



Appeal Decision

Site visit made on 23 January 2023

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/D0840/W/21/3273908

Tresloe Vean, Perrancombe, Perranporth, Cornwall, TR6 0HY

- 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 Mrs R Barteau against the decision of Cornwall Council (the LPA).
 - The application ref. PA19/10894, dated 13 December 2019, was refused by notice dated 14 December 2020.
 - The development proposed is the construction of two detached infill dwellings, formation of two new vehicle access points onto Perrancombe and alterations to existing vehicle access.
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Preliminary Matters

1. On behalf of the appellant, an undertaking has been submitted under the provisions of section 111 of the Local Government Act 1972. This includes a payment (£532) towards habitat mitigations costs within the Fal and Helford Special Area of Conservation (SAC) and the Penhale Dunes SAC. The LPA has confirmed receipt of this payment. A draft Unilateral Undertaking (UU) has also been submitted under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). This also relates to the SACs.
2. An application for an award of costs has been made by the appellant against the LPA. This application is the subject of a separate Decision.

Decision

3. The appeal is dismissed.

Main Issue

4. The main issue is the effect upon the character and appearance of the area, having particular regard to the likely impact upon trees growing within the site.

Reasons

Planning Policy

5. The development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (LP). The most important policies to the determination of this appeal are LP policies 12 (design), 21 (best use of land) and 23 (natural environment).
6. The LPA has produced its Climate Change Emergency Development Plan Document (DPD). This has reached a very advanced stage following the receipt of the Inspector's Report. The LPA has informed me that it intends adopting the DPD on 21 February 2023. The DPD can be given considerable weight. The most important DPD policies to the determination of this appeal

are: C1 [climate change principles], G3(5) [tree canopy] and RE1(3) [renewable and low carbon energy].

7. My attention has also been drawn to the emerging Perranzabuloe Neighbourhood Development Plan (NP) and the accompanying Perranzabuloe Design Code (DC). Amongst other things, the NP seeks to conserve and enhance the character of the built environment, including trees (policy SD2) and to protect trees and woodland (policy NE4). As the NP has yet to reach an advanced stage, both it and the DC carry only limited weight.
8. In determining the appeal, I have also had regard to the provisions of the National Planning Policy Framework (the Framework). Amongst other things, this aims to: make effective use of land, while safeguarding and improving the environment; achieve well-designed places that recognise the important contribution which trees make to the character and quality of the environment and; conserve and enhance the natural environment.

Character and Appearance

9. The LPA has informed me that this 0.35 ha appeal site is within the urban area of Perrancoombe¹. It lies along the bottom of a sheltered valley with a stream abutting the western boundary. The LPA accepts that the proposal would comprise infill development of a gap in an otherwise linear pattern of existing development with built up frontage.
10. The site includes numerous trees². It is part of a rather extensive Tree Preservation Order (TPO) that was confirmed in 1991. Within the TPO, the site forms part of an area identified as "*trees of whatever species*"³.
11. Many of the Sycamore trees growing within the site are young. There is damage to some branches of some of the trees. Bramble and ivy are also growing across much of the site. This indicates a lack of management⁴. Assessments⁵, undertaken on behalf of the appellant, also identify most of the trees growing within the site as, individually, being of low quality or in such a condition that they cannot be realistically retained for longer than 10 years. However, this does not mean that these trees have any adverse effect upon the quality or amenity of the local area.
12. As I noted during my visit, no individual tree growing within the site is of high quality. In my opinion, there are also very few trees of moderate quality. Nevertheless, the collective value of the trees growing within the site, including its canopy cover, comprises a pleasing sylvan feature when viewed from the public realm. This area of native broadleaf woodland forms a break in the row of buildings along this part of the valley and softens the impact of the neighbouring houses. This and the absence of any clearly noticeable buildings or human activity within the site creates an attractive, naturalistic quality in

¹ I note from the emerging NP that the site appears to lie outside the proposed settlement boundary.

² Mainly Sycamore, but also some Grey Willow, Holly, Hawthorn and Sessile Oak.

³ As highlighted by the appellant, this 'Area' TPO only provides legal protection to those trees that were growing on the site in 1991. I note the recommendation of the LPA's tree/forestry officer that the TPO should be updated to a Woodland category to better protect the appeal site.

