

Appeal Decision

Site visit made on 21 September 2022

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/D0840/W/22/3293429

Land southeast of Chyvounder, Trenance, Mawgan Porth, Cornwall TR8 4BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Wreford against the decision of Cornwall Council.
 - The application, Ref. PA21/05993, dated 9 June 2021 was refused by notice dated 25 November 2021.
 - The development proposed is the construction of a detached dwellinghouse and the provision of a new vehicular access (all other matters reserved).
-

Decision

1. The appeal is allowed, and planning permission is granted for the construction of a detached dwellinghouse and the provision of a new vehicular access on Land southeast of Chyvounder, Trenance, Mawgan Porth, Cornwall TR8 4BT in accordance with the terms of the application, Ref. PA21/05993, dated 9 June 2021, subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is whether the principle of a new dwelling on the site is acceptable having regard firstly to the site's location as regards local and national planning policy and secondly to the effect of the development on the character and appearance of the area.

Reasons

Location of the Site

3. Turning firstly to location, the appellant's case has been significantly shaped firstly by the favourable pre-application enquiry advice and secondly by an officer's report recommending approval of the resulting application. At the heart of the case for an outline permission is the premise that the area of garden to the southeast of the dwelling can reasonably be regarded as falling within the settlement of Trenance / Mawgan Porth.
 4. However, following the referral of the application to the Committee and a refusal of outline permission, the Council now says that because the appeal site lies to the north of the B3276 the development would be within the countryside rather than the settlement. As such it would conflict with Cornwall Local Plan Policies 2, 3, 7, 12 and 23 ('the Local Plan') and with paragraph 174 of the National Planning Policy Framework 2021 ('the Framework').
-

5. In assessing the weight of these diametrically opposed arguments, I acknowledge that because of its position on the north-eastern side of the B3276, the appellant's (and initially the Council's) assertion that the appeal site falls within the settlement cannot be taken as read without scrutiny. However, the triangle of land edged red denoting the appeal site has three boundaries (not the four referred to by the Parish Council): one to the open countryside, one to the flank of the existing property and one to the B3276.
6. Although generally indicating the edge of the settlement, I regard this section of the B3276 as also being part of it, especially given that there are accesses to residential and significant commercial premises more or less opposite the host dwelling and Le Coie, its immediate neighbour to the northwest. Given this, it would be arguably illogical to regard the northeast verge of the road as being the boundary, with the two existing houses being outside the settlement. This would also appear to have been the opinion of the Council in its adoption of the Restormel Local Plan 2001-2011, which included both dwellings within a defined settlement boundary. I note that the present appeal site was at some point specifically excluded from this boundary, but since being annexed from the adjoining field it has become established as a garden for Chyvounder and thereby has a residential rather than agricultural use.
7. Furthermore, the C20th suburban design of the two dwellings and their origins insofar as can be discerned from the available information, does not suggest that they were built as isolated houses in the rural area only later to be all but engulfed by the growth of Trenance. The probability is that from the outset, their location was for the most part a consequence of the need for the occupiers to have proximity to the range of services in the then smaller settlement of Trenance / Morgan Porth for their day-to-day requirements, as no doubt is still the case today.
8. Although the site's large front hedge ostensibly provides some rural character and the rear boundary backs on to agricultural land, the combined length of the site's boundaries to the B3276 and the retained dwelling comfortably exceed the length of the field boundary to the rear. In travelling along this part of the road there is development on both sides, with Le Coie, Chyvounder and the land within their curtilages having as much, if not more, an urban / suburban setting and character as they do rural. Accordingly, they can reasonably be regarded as falling within the settlement despite its notional boundary crossing the B3276 as a result. Moreover, the appeal site's well-defined angular rear boundary that terminates as the apex of the triangular shape where it meets the road, creates an effective defensive barrier against additional incremental development, a specific requirement in the Chief Planning Officer's Advice Note 2017 on Infill and Rounding off ('the CPOAN').
9. I therefore see no reason why the proposal would not satisfy Local Plan Policy 3, which says that housing can be delivered by the *'rounding off of settlements and development of previously developed land within or immediately adjoining that settlement of a scale appropriate to its size and role'*. Similarly, there would be justification under Policy 21c which advises that to ensure the best use of land, encouragement will be given to sustainably located proposals that *'increase building density where appropriate taking into account the character of the surrounding area and access to services and facilities to ensure an efficient*

use of land'. Overall, I regard the particulars and circumstances of the appeal site and its development to be consistent with the thrust of these policies.

