



Appeal Decision

Site visit made on 21 February 2022

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th May 2022

Appeal Ref: APP/D0840/W/21/3282187

Land between Numbers 4 and 5 Dozmere, Dozmere, Feock TR3 6RJ

- 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 Peter Heather against the decision of Cornwall Council.
 - The application Ref PA21/05999, dated 9 June 2021, was refused by notice dated 2 September 2021.
 - The development proposed is Erection of new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of new dwelling at Land between Numbers 4 and 5 Dozmere, Dozmere, Feock TR3 6RJ in accordance with the terms of the application, Ref PA21/05999, dated 9 June 2021, and subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. As the appeal proposal is located within an area of outstanding natural beauty (AONB), I have had regard to the purpose of conserving and enhancing the natural beauty of the area as set out in section 85 of the Countryside and Rights of Way Act 2000 (as amended). The development plan and the National Planning Policy Framework (Framework) also seek to protect such designated landscapes, recognise the intrinsic character and beauty of the countryside, and attach great weight to conserving and enhancing the landscape character and scenic beauty of AONBs, which have the highest status of protection in relation to these issues.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the effect of the proposed development on designated nature conservation sites.

Reasons

Character and appearance

4. Formerly providing access to adjoining land, the appeal site includes a relatively narrow strip of undeveloped land situated between Nos 4 and 5 Dozmere. Plot sizes and spacing between built form in the locality do vary, and some properties such as Nos 3, 6 and 7 extend up to the shared boundaries with adjoining plots. However, the surrounding built environment is characterised by relatively sizeable properties set in generally large, spacious plots with low front boundary walls and hedges/soft landscaping.

5. Situated beyond where the private dead-end road turns a corner and splits into separate driveways, the site is not particularly visible except in the immediate vicinity and public views of it would generally be limited to those occupying and visiting properties to the east of the site. Given its well-maintained appearance, the section of site that would be developed does not appear as an abandoned or negative feature in the locality. However, it does read as a rather marooned, left over parcel of land and is an anomaly in the surrounding area that does not contribute to the setting of the settlement.
6. Although the redline boundary includes the private road of Dozmere and the access forecourt, the parcel of land which would form the plot of the proposed development would be notably smaller than surrounding plots, including Nos 12 and 14. The proposed dwelling would have a reasonable sized garden and be set away from the shared boundaries with Nos 4 and 5. Nevertheless, squashed into a conspicuously small and narrow plot, the development would appear as a rather cramped addition in relation to surrounding properties and would be inconsistent with the locality's development pattern and density. Due to the height and lack of soft landscaping to soften its appearance, the proposed front boundary wall and gate would also be a notable, rather incongruous feature. In coming to this view, I have taken into account the differences with the previous scheme on the same site that was dismissed at appeal and that the built environment elsewhere in the settlement includes more variety in terms of plot and property sizes.
7. The proposed development would therefore neither respect nor reflect the character and appearance of the surrounding built-up area. Although the appeal proposal would therefore harm the character and appearance of the locality, there are a number of factors which mean that the harm would be limited and localised. This includes the small scale of the development; the proposed dwelling being finished in external materials present in the locality and its bungalow form and modern appearance reflecting various surrounding properties; that the development could be taken to be an outbuilding/garage, features which would not be unexpected in a residential area such as this; the site not being particularly visible in public views; and even with the gate left open, the front boundary wall reducing the visibility of the proposed building and meaning that much of its garden area and any associated domestic paraphernalia would not be visible from Dozmere. In addition, although the site's well-maintained appearance means that the appeal proposal could not reasonably be described as improving the appearance of the site, the development would make use of a somewhat overlooked parcel of land that does not reflect the surrounding, relatively built-up, suburban character.
8. The site is within the Cornwall AONB. However, given its position within the settlement, the site is surrounded by existing residential development and is not particularly visible in the wider landscape. The proposed dwelling would also have a limited scale and would be smaller than surrounding properties. Furthermore, the evidence before me indicates that the site is not located in an area that displays the characteristics for which the landscape is designated. For these reasons and given my findings above, the proposed development would neither affect the features of the AONB nor change the suburban, residential character of the locality. The increase in the density that would occur as a result of the appeal proposal would also not be significant and would not change the area's built-up, suburban character. Accordingly, the proposal would not harm the landscape character and scenic beauty of the designated landscape. On this basis, it would conserve the natural beauty of the area and, given the appeal proposal would make use of a small, rather overlooked parcel of land which is incongruous in relation to its built-up surroundings, could also be construed as enhancing it.

9. Nevertheless, for the above reasons I conclude that the proposed development would harm the character and appearance of the surrounding area. I therefore find that it conflicts with Policies 2 and 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) and Policies D1 and H1 of the Feock Neighbourhood Development Plan 2017-2030 (NDP). Amongst other aspects, these seek high-quality design which ensure Cornwall's enduring distinctiveness, require development to respect and enhance quality of place, conserve and enhance the settlement's character, and respect and reflect local character and identity. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places. However, given my findings in relation to the effect of the development on the Cornwall AONB, there would be no conflict with CLP Policy 23, NDP Policy LS2 or the provisions in the Framework in relation to conserving and enhancing the natural environment.