⁴ I also note the LPA's tree/forestry officer's comments that simple, minimal management could, in a short space of time, bring the woodland into a more favourable condition. Whilst this is unlikely to happen without some incentive, it is very far from certain that the appeal scheme is the only means of achieving this.

⁵ Based upon BS 5837:2012 'Trees in relation to design, demolition and construction – Recommendations'.

this part of Perrancoombe. The appeal site makes a positive contribution to the street scene and adds to the character and appearance of the local area⁶.

13. The proposed dwellings would be designed in an attempt to limit both flood risk⁷ and the impact upon trees growing within the site. The foundations would comprise drilled mini-piles in an effort to minimise excavations and disturbance to tree roots. These foundations would support a superstructure consisting of an open, braced steel framework that would hold the new floor levels above. Rooftop gardens would be provided to limit activity near the bases of the retained trees and to reduce the pressure to prune or fell trees that could otherwise cause overshadowing or deposits of tree debris / litter. The use of dark larch cladding on the exterior of the houses would be an appropriate and visually recessive material and some new (native) tree planting would be undertaken⁸. I understand that the local Design Review Panel was broadly supportive of the proposals.
14. In order to accommodate two dwellings and their associated works, the proposal would entail the removal of numerous trees growing within the site. In addition, there would be works to some other trees, including crown lifting, crown reduction and the removal of some branches. Some of these works would be a necessary part of the proper management of the site⁹ and I note the appellant's argument that some trees could be removed without needing permission / consent. However, the proposed layout of the new buildings and access works would entail the loss of many trees that collectively contribute to the sylvan attributes of the site and its influence upon the street scene. The proposals would also result in a significant reduction in the tree canopy¹⁰. The impact of the development upon trees within the site would detract from the street scene and harm the quality of the local environment. This weighs heavily against granting planning permission.
15. The proposals would result in the new buildings being sited in close proximity to other trees that it is intended to retain. These also contribute to the street scene and are protected by the TPO. Even with careful site supervision, there are doubts in my mind that all of these trees would survive the rigours of the construction phase. Even if they did, these 'retained' trees could then reasonably be expected to continue growing and, over time, encroach closer to the dwellings. It is very far from certain that occupiers of these new houses would not perceive some of these trees as a nuisance or a threat to their properties. This in turn, could result in future pressure being applied on the LPA to have more trees removed. This would be difficult to resist and would result in further cumulative harm through the loss of more trees and canopy.
16. Whilst not planning policy and comprising only guidance, BS 5837:2012 is widely used to assist in the planning decision-making process. Amongst other things, it sets out that tree survey work should be undertaken and made available prior to any specific development proposals. Although my decision does not turn on this particular matter, it is unclear to me if this occurred in

⁶ Amongst other things, the appellant's Landscape Character Assessment found that the site lies within a part of Cornwall that has a low landscape value but is valued locally.

⁷ Part of the site is within or near to a Flood Zone 3 (high risk of flooding).

⁸ The new trees would be planted a minimum distance of 5 metres from the proposed dwellings.

⁹ Whilst I agree with the appellant that some selective felling of trees would be necessary to secure the long-term provision of better quality trees within the site, this would not justify removing all of those trees which have been identified for removal within the application / appeal.

¹⁰ On behalf of the appellant, it has been calculated that approximately a third of the canopy would be lost.

this instance. I note from the appellant's Tree Survey and Arboricultural Method Statement (November 2019) that "*Charles Green Design have drawn up plans to build two new dwellings on the site.*" This tends to suggest that the tree survey was completed after the design had been arrived at.

