



Appeal Decision

Site visit made on 22 August 2023

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Appeal Ref: APP/D0840/W/23/3315691

Pentrelew, Penarrow Road, Mylor Churchtown TR11 5UD

- 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 C McLaren against the decision of Cornwall Council.
 - The application Ref PA22/06689, dated 19 July 2022, was refused by notice dated 14 December 2022.
 - The development proposed is described as construction of single storey eco self build dwelling in garden of Pentrelew.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Cornwall Council against Mr C McClaren. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal is made in outline with the matters of access, scale and layout to be considered now. I have therefore assessed the submitted drawings as merely illustrative insofar as they relate to the reserved matters of appearance and landscaping.
4. 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

5. The main issues are:
 - whether the proposed development would be in an appropriate location, having particular regard to the character and appearance of the surrounding area, accessibility and development plan policies; and
 - whether the proposed development would provide safe and suitable access to the highway, with particular regard to the visibility splay to the west.

Reasons

Location

6. The appeal site is situated at one end of a line of residential properties. Those properties are relatively well screened from the highway by boundary treatment, including mature trees and soft landscaping. Despite the site being accessible from the adjoining property via a gate in the boundary hedge, the significant trees on the shared boundary mean that it is visually and physically distinct from Pentrelew. Although now forming part of that property's garden, as confirmed by a certificate of lawful use, the site – which is visible through the existing gateway – looks like a field/meadow and its clear separation from Pentrelew means that it reads as relating to the countryside despite the seating area and mown paths. Its generally undeveloped nature also positively contributes to the rural character and pastoral appearance of the surrounding area, which falls within the AONB South Coast Central section and includes, amongst other aspects, open mixed farmland on the undulating plateau.
7. The properties adjoining the site are set in a broadly linear arrangement along Penarrow Road. It has been put to me that the site is within a defined linear hamlet, with the properties recorded in the first and second editions of OS mapping for the area. Although there is no absolute definition provided, Policy 3 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP) and the Chief Planning Officer's Advice Note (Infill/Rounding Off) provide various pointers, including that services and facilities are not a prerequisite.
8. However, rather than forming a tight cluster with an urban form, the adjoining properties are relatively well spread out. Despite the appellant listing several property names in its response to the Parish Council's comments, the submitted evidence also indicates that there are only four of them. As such, irrespective of their form, shape and boundaries, the properties in the vicinity of the site constitute a dispersed straggle of low-density development and do not read as forming a hamlet. That the properties are lived in as permanent buildings and there are settlements in the surrounding area do not lead me to a different conclusion. The submitted OS map does also not give the properties a collective name, unlike nearby Tregew for example. In addition, despite the reference to Mylor Churchtown in the postal address, the degree of separation means that the site is not within that settlement.
9. The site cannot therefore reasonably be described as being situated within or immediately adjoining a settlement. It is therefore situated in what the CLP defines as open countryside and the delivery of the proposed dwelling via part three of CLP Policy 3 is thus not applicable in this instance. The main parties' submissions on the aspects of rounding off, infill and development of previously developed land under the terms of part three of CLP Policy 3, and 'other development within a settlement', are therefore not determinative as to the proposal's acceptability. The site's status as garden land does not change this.
10. The site is outside the settlement boundaries of Mylor Bridge and Flushing, as defined in the Maylor Parish Neighbourhood Development Plan 2020-2030 (NDP). The available evidence indicates that the proposed development would not meet the terms of either CLP Policies 7 or 9 and the scheme has not been put forward as such. Accordingly, it is not supported by NDP Policies H1 and H2. The Council's approval of new housing in Mylor Churchtown and at

Polpever for example do not change this. However, given the wording of NDP Policies H1 and H2, the proposal does not actually conflict with them.