Designated wildlife sites

10. The appeal site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC). The submitted evidence, including the Council's European Sites Mitigation Supplementary Planning Document (SPD, July 2021), indicates that certain types of development, including all new housing, within 12.5 kilometres of the SAC add to increasing recreational impact at the designated site, which has been identified as vulnerable to such threats. Alone and/or in-combination with other relevant development in the area, the proposed development would therefore be likely to have a significant effect on it. Accordingly, under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), Appropriate Assessment of the implications of the project for the designated site in view of its conservation objectives is required. In accordance with CLP Policy 22, appropriate mitigation would, where necessary, also need to be secured.
11. The qualifying features of the Fal and Helford SAC include saltmarsh, intertidal mudflats and sandflats, subtidal sandbanks, large shallow inlets and bays including habitats such as reefs and rocky shores, estuaries, and reefs, Atlantic salt meadows and Shore dock. The conservation objectives for the site seek to ensure that its integrity is maintained or restored as appropriate and that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features by maintaining or restoring the: extent and distribution of qualifying habitats and habitats of qualifying species; structure and function of qualifying natural habitats and the habitats of qualifying species; supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; and the populations and distribution of the site's qualifying species. The SAC also has a Site Improvement Plan which, amongst other things, details current and predicted issues affecting the condition of its features, which includes public access/disturbance, and the actions required to improve their condition.
12. The available evidence indicates that without mitigation it would not be possible to ascertain that the residential accommodation proposed would not adversely affect the integrity of the designated site through the indirect effects of increased recreational impacts on its interest features. However, the SPD sets out that the adverse effects of development can be mitigated by managing access to or within the SAC, managing visitor behaviour near and within it, and making the designated site more resilient to recreational pressure. Collectively, these are known as Strategic Access Management and Monitoring (SAMM).
13. Unless developers choose to provide their own mitigation measures, the SPD indicates that such mitigation can be strategically led through a SAMM plan, which has been drawn up and costed for the Fal and Helford SAC, would be funded by financial contributions from relevant development, and would be delivered by the

Council. The SPD, produced with input from Natural England, identifies that the securing of a financial contribution can be achieved through either the submission of a legal agreement or through the imposition of a planning condition.

14. Based on the submitted evidence, the securing of the necessary mitigation would be sufficient to mitigate the effects of the development on the designated site. In this case, the appellant has submitted an Undertaking covering the Fal and Helford SAC habitat mitigation contribution and has already made the £352 payment. The Council subsequently confirmed receipt of the financial contribution. The evidence before me also indicates that the contribution would be used for the intended purpose and that the mitigation would be implemented in a timely manner via the SAMM plan and in-line with the measures set out in appendix 1 of the SPD.
15. I am therefore satisfied that the financial contribution, as detailed in the Undertaking and already made to the Council, is sufficient, would be used to mitigate the effects of the development and that the mitigation would be provided in a timely fashion. Confirming this, Natural England indicate that they are content that it adequately secures the deliverability of mitigation measures to prevent the harmful effects of recreational disturbance from occurring as a result of the appeal proposal. This confirms that the mitigation measures are sufficient to ensure that an adverse impact on the integrity of the Fal and Helford SAC and its relevant features can be avoided.
16. On this basis and following consultation with Natural England, I am able to ascertain, as the competent authority undertaking Appropriate Assessment, that the integrity of the designated site would not be adversely affected by the proposed development. Consequently, I find that the appeal proposal accords with CLP Policy 22 and the Habitats Regulations.

Other matters

17. The proposed front boundary treatment on the site would be situated adjacent to the access for No 5. A vehicle in the proposed parking bay would have to reverse into/from the access forecourt and any additional cars used by future occupiers of the proposed development and visitors to it would have to park on street. However, the Highway Authority have not objected, the Council have not alleged that the proposal would conflict with any highway/transport-related development plan policies and I have little substantive evidence that the appeal proposal would harm highway safety or access. In addition, it seems to me that reversing into/out of the proposed parking bay would not be particularly unsafe given the relatively quiet nature of the road and that it only serves a few properties beyond the site. I also observed on my site visit that there was space for vehicles to park in the surrounding area without hindering access to other properties. There would therefore be no conflict, as alleged by interested parties, with respect to NDP Policy H1 requiring a safe means of access or Policy GA3, and any covenants relating to use of land and rights of way are civil rather than planning matters.
18. A number of other matters have been raised by interested parties and I have taken them all into account. This includes: issues related to construction works, including with regards to noise, access and insufficient space for construction vehicles; queries relating to land ownership and rights of way; potential use of the dwelling as holiday accommodation; potential damage to walls, gate posts and the drain running along the access forecourt; flooding and drainage issues; environment and climate considerations; the effect on the living conditions of adjoining occupiers; the effect on preserved trees and an alleged conflict with NDP Policy BIO2; similar schemes on the site previously being refused and dismissed at appeal; and the living conditions of future occupiers of the proposed development. However, whilst

I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. Some of the issues raised, such as construction works and drainage would also be covered by planning conditions.

