



Appeal Decision

Site visit made on 10 March 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2021

Appeal Ref: APP/D0840/W/20/3262809

Land West Of Hamilton Close, Hamilton Close, Truro TR1 3FW

- 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 Epernay Consultants Ltd against the decision of Cornwall Council.
 - The application Ref PA19/11225, dated 20 December 2019, was refused by notice dated 8 September 2020.
 - The development proposed is residential development for the construction of six new dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for residential development for the construction of six new dwellings and associated works at Land West of Hamilton Close, Hamilton Close, Truro TR1 3FW in accordance with the terms of the application Ref PA19/11225, dated 20 December 2019, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Epernay Consultants Ltd against Cornwall Council. This application is the subject of a separate decision.

Procedural Matters

3. The site is formed of two separate paddocks to the north and south of the dwelling Hangman's Cottage, on the upper slopes of the Coosebean Valley and at the edge of the city of Truro. On site I observed that a stable and a shed, shown within the existing site plan to be located at the north end of the north paddock, have already been removed. However, in the interests of certainty, I made my assessment on the basis of the drawings before me.
4. Although not an issue raised in the Council's Decision Notice, it is incumbent upon me as competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the Fal and Helford and the Penhale Dunes Special Areas of Conservation (the FHSAC and the PDSAC). This is because they are European Designated Sites afforded protection under the Conservation of Habitats Regulations 2017 as amended (the Habitat Regulations). As such, it is necessary to consider this matter as a main issue.
5. At the appeal the appellant submitted a Unilateral Undertaking (UU) and a Supplemental Unilateral Undertaking (SUU). Together they seek to secure an offsite Affordable Housing (AH) contribution and mitigation for the recreational impacts of the development upon the FHSAC and the PDSAC. I return to these matters later in my decision.

Main Issues

6. The main issues are therefore:

- the suitability of the site for the proposal, having regard to the development plan's approach to the delivery of housing;
- the effect of the proposal on the character and appearance of the area; and,
- the effect of the proposal upon the integrity of the FHSAC and the PDSAC.

Reasons

Suitability of the site

7. Policy 3 of the Cornwall Local Plan Strategic Policies 2010–2030 (adopted 2016) (CLP) establishes a hierarchy of locations for development. In the first instance, development is directed to several identified locations, including Truro, where it is to be distributed by Neighbourhood Development Plans or the Cornwall Site Allocations Development Plan Document (adopted 2019) (CSA).
8. Policy 1 of the CSA supports new windfall development at these named locations in certain circumstances. This includes proposals for infill or those that would lead to the small scale 'rounding off' of a settlement. The appellant is not arguing that the scheme would constitute infill but rounding off.
9. The CSA states that rounding off will provide a symmetry or completion to a settlement boundary and not facilitate continued incremental growth. Proposals will not visually extend development into open countryside, must be adjacent to existing development and should be predominantly enclosed by long standing edging features. Suitable sites are likely to be surrounded on at least two sides by existing built development. Development resulting in the creation of a further site for rounding off is unlikely to be rounding off in of itself.
10. The site is predominately enclosed by long standing edging features in all directions, particularly by a substantial west boundary hedgerow, which separates it from the adjoining narrow strip field. A new housing site off New Mills Lane bounds a large proportion of the site to the north and Hamilton Close encloses the site to the east. Although open domestic grounds are to the immediate south, they appear to be associated with the residential built form they serve nearby.
11. These features serve to displace the site from the open countryside and lead it to relate first and foremost to the adjacent housing. Indeed, the proposed houses would sit within an identifiable line of residential buildings which step down the valley between New Mills Lane and take in the dwelling Thurlby and neighbouring properties along Comprigney Hill. As such, the scheme would not visually extend development into the countryside. Instead, it would provide a sense of completion to the edge of Truro at this point.
12. I recognise that the area around the site has experienced incremental growth. In this case the residential land to the south is already within the envelope of the settlement. The dwelling within Plot One would replicate the approximate position of the stable and shed, and therefore the established relationship between the site and the land to the north. The strip field to the west steps out beyond the definable extent of built form at the edge of the settlement. Given such, there is no clear evidence that the proposal would facilitate future

incremental growth, nor create further sites for rounding off. It follows, for these reasons, that the proposal would constitute rounding off.