10. I accept that in respect of these policies and the CPOAN there are paragraphs that can be used to also argue against the appeal proposal. However, I consider that the Council in its pre-application advice and officer's report (the latter further authorised by two senior officers) exercised a reasonable interpretation of policy and planning judgement, despite its subsequent rejection by Members. The fact of the matter is that the appraisal in this case is not 'black and white', and I conclude that the Council's initial on-record assessment is persuasive in my weighing of the planning balance. The proposed development should not therefore be precluded on the grounds of the site's location. However, as already inferred, I have reached this conclusion on the particulars and circumstances of this location, and it should not be regarded as necessarily applying to other ostensibly similar sites.

Effect of Development on Character and Appearance

11. On this second aspect of the main issue, the Council's decision reflects the view of the Parish Council that the new dwelling *'by reason of its access (and associated loss of hedgerow), character and inevitable massing would harm the distinctive character and beauty of the site and surrounding area'*
12. In respect of the access, I recognise that the removal or part removal of the existing boundary hedge would be a disadvantage of the development until such time as replanting and associated landscaping to be approved as a reserved matter. On the other hand, from my visit I did not regard the enclosed garden area of Chyvounder or its immediate setting, in part read with extensive residential and commercial uses on the other side of the road, as having any noticeable 'distinctive character and beauty'.
13. The visual impact of the new dwelling itself will essentially depend on the submission and approval of the remaining reserved matters. In this respect the pre-application enquiry, the outline application form and the Design and Access Statement all include a reference to the proposed dwelling as having *'4/5 bedrooms*. Thereafter, this reference was omitted in the documentation and as a non-essential component of an outline application with neither illustrative nor indicative plans I have determined the appeal on the basis that the dwelling's size is left for the consideration of the reserved matters.
14. However, if the description had remained as a definitive proposal and therefore a commitment to a house with four or five bedrooms, my decision would have been to dismiss the appeal. This is because the triangular shape of the appeal site is a significant constraint on its development potential in terms of the size of dwelling, especially as any land southeast of the proposed access would have limited potential as a usable amenity area.
15. There are additional constraints as regards a reasonable building line to the road, the relationship to the host dwelling, and the need to retain an adequate distance to boundaries to enable the retention / provision of mature screening. Although these considerations can be addressed in the reserved matters, a firm commitment to as many as five bedrooms and their implication for the building's footprint and massing would have been inappropriate and therefore have warranted the rejection of this outline proposal.

Conclusion and Conditions

16. On both aspects of the main issue and having taken into account all other matters raised, including those by the Parish Council and local residents, I conclude that the proposal would not harmfully conflict with the relevant Local Plan policies, the CPOAN or indeed paragraph 174 of Government policy in the Framework. I also regard the appeal scheme as being 'sustainable development' having regard to the policies of the Framework as a whole. I shall therefore allow the appeal.
17. The Council has suggested some conditions and I agree that these are necessary and reasonable. A condition requiring the development to accord with the Site and Access plans is needed for the avoidance of doubt and is in the interests of proper planning. Ecological interests are satisfied by conditions relating to the site itself and mitigation of the incremental increase in recreational pressures on the Penhale Dunes SAC. Finally, I have imposed the two recommended conditions to ensure the provision of a safe vehicular access to the site.
18. The conditions include some that are pre-commencement, but as the appellant is already aware of them and has not objected to this timing, I conclude that they have been given tacit approval.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved;
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this Decision;
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved;
- 4) The development hereby permitted shall not commence until the Local Planning Authority has approved, in writing, a scheme to secure mitigation of the additional recreational pressures on the Penhale Dunes SAC together with an appropriate mechanism to secure delivery of the mitigation;
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: OS based Existing Site/Block Plan; Visibility Splay Drawing No. JP01;
- 6) Before any other building or engineering works are carried out on the site, all land within the visibility splays shown on drawing No. JP01 shall be reduced to a height not exceeding 0.6m above the adjoining carriageway level and thereafter no obstruction shall be permitted within the approved visibility splays;
- 7) Prior to the commencement of the development hereby permitted, access construction details including surfacing and drainage details, designed to prevent loose material and surface water from discharging onto the highway shall be submitted to and approved in writing by the Local Planning Authority;
- 8) The mitigation methods for the protection of the ecological features on the site as set out in the Preliminary Ecological Appraisal by Western Ecology dated April 2021 will be adhered to before and throughout the duration of the construction works and prior to occupation of the dwelling hereby approved. The biodiversity enhancement measures identified in the same report shall be incorporated into the scheme and thereafter be retained and maintained to ensure their ongoing biodiversity provision.