Planning Balance

19. I have found that the proposed development would harm the character and appearance of the surrounding area and conflicts with relevant development plan policies, including CLP Policies 2 and 12 and NDP Policies D1 and H1. Although it has been put to me that the proposal complies and/or does not conflict with various other local and neighbourhood plan policies, I find that the scheme nevertheless therefore conflicts with the development plan as a whole.
20. However, being limited and localised, the harm I have identified would not be significant and the appeal proposal would not harm the Cornwall AONB. On the other hand, the proposal would result in a number of benefits, including the provision of a new windfall dwelling which, even though the Council has a sufficient supply of housing land and the local plan target for the area has been met, is still needed. Given its relatively modest size, the dwelling would likely be more affordable to a wider range of people than some of the larger properties in the locality. In expanding the housing mix, it would also meet the need for a variety of different housing types in the area, in-line with local and national policy and guidance. In addition, the appeal proposal would provide some employment from construction works and future occupiers of the development would support local services and facilities.
21. As the Council's Officer Report sets out, there is a preference in national and local planning policy towards new dwellings being positioned in and around existing built settlements where there is easy access to transport links, services and facilities. In this case, I concur with the Council that the site is situated comfortably within the residential setting of Feock where the principle of residential development is supported by the development plan. The proposal would also provide an in-fill development, in-line with CLP Policy 3, and would make good use of a rather marooned and un/under-used parcel of land. In relation to this, the site could be left unmaintained in the future if the appeal was dismissed and could thus appear increasingly forgotten and become overgrown to the detriment of the well-maintained, suburban surroundings.
22. Given the scale of the proposed development, each of the benefits listed above would be relatively limited. However, combined, the benefits would have a moderate positive impact which outweigh the limited harm I have identified. This indicates that permission should be granted notwithstanding the conflict with the development plan. With each case determined on its own merits, allowing this development would also not set a precedent.

Conditions

23. I have had regard to the various planning conditions that have been suggested by the main parties. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
24. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. Given the constrained nature of the site and the

access to it and surrounding properties, a pre-commencement condition securing the provision of a construction method statement is necessary and reasonable in the interests of the safe and efficient operation of the road and the living conditions of existing residents.

25. A condition relating to external materials of the dwelling is necessary in the interests of the character and appearance of the surrounding area. However, as such details are not needed in advance of all works taking place, I have amended the condition accordingly. A condition relating to drainage is necessary with regards to flooding and to ensure that sufficient foul and surface water drainage is provided. A condition relating to the parking and turning areas is necessary to ensure these are provided prior to occupation of the development.
26. The PPG indicates that conditions removing permitted development rights should only be used in exceptional circumstances. Nevertheless, the nature of the site and its position in relation to sensitive features indicates that in this instance such a condition is necessary and reasonable in the interests of the visual amenities of the area and the living conditions of adjoining occupiers. However, I have not included the restrictions suggested by the Council in relation to other alterations to the roof of a dwellinghouse (Class C) and porches (Class D) because such works could only be of a minor nature and would thus not significantly affect the size or appearance of the appeal proposal and the effect on its surroundings.
27. The CLP, the Framework and the Council's submitted SPD and advice note encourage biodiversity net gain. However, as set out in those latter documents, there is currently no requirement in statute, policy or guidance for development of this kind to achieve a 10% minimum net gain in biodiversity. Accordingly, the condition suggested by the Council is neither reasonable nor relevant to the development proposed. I have therefore declined to impose it. However, with the submitted details indicating that the hedge at the rear of the site would be rebuilt and planted with native hedge species, it seems to me that the proposal would provide improved wildlife habitat, in accordance with NDP Policy BIO3.

Conclusion

28. For the above reasons, the appeal is allowed.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Block Plan (Drawing No 2683-3-01, Rev A); Existing Site Plan (Drawing No 2683-3-002, Rev A); Proposed Elevations and Site Section (Drawing No 2683-3-030, Rev B); Proposed Floor Plans (Drawing No 2683-3-020 Rev A); and Proposed Site Plan (Drawing No 2683-3-05, Rev B).
- 3) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. 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) a scheme for recycling/disposing of waste resulting from construction works; (v) hours of working.
- 4) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces (including walls, doors, windows, lintels, sills, roof covering and methods of fixing) of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 5) The development hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of foul and surface water drainage has been completed in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The details shall include a programme for maintaining the system if required. The system shall be retained and maintained thereafter in accordance with the approved details.
- 6) The development hereby permitted shall not be occupied until the parking and turning areas have been laid out and constructed in accordance with approved Drawing No 2683-3-05 Rev B (Proposed Site Plan). Thereafter, the parking and turning areas shall not be obstructed or used for any other purpose.
- 7) 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 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; additions etc to the roof of a dwellinghouse; and buildings etc incidental to the enjoyment of a dwellinghouse.

END OF SCHEDULE