13. Amongst other things, Policy H1 of the Truro and Kenwyn Neighbourhood Plan 2015-2030 (made 2016) (TKNP) requires proposals for housing to meet a local housing need. The scheme would contribute to meeting the local AH need through a financial contribution pursuant to the UU at an equivalent to 35% (2.1 units) for this site. Policy H1 also seeks to prioritise the use of Previously Developed Land, but this does not have the effect of imposing a policy objection to schemes within undeveloped sites in my view.
14. Consequently, I conclude that the site would be suitable for the proposal, having regard to the development plan's approach to the delivery of housing. The proposal would accord in this regard with Policies 1, 2, 3 and 21 of the CLP, Policy 1 of the CSA, Policy E1 and H1 of the TKNP, the National Planning Policy Framework (the Framework) and the guidance of the Chief Planning Officer's Advice Note Infill/Rounding Off (2017). Given that I have found the scheme to constitute rounding off, the site is not within the open countryside and Policy 7 of the CLP does not apply.

Character and appearance

15. The Coosebean Valley is an attractive and prominent area which contributes to the setting of Truro and which is perceptible from multiple parts of the city and around its fringe. However, the site is well enclosed by housing and highly screened from public views by the site's robust west boundary hedge. This is, in turn, reinforced by another hedge bank which follows its alignment close by.
16. The paddocks themselves have an unremarkable appearance. Even if they are part of the anciently enclosed small field network prevalent in this area¹, their urbanised setting has largely robbed them of any contribution that they may have once made to this characteristic. As such, the site makes a negligible contribution to the Coosebean Valley as a visual and landscape feature.
17. The proposed housing would be largely hidden, and it would be very difficult to identify any associated domestic paraphernalia from public areas. The site's west boundary hedgerow would be augmented and enhanced. The roof tops of the dwellings would rise above the site's green edges. However, the effect would be muted, given the finish materials proposed, the limited extent of built form that would be visible, and the distances involved from public viewpoints, such as Station Road, the adjoining footbridge, and from Bosvean Gardens.
18. In design terms, the scheme would provide high quality, well-designed and laid out buildings which would utilise appropriate finish materials and make a modest but positive contribution to Truro's built environment. Consequently, I accept the findings of the appellant's Landscape and Visual Impact Assessment insofar as the proposal would have an insignificant impact upon the green background that the Coosebean Valley presents to the setting of Truro.
19. A review of the TKNP is emerging (the eTKNP). In addition to other revisions, it intends for important green areas such as the Coosebean Valley to be defined in extent. The evidence shows that the site would encroach modestly into this potential designation at the site's north west point. However, none of the built development would be within this area and, given also the stage of preparation

¹ As a part of area No.13 within the Cornwall and Isles of Scilly Landscape Character Study (2008)

of the eTKNP and its potential for modification, this matter is of limited weight in my assessment.

20. I therefore conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the design and landscape aims of Policies 1, 2, 12, 21 and 23 of the CLP, Policies H1, E1, E4 and E6 of the TKNP and the Framework.

Special Areas of Conservation

21. The proposed development falls within the respective zones of influence of the FHSAC and the PDSAC. The Habitats Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the FHSAC and the PDSAC.
22. The FHSAC is so designated for its habitats of Atlantic salt meadows, estuaries, mudflats, sandflats and sandbanks, its large shallow inlets and bays and its reefs, which support Shore dock. The PDSAC is designated for its shifting dunes along the shoreline with *Ammophila arenaria* and Marram, its fixed dunes with herbaceous vegetation, dune grassland, dunes with *Salix repens*, *Salvia argentea*, dunes with Creeping willow, humid dune slacks, *Petalophyllum ralfsii*, Petalwort Rumex, Shore dock, *Gentianella anglica* and its Early gentian.
23. The FHSAC and the PDSAC are important recreational and economic resources and it is likely that occupants of the proposed development would visit them. On this basis, there is no dispute between the main parties, nor Natural England (NE), that it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the FHSAC and the PDSAC due to increased recreational use at both sites. I have no reason to disagree with this conclusion.
24. It is also agreed by the main parties and NE that to mitigate against such effects, financial contributions should be secured in relation to both sites, which will contribute towards the delivery of Strategic Access Management and Monitoring. Based on the calculations set out in the latest version of the emerging Marine and Estuarine European Sites Mitigation Supplementary Planning Document, this amounts to a sum of £532 per dwelling.
25. With regard to the FHSAC, the contribution will be put forward to fund the employment of an Estuary Officer to directly manage and monitor recreational activity within the site. At the PDSAC, the remaining sum will contribute towards the delivery of dog warden visits and a dog fouling awareness campaign, the replacement of wooden demarcation bollards which prevent parking and also improvements to parking areas to prevent parking on verges.
26. As such, I am satisfied, on the basis of the specific evidence before me, that the UU and the SUU together provide a sufficient mechanism to enable the delivery of proportionate and relevant mitigation pursuant to the Council's strategy for development which could affect the FHSAC and the PDSAC.
27. I therefore find within my Appropriate Assessment that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the FHSAC and the PDSAC. It would accord with Policy 22 of the CLP, the provisions of the Habitats Regulations and the Framework insofar as they seek to secure the long-term protection of such sites and mitigate any adverse effects on their integrity.

Other Matters

28. Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
29. New Mills Lane is essentially a country lane which is without street lighting and formed of narrow sections and limited passing places. I recognise that ongoing development in its vicinity with Hamilton Close, in conjunction with development happening further afield, will noticeably increase its usage. However, having walked much of its length, I also found it to be reasonably straight with good forward visibility. There is no substantive evidence that the scheme would create a severe residual impact upon this part of the road network, nor that the increased number of pedestrians, cyclists and vehicles would be unable to safely share the space to the extent that they do so now.
30. Hamilton Close is also constrained, with tight corners and limited space for passing. Nonetheless, the use of Hamilton Close by the proposed dwellings would create a modest quantum of additional vehicular movements within it in my view. As users would be well aware that this is an overtly residential environment, with the potential for pedestrians to be within the carriageway, this increase in use would not have an unacceptable impact upon its level of safety. It is not demonstrated that the geometry of Hamilton Close precludes emergency or refuse vehicle access and I note that the scheme contains provision for the turning of such vehicles within the site.
31. Concerns have also been raised with regard to the discharge of surface water from the development. However, there is no substantive evidence before me to counter the technical evidence I have that surface water can be adequately attenuated and discharged within the site, through infiltration, without flood risk to surrounding areas. With regard to living conditions, the distances between extant and proposed buildings and outside spaces, with appropriate boundary treatments in place, would ensure that the impact upon existing residents would be acceptable.
32. Reference has been made to a previous planning refusal at the site² and subsequent preapplication advice given by the Council. The refused planning permission dates from 2016, prior to the adoption of the CLP, the CSA and the TKNP and was therefore made within a significantly different planning policy context. Given its nature, I am not bound by the preapplication advice. These matters are therefore of little influence in my decision.

Conditions

33. Aside from the standard time condition, it is necessary to identify the approved plans in the interest of certainty. Given the geometry and topography of Hamilton Close, and in the interests of the living conditions of existing residents in Hamilton Close and the surrounding area, it is necessary to ensure that the highway impacts of the construction phase are carefully managed pursuant to a Construction Environment Management Plan. For obvious reasons, this must be agreed prior to development commencing.

² Ref PA16/01360

34. In the interests of highway safety, it is necessary to ensure that the proposed enhancements are made to the junction of Hamilton Close and New Mills Lane. For the same reason, it is necessary that the driveways, accesses and turning areas within the site are constructed prior to the development's first use. It is similarly necessary that the access to Hangman's Cottage off Comprigney Hill is secured to avoid any informal use by occupants of the approved scheme.
35. In the interests of archaeology, it is essential that a detailed programme of archaeological recording work is secured and delivered. Given the potential of the site in this regard, it is necessary for the programme to be required prior to the commencement of development. A condition is necessary to secure the detailed specification of the foul and surface water drainage strategies and ensure the delivery and management of such going forward. To prevent the risk of flooding in the first instance, it is necessary that such works are approved prior to the commencement of development.
36. In the interests of the public amenity, it is necessary to understand the detailed means to ensure the integrity of protected trees onsite during the construction phase, which logically must be agreed prior to development commencing. In the interests of the character and appearance of the area and the living conditions of existing and future residents, a condition is needed to establish the detailed specification of the landscaping within the site and its timely delivery. These details do not need to be agreed before the commencement of the development. Finally, it is necessary, in the interests of ecology, for the recommendations made within the submitted ecology evidence to be delivered.

