Appeal Decision

Site visit made on 18 January 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021

Appeal Ref: APP/D0840/W/20/3261477
Pentui, Pill Lane, Feock, Cornwall TR3 6SE

- 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 and Mrs McGaw against the decision of Cornwall Council.
 - The application Ref PA20/04300, dated 27 May 2020, was refused by notice dated 13 August 2020.
 - The development proposed is the construction of a single infill dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single infill dwellinghouse at Pentui, Pill Lane, Feock, Cornwall TR3 6SE in accordance with the terms of the application, Ref PA20/04300, dated 27 May 2020, subject to the conditions contained within the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is the garden area of Pentui, a rendered property overlooking Pill Creek. The garden slopes steeply from east to west and is bordered by trees to three sides. Pentui also has a rendered annexe and the proposed dwelling would be built to the north-west of this, set into the slope. An existing timber building would be removed to facilitate the proposed development. The area lies within the Cornwall Area of Outstanding Natural Beauty (AONB).
4. The Council's reason for refusal refers to several issues and I will deal with each in turn.
Siting, scale and massing
5. Pill Creek has housing on both sides, but particularly on the north-east side. The houses are set within woodland that rises steeply from the creek. The style, design and appearance of properties varies considerably, from traditional terraces cottages to more contemporary designs.
6. The proposed dwelling would be two storeys with a shallow pitched roof, hipped at one end. The ground floor would contain a garage, office and laundry room with the bulk of the accommodation being on the first floor. The proposed

building would be set into the slope and, taking into account the shallow roof, would barely protrude above the existing band of protected trees to the front, and would merge into the hillside behind.

7. Furthermore, the building would be finished in natural timber cladding at first floor level with a metal standing seamed roof and aluminium/timber composite windows. These features would help the building to merge into the treed surroundings. Whilst the proposed dwelling would be contemporary in design, I have already noted that there is no one predominant style within the area, and do not therefore consider that its design would seem out of place.
8. I note that the proposed building would be relatively long and wider than a previous proposal, and that there are concerns that it would be seen as a continuous expanse of built form with the neighbouring annexe and Pentui itself. However, these two latter buildings are prominent in the landscape due to their white rendered finish and tend to draw the eye. In contrast the proposed dwelling would be glimpsed behind the existing trees and would appear subservient to these other buildings.

Glazing

9. There would be seven windows to the front elevation of the proposed property. The largest of these serving bedroom 1 would be overlaid with a timber Brise Soleil which would have the effect of lessening the light produced from that room. Three of the other windows would serve bedrooms and therefore the lights would not necessarily be on for long periods. Most of the windows would be screened by the trees to the front and I also note that the area of glazing would be over 50% less than that of the previously proposed dwelling. Overall I do not consider that light spill would be so overt as to be a reason for dismissing the appeal.

Trees

10. Concern has been expressed regarding the removal and potential removal of trees. The development would result in the direct loss of four trees. None of these are protected. Three of them are Pittosporum trees. The Tree Survey, prepared by Evolve Tree Consultancy (TS), considers these to have low aboricultural properties and make little if any noteworthy contribution to the public amenity or character of the AONB, and I would agree with this assessment. The fourth tree is an early mature Lawson Cypress. This makes a very modest contribution to the character of the AONB in combination with a wider grouping of trees. Its loss would therefore be a negative impact of the proposed development, although I do note that it is not a native species.
11. Mention has also been made of a pine shown as T26 on the Pill Creek Feock No 3 Tree Preservation Order 2018 (TPO18). However, the appellant asserts that this tree was shown erroneously on the TPO and it was not evident at my site visit. There is a Monterey Pine shown as T11 in the TS but this is not shown as being felled and any excavation would be just on the border of its root protection area.
12. There is concern that there would be pressure to fell the trees in the group known as W1 in the Pentui Pill Lane Feock Cornwall Tree Preservation Order 2019 (TPO19). However, these are protected and would need permission to be felled. Whilst they would to an extent prevent light from reaching the proposed

development, as already mentioned, four of the windows on the front elevation of the building would serve bedrooms such that light (or indeed views) would be less necessary than more used rooms. The living area would be dual aspect with two large windows facing south. It follows that sufficient light would reach this area.