11. Although forming part of the domestic garden of Pentrelew, the erection of a new dwelling on the site would lead to additional residential built form in the open countryside. Despite not being a significant distance to Flushing and Mylor Churchtown, the site's location – remote and physically separate from these nearest settlements – means that the proposal would also result in the development of an isolated home in the countryside.
12. The presence of mature trees on the eastern boundary physically and visually separates the site from Pentrelew and the other nearby buildings. Despite its use, the site thus reads as forming part of the wider rural undeveloped, open fields. Rather than forming part of the built residential context, the appeal proposal would therefore appear as an incongruous encroachment of development into the agricultural landscape. Consequently, it would have a suburbanising presence which would erode the character and appearance of the locality and would fail to preserve the AONB's landscape and scenic beauty.
13. In coming to this view, I have taken into account that the proposed development's scale means it would be subservient to nearby properties and that it could be finished in suitable, recessive materials. That the site is enclosed by mature boundary hedging and trees and, forming part of the garden of Pentrelew, is said to meet the Framework definition of previously developed land do also not lead me to a different conclusion.
14. With boundary hedges and trees limiting views of the site from the surrounding area, the proposed development would – subject to detailed design at reserved matters stage – not be particularly visible in long distance views, especially given its single-storey scale and that additional (and retention of existing) landscaping could be secured at reserved matters stage. However, the site is clearly visible in public views through the existing gateway. I observed on my visit that glimpses of the site are also possible through the southern boundary hedge and it seems to me that, even with additional soft landscaping, such views would likely increase during winter when some trees may not be in leaf.
15. The distances and highway conditions to larger settlements in the wider area, such as Mylor Bridge and Penryn, would make walking to them from the site an unviable option. However, opposite the site is a hard-surfaced footway that runs along the highway. Although that footway does not run all the way to Mylor Churchtown and it intermittently stops and re-starts between the site and Flushing, I observed on my visit that the sections of highway with no separate footway to Flushing are short and have reasonable visibility. Despite the lack of street lighting for much of the route, future occupiers of the proposed development would therefore have the option of walking to the various services and facilities in Flushing during the day at least.
16. I recognise that the walk may be too long for some people. It seems to me that the site also cannot reasonably be described as being, in the words of NDP Policy H4, within easy walking distance of the main settlements of Mabe Parish, particularly for those with reduced mobility. However, there are bus stops closer to the site (in Tregew) and these would provide future occupiers with access to Flushing and other larger settlements via public transport. Although the current schedules are relatively limited, the available evidence indicates that there are several buses a day, most days of the week. Accordingly, while

the private vehicle may provide the main mode of transport to services and facilities in the locality, it would not be the sole option.

17. Nevertheless, for the above reasons, I conclude that the proposed development would not be in an appropriate location, having particular regard to the character and appearance of the surrounding area and development plan policies. I therefore find that it does not accord with CLP Policies 2, 3, 7, 12 and 23 and NDP Policies L1 and L2. Amongst other aspects, these set out the Council's spatial strategy and approach to the delivery of housing, require development to respect quality of place, maintain natural character, conserve and enhance the landscape character and natural beauty of the AONB and not adversely impact AONB landscape characteristics and panoramas. The proposal would also be inconsistent with the provisions in the Framework in relation to rural housing, achieving well-designed places and conserving and enhancing the natural environment.
18. The Council's Officer Report alleges a conflict with CLP Policy 21 in relation to accessibility. However, although I have found that future occupiers of the proposed development would not be wholly reliant on the private vehicle to access services and facilities, the harm that would arise to the character of the surrounding area means that the appeal proposal would not appropriately increase building density and thus cannot be described as making best or efficient use of land. As such, even though the site is used as a garden, it is also not supported by CLP Policy 21.
19. The Council also alleges a conflict with CLP Policy 1. However, my attention has not been drawn to any words in it that are relevant to this main issue. The policy has therefore not been determinative.

Highway safety

20. Access to the proposed development would be via the existing gateway. Situated behind a verge and in-line with the boundary hedge/wall, the existing gate is well set-back from the highway. Although there is good visibility to the east, the submitted visibility splay plan (drawing 005A) shows limited visibility to the west. For drivers exiting the proposed development, that plan shows that views of highway users approaching from the west would be restricted in a section of carriageway between the immediate vicinity of the site access and the bend in Penarrow Road. The submitted evidence indicates that this is due, in part, to vegetation on the verge.
21. The verge had been cleared at the time of my site visit and this appeared to improve the level of visibility compared to that shown on the submitted visibility splay. Nevertheless, I observed a stretch of the northern side of carriageway to the west of the site which, although seemingly shorter than that shown on the submitted visibility splay plan, would still not be particularly visible for exiting drivers.
22. The visibility splay plan has also not been updated to reflect the cleared verge. The submitted evidence does therefore not confirm whether the clearance of the verge has improved visibility sufficiently and what the resulting visibility splay to the west would be if the verge were to be maintained in that state. However, even if the verge clearance has improved visibility compared to that shown on the submitted visibility splay, drivers exiting the site would still have

to look towards the bend in Penarrow Road to see approaching highway users at any sort of distance.

23. It seems to me that relying on glimpsing an approaching highway user on the bend before it enters the stretch of non/less-visible highway introduces a risk that an approaching vehicle could be missed by a driver exiting the site. Furthermore, the bend, which is not particularly far from the site access, limits the overall distance available to see approaching highway users; and the submitted evidence indicates that this distance – even though the gateway and access already exists – is insufficient in this instance, particularly given the national speed limit on the relatively well-trafficked highway. Even if there would be no need to undertake extensive engineering works to remove the boundary hedge/wall fronting the highway, the possibility of reducing vegetation on it would not change this, but may introduce further issues relating to the proposal's effect on the AONB.
24. In coming to this view, I have taken into account that the guidance in Manual for Streets (MfS) predominantly relates to new residential streets. That other appeal proposals referenced in the appellant's costs response (which appear to be in very different contexts) have been allowed despite not meeting the standards does also not lead me to a different conclusion.
25. For the above reasons, I conclude that the proposed development would not provide safe and suitable access to the highway, with particular regard to the visibility splay to the west. I therefore find that it does not accord with CLP Policy 27. Amongst other aspects, this requires development to provide safe and suitable access. The proposal would also be inconsistent with the provisions in the Framework in relation to promoting sustainable transport.

Other matters

26. The appeal site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC). In combination with other plans and projects, the addition of residential units within this area would be likely to have a significant effect on the SAC's internationally important interest features due to increased recreational disturbance. Appropriate mitigation needs to be secured for such development in accordance with CLP Policy 22 and the appellant has produced a section 111 undertaking and made the relevant mitigation payment. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it would not lead me to a different decision.
27. Three properties in the vicinity of the appeal site – Pentrelew, Tysillick and Parc Veau – are grade II listed buildings. Dating from the 19th century, their significance stems from, amongst other aspects, their historic form and appearance; and their rural situation set within mature trees and landscaping. The Council does not allege that the development would have an adverse effect on the listed buildings or their settings. With appearance and landscaping being reserved matters, detailed design at that stage could ensure the proposed development suitably reflects its historic context. On this basis and the intervening physical and visual separation provided by mature trees and soft landscaping, I have no reason to disagree with the Council. Accordingly, I am satisfied that the appeal scheme, as an outline planning proposal, would preserve the listed buildings' significance as designated heritage assets, including in relation to their settings and any features of special architectural or historic interest which they possess.

Planning Balance

28. I have found that the proposed development would not be in an appropriate location, having particular regard to the character and appearance of the surrounding area and development plan policies, and would not provide safe and suitable access to the highway. On the basis of the submitted evidence and the proposal not according with various CLP and NDP policies, this leads me to conclude that it conflicts with the development plan as a whole.
29. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. The Act sets out the relevant protected characteristics, which includes age and disability. Since there is the potential for my decision to affect persons with protected characteristics, I have had due regard to the three principles set out in Section 149 of the Act.
30. In dismissing the appeal, the appellant would not obtain planning permission for the accessible lifetime home they wish to construct in their garden in order to meet their current and future needs. This would mean either remaining to live in Pentrelew or moving to a more suitable property elsewhere. However, the available evidence indicates that Pentrelew, which for example includes steps between the various different levels on each of the ground- and first-floors, is not suitable for the appellant given their worsening condition and that altering it would not be sufficient to meet their needs. Alterations may also be problematic given its listed status. Furthermore, having lived in the area for 14 years and thus having established life in the community with friends, community activities and volunteering, the appellant wishes to stay in the area.
31. Although looking for an alternative house with level access in the locality for some time, the appellant has so far not been successful in finding something suitable. It has also been put to me that insufficient accessible dwellings are being delivered in Cornwall. The appeal proposal is therefore an attempt to resolve this, allowing the appellant to remain in the area in a home suitable for their needs. In future, the proposed dwelling would also become available for other people with similar needs. These matters attract significant weight.
32. However, having due regard to this and to the need to eliminate prohibited conduct (including discrimination), advance equality of opportunity and foster good relations, the adverse impacts of dismissing the scheme on those with protected characteristics would still be justified and the decision would be necessary and appropriate having regard to the requirements of the adopted development plan. Dismissing the appeal would thus not have a detrimental impact that would amount to discrimination. Furthermore, with regard to appellant's understandable wish to stay in the area, I have little substantive evidence that the appeal site provides the only option and that new accommodation of the required nature but which accords with the adopted development plan could not be provided elsewhere in the locality.
33. Chapter 4 of the NDP sets out that it is based on the views of the community to ensure that residents of all ages can thrive in the area. Amongst other things, it details that more housing, including affordable housing and appropriate homes for the elderly and those with specific needs, is needed to achieve this. NDP Policy H4 also sets out that the ability of people to remain within their existing community as they grow older is important. Although the appeal proposal broadly aligns with these objectives, the site is not within easy

walking distance – particularly for those with reduced mobility – of the main settlements of Mabe Parish. Accordingly, the proposed development is not supported by part c of NDP Policy H4.

34. As a self-build windfall dwelling, the proposed development would add to the mix and supply of housing in the area. It would support the objectives of the Council's plan (Securing Homes for All) to address Cornwall's Housing Crisis, with the proposed development helping the Council react to the housing crisis by assisting in the delivery of extra housing for the district, which is in high demand but in limited availability. The appeal proposal would provide a fully accessible property which would not harm the living conditions of adjoining occupiers and would meet the appellant's current and future needs as well as others' needs in the future, as supported by the Framework. It would also allow the appellant to remain living in the community and free up Pentrelew for others. In addition, construction of the proposed dwelling would generate some construction-related employment whilst future occupiers' use of local services and facilities would support the network of settlements in the surrounding area and the vitality of the rural community. Described as an eco dwelling, the proposal would also incorporate low carbon technologies.
35. However, given the scale of the development, the social, economic and environmental benefits would be relatively limited. Although the Council has declared a Housing Crisis, adopted development plan policies regarding the delivery of housing in the district have not changed. The submitted evidence also indicates that there is a sufficient supply of housing land and the local housing target for the area is being met without the need for further windfall sites. Consequently, I find that the above matters outweigh neither the harm I have identified nor the conflict with the development plan. In coming to this view, I have taken into account the alleged lack of accessible homes currently available, under construction or approved by the Council (such as those on the edge of Falmouth and Truro) and that some 25% of residents in Cornwall are said to be disabled and need accessible homes. The site being brownfield or previously developed land, and which is said to be underused, does also not lead me to a different conclusion.

Conclusion

36. The appeal proposal conflicts with the development plan read as a whole and there are no material considerations which carry sufficient weight to warrant a decision otherwise than in accordance with it. The appeal is therefore dismissed.

T Gethin

INSPECTOR