Conclusion

37. For the reasons outlined above, and taking all matters raised into account, I shall allow the appeal.

Matthew Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2605-D-301, 2605-D-302, 2605-D-303, 2605-D-304, 2605-D-305 B, 2605-D-306 A, 2605-D-307 A, 2605-D-308 B, 2605-D-309 B, 2605-D-310, 2605-D-321 A, 2605-D-322 A, 2605-D-323 A, 2605-D-324 A, 2605-D-325 A, 2605-D-326 B, EV-TCP-2518-02-19.
3. No development shall take place until a Construction Traffic Management Plan and programme of works have been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. construction vehicle details (number, size and type);
 - ii. vehicular routes and delivery hours;
 - iii. the parking of vehicles of site operatives and visitors;
 - iv. details of the loading and unloading of plant and materials;
 - v. details of the storage of plant and construction materials;
 - vi. wheel washing facilities; and,
 - vii. measures to control the emission of dust and dirt during construction; and
 - viii. hours of working on site.
4. Before any other building or engineering works are carried out on the site, the access onto New Mills Lane shall be laid out and constructed in accordance with 2605-D-307 A in respect of its gradient, surfacing, drainage and sight lines. The access shall be retained as approved thereafter.
5. Before any part of the development hereby permitted is brought into use, the access driveways, parking and turning areas shall be laid out and constructed in accordance with 2605-D-308 B and 2605-D-307 A and the said areas shall not thereafter be obstructed or used for any other purpose.
6. Prior to occupation of the development hereby permitted the existing driveway to Hangman's Cottage from Comprigney Hill shall be secured with a lockable gate on the southern side of its junction with the extended new shared driveway, in accordance with details which shall have been submitted to and agreed by the Local Planning Authority. The driveway shall only be used for access purposes in connection with the residential use of Hangman's Cottage.
7. No development shall take place until a programme of archaeological recording work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority. No development shall take place other than in accordance with the Written Scheme of Investigation. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured. The scheme shall include:

- i. an assessment of significance and research questions;
 - ii. the programme and methodology of site investigation and recording;
 - iii. the programme for post investigation assessment;
 - iv. provision to be made for analysis of the site investigation and recording;
 - v. provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - vi. provision to be made for archive deposition of the analysis and records of the site investigation; and,
 - vii. nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
8. The foul and surface water drainage systems shall be in accordance with the principles set out in the CAD Civils Flood Risk Assessment and Drainage Strategy 2634.87_v2_FRA. No development approved by this permission shall be commenced until the following details are provided:
 - i. a description of the foul and surface water drainage systems operation;
 - ii. details of the final drainage schemes including calculations and layout;
 - iii. confirmation from South West Water Ltd that the foul network has sufficient capacity to cater for this development;
 - iv. a Construction Surface Water Management Plan;
 - v. a Construction Quality Control Plan;
 - vi. a plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features; and,
 - vii. a timetable of construction.

The surface water drainage systems shall fully manage surface water flows resulting from the developed site up to the 1 in 100 year peak rainfall event plus a minimum allowance of 40% for the impact of climate change. The approved scheme shall be implemented in accordance with the approved details and the timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details for the lifetime of the development.
9. Prior to the commencement of development, a scheme depicting the method by which trees shall be protected shall be submitted and approved in writing by the Local Planning Authority. The scheme, which shall include an Arboricultural Method Statement, 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, 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.
10. Prior to development above slab level, a scheme of landscaping shall have been submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall provide planting plans and details of new plot boundary hedges with written specifications including:

- i. details of existing hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development
- ii. full schedule of plants and details of the mix, size, distribution and density of all trees/shrubs/hedges, to include top planting to existing and proposed Cornish hedges
- iii. cultivation proposals for the maintenance and management of the soft landscaping.

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.

11. The development hereby approved shall be carried out in accordance with the recommendations set out in Section 4.0 Mitigation Recommendations of the Preliminary Ecological Appraisal and Bat and Bird Assessment Report by Plan for Ecology referenced PE4880 and dated 7 March 2019.