13. The National Planning Policy Framework (the Framework) informs at paragraph 172 that great weight should be given to conserving and enhancing scenic beauty in AONBs, and this is reflected in policy 23 of the Cornwall Local Plan (LP). However, in applying such policies it should be recognised that landscapes are rarely completely untouched by the presence of humans and they evolve over time. To utilise the word enhance to prevent any form of development at all (or in the case of Feock any further development) seems to me to be a misconception. Sympathetic and well-designed development, set into an area that already benefits from such, can be construed to be a form of enhancement. To my mind, this particular development, set within this particular landscape, would achieve that.
14. Dwellings, including contemporary ones, are already a feature of the AONB along the sides of Pill Creek, and I have found that the current proposal would not be out of keeping in its design, massing or overall conspicuousness. Nor would its erection cause significant harm to the existing tree coverage that is a feature of the area.
15. Consequently there would be no conflict with policy 23 or policy 12 of the LP. The latter policy requires, amongst other things, that development is of an appropriate scale, height and mass. Nor would there conflict with policies LS2 or D1 of the Feock Neighbourhood Plan. The former of these makes clear that development will only be supported where it safeguards the significance and conserves and enhances the natural beauty and special qualities of the AONB and its setting. The latter requires that new housing should, amongst other things, respect and reflect local character. In arriving at this conclusion I have taken into account the very minor harm that would occur due to the removal of the Cypress tree, but this does not change my overall conclusion.

Conditions

16. In the interest of the amenity of local residents I have imposed a condition requiring that a Construction Method Statement is produced and adhered to. Due to the nature of the access lane the above condition includes the need to carry out a survey of the lane and further to this I have also imposed a condition requiring remedial works to the lane if necessary following construction works. I have however removed the need for the lane to be left in a better condition as I consider this to be an unreasonable requirement.
17. To promote biodiversity I have imposed a condition requiring the measures set out in the Habitat survey to be adhered to. In the interest of the visual amenity of the site I have imposed conditions relating to tree planting and tree protection. As the site is within an AONB I have also imposed a condition restricting permitted development within the site. For certainty I have imposed a condition detailing the drawings submitted with the application.

Conclusion

18. For the above reasons, and having taken into account all other matters raised, I conclude that the appeal should be allowed.

John Wilde

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1802 3 0001A, 1802 3 0002A, 1802 3 0202D, 1802 3 0002E, 1802 3 0101G, 1802 3 0102F, 1802 3 0103F, 1802 3 0105, 1802 3 0201G, 1802 3 0301, 1802 3 0302, 1802 3 0303D, 1802 3 0304D, 1802 3 0305D, 1802 3 0306D, 1802 3 0402E, 1802 3 0403E, 1802 3 0404E.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. 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;
 - ix) a survey shall be undertaken and submitted providing details of the condition of the existing access lane prior to development.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) In addition to the requirements of condition 3 (CMS) above, after substantial completion of the dwelling hereby allowed, a survey providing details of the condition of the access lane serving the development and a schedule of any required works to reinstate the lane to its original condition as identified in the CMP, shall be undertaken and submitted for approval in writing by the local planning authority. The required works shall be implemented in accordance with the approved schedule of works prior to first occupation.
- 5) The mitigation and enhancement measures set out in the document 'An Extended Phase One Habitat Survey (including a Bat and Barn Owl Survey of the Garage)' prepared by Spalding Associates (Environmental) Ltd April 2018, shall be carried out in accordance with the approved details.
- 6) Details of the mix of trees to be planted, as shown on the proposed site plan 1802 30003E (10.04.2018), shall be submitted to and approved by

the Council. The trees shall be planted in accordance with the species approved.

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.

- 7) Notwithstanding Condition No. 6 above, details of replacement trees to be planted in the location of Tree Group G10 (post completion of the development hereby permitted) shall be submitted to and approved by the Council. The trees shall be planted in accordance with the species approved.

All planting shall be carried out in accordance with a phased timetable prepared by an arboriculturalist and to be agreed by the Council. Notice shall be given to the Local Planning Authority when the approved scheme has been completed.

Any trees which within a period of five years from the agreed date of planting, 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.

- 8) Prior to the commencement of any works associated with the development a scheme depicting the method by which trees shall be protected during the course of the development shall be submitted and approved in writing by the Local Planning Authority. The scheme shall identify a Root Protection Area (RPA) that will be enclosed by tree protection fencing which will be erected in accordance with the specification given in the British Standard BS 5837. The tree protection fencing will be erected prior to commencement of any works associated with the development and be retained and maintained until the completion of the development. At no time shall any works in connection with the development, including storage, access, cement mixing, bonfires, excavations or other level changes occur within the protected area. The development shall be implemented in strict accordance with the agreed tree protection methods.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without an express grant of planning permission, namely: The enlargement, improvement or other alteration of the dwellinghouse; The enlargement of the dwellinghouse consisting of an addition or alteration to its roof; Any other alterations to the roof of the dwellinghouse; The erection of construction of a porch outside any external door of the dwelling; The provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse

as such, or the maintenance, improvement or other alteration of such a building or enclosure.