17. I also note the amendments to the various proposed site layout plans that were submitted during the course of the application and the contents of the appellant's separate Arboricultural Report dated October 2020. My attention has also been drawn to an example of a 'tree house' that has been built in Gloucestershire, as well as developments that have been permitted within the local area. However, the proposed loss of trees from within the appeal site and the likely impact upon some others that it is intended to retain, would markedly erode the contribution that this site makes to the street scene.
18. The impact of two sizeable dwellings, including the proposed access and car parking arrangements, as well as the activity¹¹ associated with residential use would seriously diminish the naturalistic qualities of the site and, in so doing, have an adverse effect upon the character and appearance of the local area. This would not be adequately mitigated by the proposed planting, which would take many years to establish. Even then, this would not offset the harm to the local area that I have identified.
19. I conclude on the main issue that the proposed development would have an adverse effect upon the character and appearance of the area and would conflict with the provisions of LP policies 12, 21 and 23, DPD policies C1 and G3(5) and emerging NP policies SD2 and NE4.

Other Matters

20. The proposed development would be likely to increase recreational pressures within the SACs. In combination with other developments and plans elsewhere within this part of Cornwall, the proposal could have a significant adverse effect upon natural habitats and species of wild fauna and flora within these protected sites. Having regard to LP policy 22 (European Protected Sites), mitigating such adverse effects¹² could be addressed by way of financial contributions. I consider that the most appropriate way to address this matter would be via a completed UU.
21. The mechanism provided by the appellant would only cover the cost of mitigation for one dwelling. However, it is clear from the submissions that the intention is to provide financial contributions for both dwellings. My attention has been drawn to a recent appeal decision at Mawgan Porth¹³ where this matter was addressed by way of a planning condition. In addition to the use of UUs, the LPA's SPD also supports the use of a planning condition as a way of securing necessary mitigation. In this instance, the absence of a completed UU does not weigh against an approval.
22. The proposed removal of trees, works to some others and the inevitable disturbance to the established ground vegetation, would result in the permanent loss of some established woodland habitat¹⁴. I also note the

¹¹ Including the comings and goings of vehicles attracted to the site, domestic trappings and lighting.

¹² A package of mitigation measures is included within the LPA's European Sites Mitigation Supplementary Planning Document (SPD) dated July 2021.

¹³ Ref. APP/D0840/W/22/3293429

¹⁴ On behalf of the appellant, it has been calculated that there would be a net loss of 70m² of habitat.

contents of the other habitat and wildlife reports submitted on behalf of the appellant. Amongst other things, these indicate that the proposals would be unlikely to adversely affect any protected species. Furthermore, with appropriate new planting, sensitive site management, new bat roost provisions and bird nesting opportunities, the proposals have the potential to result in an overall modest net gain in biodiversity. Whilst this element of the proposals derive a limited measure of support from LP policy 23, when read as a whole, the overall impact of the development would be at odds with the thrust of the LPA's policy for the natural environment.

23. The LPA has informed me that it has in excess of a five year supply of land available for housing. However, this does not weigh against an approval and the proposed development would add to the choice and supply of housing within this part of Cornwall. It would also result in some limited economic benefits, such as support for the construction industry. Occupiers of the proposed dwellings would also be likely to support some local businesses and services. The new homes would be energy efficient and would include solar panels. The proposal would accord with the provisions of DPD policy RE1(3). In addition, the proposed dwellings would accord with the provisions of national and local planning policies that are aimed at achieving good architecture.
24. The site lies within an area of extensive historic metalliferous mining activity, including tin streaming. Evidence submitted with the application reveals that the site contains extensive mining remains, including tips, wheel pits, a stamps box, crib hut, cement buddles and adit outlets. The submitted Construction Phase Progression plan indicates that many of these relics would be retained in situ. As advised by the LPA's Archaeologist, an agreed programme of archaeological recording and monitoring (which could be secured by a planning condition) would provide suitable mitigation for these historic mining remains.
25. The appellant's geologist concluded that the risk associated with subsidence could be categorised as low and a piled raft foundation design would negate any settlement related defects to the proposed houses. This matter would also be capable of being addressed by way of a planning condition.
26. To limit flood risk, further site investigation would be necessary after site clearance works in order to aid the positioning of the foundations / piles. This matter could also be the subject of a planning condition on any approval.

Conclusion

27. My findings in respect of the 'other matters' above do not overcome or outweigh my findings in respect of the main issue. Whilst I have found that elements of the proposal would accord with some aspects of the development plan, when the plan is read as a whole, the proposal would be in conflict. The proposal would also conflict with the aims of the Framework.
28. Having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector