



Appeal Decision

Site visit made on 9 August 2022

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/D0840/D/22/3300332

13 Trelawny Close, Pelynt, PL13 2FF

- 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 D Owen against the decision of Cornwall Council.
 - The application Ref. PA21/11177, dated 9 November 2021, was refused by notice dated 5 May 2022.
 - The application sought the removal of 20m long/6 feet in depth soil banks along two sides of the garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A hedgerow which, I understand, previously formed part of the depthsoil banks (soil banks) to the appeal site has been removed, with the application form indicating that this was done before November 2021. I have not been provided with any evidence as to the extent or value of the hedgerow that existed and, as such there is no basis on which I can assess the ecological impact, if any, of its loss. In view of this and in the absence of any other evidence on this issue, I am unable to consider the concerns raised by the Council in its second reason for refusal. Even so, the appeal proposal before me seeks planning permission for the removal of the soil banks, and not the original hedgerow.
3. The Appellant has referred to the conditions attached to the planning permission for the Trelawny Close development, which the appeal site forms part of, granted in 2012 under ref. PA12/12121 (2012 Permission). Even so, whether the removal of the hedgerow or indeed the soil banks would involve a breach of planning in relation to the 2012 Permission is not a matter for me to determine within the context of an appeal that has been submitted under section 78 of the Town & Country Planning Act 1990 (Planning Act).
4. The Appellant also contends that there is no planning control over the removal of the hedgerow or soil banks, in that neither would amount to "*development*" as defined in section 55 of the Planning Act. Again, whether this is the case or not is not a matter for me to determine in the context of this section 78 appeal. It remains open to the Appellant to apply to the Council to have this matter determined under section 192 of the Planning Act and any such application would be unaffected by my decision on this appeal.
5. I have determined the appeal on the above basis.

Main Issue

6. The main issue is the effect of the appeal proposal on the character and appearance of the area, with particular regard to its landscape setting.

Reasons

7. The appeal site forms part of a modern development of houses on the north eastern edge of the Pelynt. The northern and eastern boundaries of the rear garden to the appeal site form the extent of the Trelawny Close development, with its eastern boundary aligning with the eastern extent of the Summerlane Park development to the south. Beyond the eastern and northern boundaries of the appeal site the land is open and in agricultural use, with distant views.
8. The Council's Delegated Report and Pelynt Parish Council's objection to the appealed application contend that the appeal sites rear boundaries formed part of the original field boundary in this location, and that appears to be reflected in the approved layout plans for the Trelawny Close development that have been submitted in evidence. As I also observed on site, there is evidence of stone work within the retained soil banks and they appear to extend around the entire length of the northern and eastern boundaries to the Trelawny Close development, where, for example, at No. 12 Trelawny Close (to the south of the appeal site), the existing or planted hedgerow is still in place.
9. Whilst I have not been provided with the detailed planning background to the 2012 Permission, the evidence that has been submitted, including the approved layout plans and the Council's own submissions, indicate that the retention and enhancement of the original earth and stone walls and hedge banks was seen as an integral part of the acceptability of the estate development and served an important planning purpose in providing an appropriate and effective natural visual barrier between the new residential development and open agricultural land beyond, and in particular with the adjacent Looe and Seaton Valleys Area of Great Landscape Value (AGLV).
10. The Appellant contends that the soil banks do not serve any purpose. I do not agree. Despite their current appearance, the soil banks continue to serve an important planning purpose as a natural physical and visual barrier to the open landscape and AGLV beyond. That importance is accentuated by that fact that these soil banks are part of, based on what I could see on site, a largely continuous earth and stone wall (soil bank) and hedgerow around the northern and eastern extent of the new estate, which largely reflects and builds on the original field boundaries to the appeal site and adjoining land.
11. The existing soil banks and, where retained, hedgerow, assist in softening the appearance of the Trelawny Close development and provide an appropriate transition from the formal estate layout to the open countryside beyond. The hedgerow, that previously existed on the appeal site, would, in all likelihood, have strengthened that role and the removal of the soil banks would, in my view, result in the residential development being far more prominent and thus harmful to the wider landscape setting of Pelynt, leading to a harder edge to this part of the settlement that would be harmful to the character and appearance of the area and adjacent AGLV.
12. Whilst I accept that there are no immediate public views of the appeal site, that fact alone does not, in my view, diminish the importance of the soil banks

in providing an appropriate natural boundary to the development with the open countryside and landscape beyond. Even so, other parts of the soil banks and hedgerow on the Trelawny Close development are visible in public views and, as I confirmed above, the soil banks to the appeal site form an integral part of that boundary treatment. In addition, it is not uncommon, in my view, for some boundaries to new development, on the edge of settlements, to be less visible than others. The latter does not diminish the importance of such boundary treatment in creating a natural barrier or in mitigating the visual transition between built development and the open countryside. In addition, in ensuring that the impact of new development is lessened and softened where it is sited, as in this case, next to a landscape area that is sensitive to new development and where its intrinsic value needs to be protected, conserved and enhanced.

13. I accept that the appeal site is not located within but adjoins the AGLV and that policy 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016) (CLP) refers to the impact of development “*within*” the AGLV. However, the overall aims and objectives of that policy, read in conjunction with policies 2 and 12 of the CLP, seek, amongst other requirements, to protect, conserve and enhance the natural landscapes of Cornwall and requires development to respond to its landscape setting. These policies are consistent with those in the National Planning Policy Framework (July 2021) (Framework), including paragraph 174 which requires planning decisions to protect and enhance valued landscapes and to recognise the intrinsic character and beauty of the countryside. In my view, the appeal proposal would harm the character and appearance of the surrounding area, its landscape setting and adjacent AGLV, and the level of harm would not be diminished by the absence of immediate public views of this part of the appeal site
14. The Appellant contends that the removal of the soil banks would improve the garden area and create a safer environment for children. There is no substantive evidence before me to support those statements. As I observed on site, given its corner location the rear garden is larger than some of its neighbours, is reasonably private and offers ample space for sitting out or for children’s play areas or for growing plants or drying clothes, or for a combination of all these amenity uses. The existing soil banks do not impact, therefore, on the functionality of the garden and there is no evidence to suggest that the soil banks, which are the same as those that exist throughout a large part of the Trelawny Close development, are in any way unsafe.
15. For the above reasons, I find that the appeal proposal would result in significant harm to the character and appearance of the surrounding area, its landscape setting and the adjacent AGLV contrary to the aims and objectives of policies 2, 12 and 23 of the CLP and paragraph 8 and 174 of the Framework.

Conclusion

16. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR