



Appeal Decision

Site visit made on 3 May 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/D0840/W/21/3287696

Land south of Rosevear, Trembrase, Sennen, Penzance, Cornwall TR19 7BN

- 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 Maitland against the decision of Cornwall Council.
 - The application Ref PA19/10020, dated 3 December 2019, was refused by notice dated 7 October 2021.
 - The development proposed is the erection of 3 dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, including the likely long-term effect on the protected trees.

Reasons

3. The appeal site is an irregularly shaped strip of land adjoining a section of residential development, including the bungalows in Trembrase and the fairly recent development of the properties in Eleni Close. It is close to the boundary of the Cornwall Area of Outstanding Natural Beauty, the boundary of which in this area is located on the other side of the main road (A30). The site is located within the St Buryan Area of Great Landscape Value (AGLV).
4. The wider area is gently undulating and the settlement of Sennen is separated into pockets of development, the larger sections of which are primarily to the generally north and west of the appeal site. These groups of buildings are often framed by countryside and the area has a generally open, expansive and rural character. The consequence of the topography is that development is often apparent in wider views.
5. There are few trees evident in a landscape that is affected by the prevailing winds and the maritime environment. One of the exceptions to this is the woodland which extends across the vast majority of the appeal site and is subject to a Tree Preservation Order. The individual trees include Sitka Spruce, Monterey Pine and Sycamore.
6. Generally the trees appear to have been suppressed by the maritime conditions and some of the individual trees are not especially notable specimens in themselves. Nevertheless, the woodland as a whole forms a pleasant and fairly prominent feature, including when viewed from some nearby sections of the

A30, the adjoining road and from the public footpath that runs diagonally across the field in a very broadly westerly direction from the other side of the A30. In these views the woodland makes a positive contribution to the landscape. It helps to partially screen and round off the adjoining residential development by providing an attractive green feature that leads to a clear separation with the open countryside to the general south.

7. The scheme proposes three dwellings within the narrower strip of the site, leaving the wider area by the A30 undeveloped. I am conscious of all the various changes since the earlier proposal for five dwellings was dismissed at appeal¹ and that this submission is accompanied by a detailed arboricultural analysis, including the Arboricultural Impact Assessment. I have carefully considered this information which makes the case that the three dwellings, although close to the root protection areas of some individual trees, could be constructed without harm to the long term health of the trees.
8. The proposed chalet style dwellings would be fairly close to some of the trees which are to remain and I intend to examine the relationship of each proposed dwelling on its plot with the adjoining trees.
9. Plot 1 would be on a reasonably narrow section of the site and the proposed dwelling would have a limited size of front garden. There would be established trees to the broadly west and these have some quite low hanging limbs and which would be likely to shade a large part of this area of the proposed curtilage. The side windows to the living and dining area would be fairly close to some parts of these trees and they would affect the outlook from these side windows. It would be difficult to form a meaningful garden to this side of the property were the trees to be retained in their present form. On the other, broadly eastern side of the proposed dwelling on Plot 1, again there are established trees which would be reasonably close and which would cover and shade parts of the proposed garden space in this area.
10. Accordingly, I am not satisfied that a reasonable and useable garden space could be formed around Plot 1 that would not be unduly compromised by the presence of the established trees. I also consider that the size and age of some of the adjoining trees would cause apprehension to future occupiers of Plot 1 when occupying the dwelling and using its outdoor spaces. The impact of the trees on the ability to fully use the garden and their presence close to the property would, in my view, lead to likely pressures for the removal of at least some of the adjoining trees. While these trees may be the subject of a preservation order, it may be unreasonable to withhold consent for the removal or severe pruning of the trees where they would, in all likelihood, detract from the living conditions of occupants of the dwelling on this plot.
11. Consequently, the positioning and form of the trees in proximity to Plot 1 would in due course, in my view, lead to their gradual cutting back and possible removal. Such tree works would harm a valuable section of this part of the woodland and detract from the feature as a whole to the detriment of the character and appearance of the area.
12. The dwelling on Plot 2 would be constructed in a space following the removal of the Monterey Pine by the road frontage. The removal of this fairly large tree would create a gap in the woodland belt in this location. This would fragment

¹ APP/D0840/W/19/3230990 – decision dated 18 September 2019

the appearance of the woodland and harm its contribution to the area. The dwelling would have a useable front garden which would benefit from natural light although the trees within the sides of the garden of this plot would likely lead to shading and compromise the use of these areas. The dwelling would be hemmed in to its sides to some extent by the trees to be retained. Like Plot 1, albeit to a lesser extent, I consider that there would be requests from future occupants for the cutting back and/or removal of the adjoining trees to improve living conditions and reduce apprehension due to the proximity of the trees.

13. The plans show a scheme for additional planting along the frontage of this plot. This planting is likely to take some time to make a meaningful contribution to the woodland character. As the planting would be in an area in front of the proposed dwelling it could, in time, impact on natural light and garden space to this unit. In my view, this could result in future occupants maintaining this planting at a reasonably low level so as to minimise its effect on outlook and this would therefore undermine the effectiveness of this planting. Planning conditions restricting how an occupant should maintain their garden planting may not be reasonable or in practice enforceable. Overall I consider that the effect of the dwelling on Plot 2 would be to ultimately fragment and diminish the visual contribution of this strip of woodland thereby harming the character and appearance of the area.
14. To accommodate a dwelling on Plot 3, with its access and parking area, it would be necessary to remove some trees. While these are not especially mature specimens it would erode the depth of trees in this area. The frontage belt in this area would be able to be retained but these trees would be very broadly south and quite close to the front of the dwelling. In my view, the retained trees would compromise some light and aspect to the front of the building. Their presence would also limit open and useable garden space. This area under the trees would likely to be shaded. I consider that there is a likelihood that future occupiers of the dwelling on Plot 3 would wish to have a more open aspect and with more useable garden and that there would be requests to remove some trees and cut back others to provide more adequate living conditions to this dwelling and garden. Once the dwelling was constructed and with the proximity of these trees, notwithstanding that they would be protected, I consider it would be difficult to resist such requests. In time, the provision of the dwelling on Plot 3 would, in all likelihood, compromise the future of some of the trees at this end of the appeal site. This would diminish the tree cover of the woodland and thereby harm the character and appearance of the area.
15. Drawing all these matters together, I consider that the occupation of each individual dwelling would be likely, in the longer term, to lead to the removal and/or cutting back of some of the surrounding trees. This, in each case, would diminish the woodland as a whole and in turn erode the positive contribution that the woodland makes to the character and appearance of the area. When the effect on the trees from the three dwellings are considered as a whole, the likely combined adverse impact in the longer term would be a significant undermining and fragmentation of the woodland. This would lead to an unreasonable level of harm to the woodland as a whole, which is subject of a Tree Preservation Order in recognition of its importance. Accordingly, I consider that the long term effect of the residential development would be to unacceptably harm a feature that contributes positively to the AGLV.

16. For the avoidance of doubt, I am not satisfied that the proposed new tree and shrub planting would mitigate the harmful effects of the development which I have identified. This is because of the relationship of the proposed dwellings to the planting and the likely effect that the planting would have on the garden areas and living conditions of future occupiers if allowed to mature, notwithstanding the time that the trees would take to reach a reasonable height in this coastal environment.
17. I do not consider that my findings are inconsistent with the Inspector who determined the previous appeal proposal for five units across the whole of the site. He commented in his decision that the erection of the then proposed dwellings would necessitate the removal of this landscape feature in its entirety, which I consider to be the woodland. He did not need, therefore, to consider the effect of individual dwelling plots on the surrounding trees as I have had to in this appeal. The proposal and therefore the considerations in this appeal are different.
18. In the light of the above analysis, I conclude that the effect of the proposal would be to unduly harm the character and appearance of the area because of the likely adverse and long-term effect on the trees within the protected woodland. It follows that the scheme would not accord with Policies 1, 2, 12, 23 and 25 of the Cornwall Local Plan Strategic Policies 2010–2030, Policy CC-5 of the Penwith Local Plan 2004 and the National Planning Policy Framework which seek, notably, that development respects and works with the natural environment.

Conclusion

19. The site for the proposed housing would meet with the development plan strategy for the location of new residential development. It would provide a boost to housing supply, on a windfall site, and in a location with reasonable access to some local services and facilities. Furthermore, there would be economic and social benefits arising from the construction of the dwellings and in their subsequent occupation. However, as only three dwellings would be delivered I attribute the cumulative benefits of the scheme limited weight.
20. On the other hand I have found that the scheme would harm the character and appearance of the area, undermining a valuable feature within the landscape, one protected by a Tree Preservation Order. This is a matter to which I attribute substantial weight. It follows that the benefits of the scheme would not be outweighed by the harm.
21. In conclusion, given the harm I have found and the related conflict with the planning policies in that regard, I conclude that the scheme would conflict with the development plan when considered as a whole. There are no material considerations of such weight which indicate that a decision should be made otherwise than in accordance with the development plan. Accordingly, for the reasons set out above, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR