



Appeal Decision

Site visit made on 3 October 2023

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2023

Appeal Ref: APP/D0840/W/23/3316342

Land at Eastcliff, Porthtowan, Truro TR4 8AW

- 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 Supersounds UK Limited against the decision of Cornwall Council.
 - The application Ref PA22/04326, dated 6 May 2022, was refused by notice dated 9 August 2022.
 - The development proposed is the construction of two detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's third reason for refusal related to harm to the integrity of the Penhale Dunes Special Area of Conservation as a result of the proposed development. During the appeal, the appellant has made an appropriate financial contribution towards measures to mitigate the harm. The Council has confirmed that this reason for refusal has been addressed.

Main Issues

3. The main issues are:
 - a) Whether the site is suitable for the development, bearing in mind the settlement policies of the development plan and its effect on the character and appearance of the area; and,
 - b) The effect of the development on the living conditions of the occupants of 'Towan', 'Casita' and 'Pensilva' with regard to privacy and outlook.

Reasons

Settlement policies/character and appearance

4. The Council's settlement strategy is set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (the Local Plan). It seeks to maintain the dispersed development pattern of Cornwall, and provide housing based on the role and function of each place. Policy 3 of the Local Plan defines how development will be accommodated, based on this hierarchy of role and function. Outside a list of identified main towns, which does not include Porthtowan, housing growth is to be delivered through the identification of sites through Neighbourhood Plans; rounding off of settlements; development of previously developed land (PDL) within or immediately adjoining settlements; infill schemes; and rural exception sites.

5. The development would not comprise infilling, as it would not fill a gap in an otherwise continuously built-up frontage, and the proposal is not being presented as an exception site. Furthermore, the appeal site is not identified for development by the St Agnes Parish Neighbourhood Development Plan 2018-2030 (the Neighbourhood Plan). The site lies outside the Neighbourhood Plan's Settlement Boundary, wherein Policies 1 and 7 support development, including small scale "infill" housing schemes. However, neither of these Policies places a blanket exclusion on development outside the Settlement Boundary, so they do not preclude proposals that comply with Policy 3 of the Local Plan. Consequently, the proposal would accord with the settlement policies of the development plan as a whole, if it constituted rounding off, or development of PDL within or immediately adjoining a settlement.
6. Rounding off is defined at paragraph 1.68 of the Local Plan as development on land that is substantially enclosed, but outside of the urban form of a settlement, and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth. Furthermore, it should not visually extend building into the open countryside. Further guidance is contained in the Chief Planning Officer's Advice Note of December 2017 (the CPOAN) titled Infill/Rounding Off, which both parties have referred to. This note advises that rounding off provides a symmetry or completion to a settlement boundary, and is not intended to facilitate continued incremental growth. It says that proposals must be adjacent to existing development, and that suitable sites are likely to be surrounded on at least two sides by existing built development.
7. It is contended that the proposal would constitute rounding off, as the site abuts the Settlement Boundary on two sides, and the other two boundaries comprise a residential curtilage and a steep hillside. However, the dwellings to the southwest are at a considerably lower level, such that their roofs are below the level of the site. The dwellings to the northwest are on the opposite side of a lane, and beyond a substantial hedgerow. Although the site to the northeast has a lawful use as a residential curtilage, it is largely open, and does not accommodate any substantial buildings. Furthermore, there is no evident boundary feature separating the slope of the appeal site from the rest of the hillside to the southeast. As a result of all of these factors, the site has an open appearance, and cannot reasonably be described as substantially enclosed.
8. From viewpoints to the south and southwest, the appeal site is seen as part of an extensive hillside covered in scrubby growth, which extends right down to the beach. This coastal slope surrounds Eastcliff, separating it from the tongue of residential development in the valley bottom, and linking in with the open coastal plateau to the northeast. The enclave of housing at Eastcliff is, therefore, seen as an isolated group of buildings surrounded by open countryside. As the appeal site is not substantially enclosed, it appears to be part of this wider area of countryside from most vantage points. Consequently, the proposed dwellings would visually extend building into the open countryside.
9. It is contended that the proposal would provide symmetry with the development on the opposite side of the lane, and result in a more comprehensible edge to the settlement. However, whilst there is residential development to the southwest and northwest, there are no substantial physical features to the other two boundaries to act as a barrier to further development. Consequently, the development could give rise to further proposals for

rounding off on land to the northeast and southeast. It would not, therefore, provide completion to the settlement boundary and could facilitate continued incremental growth, at odds with the advice in the CPOAN.

10. The above considerations lead me to the conclusion that the proposal would not constitute rounding off for the purposes of Policy 3 of the Local Plan. Even so, the appellant contends that the site is PDL, and that the proposal is therefore supported by Policies 3 and 21 of the Local Plan, which allow for residential development on such land within or immediately adjoining settlements.
11. The National Planning Policy Framework (the Framework) defines PDL as *land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure*. The words “permanent structure” are not defined in the Framework, but in common parlance they would connote a building. There are no buildings on the appeal site, only a hard-surfaced driveway along its southwestern edge, which provides access to Casita and Pensilva. Even if the driveway were considered to be a permanent structure, the larger part of the site, where the dwellings would be sited, could not reasonably be described as being within its curtilage. Consequently, I find that the proposal would not involve the provision of dwellings on PDL, so would not derive support from Policies 3 or 21 of the Local Plan.
12. The site lies beyond the existing limits of the built development of the settlement, and forms part of the open swathe of countryside that surrounds Eastcliff. The proposal does not comprise any of the types of new housing that are supported by Policy 3 of the Local Plan. Consequently, it would constitute residential development in the countryside. Policy 7 of the Local Plan says that development of new homes in the countryside will only be permitted where there are identified special circumstances, none of which apply in this case. The proposal would, therefore, be contrary to the settlement policies of the development plan.
13. The appeal site forms part of the undeveloped rugged coastal slope that surrounds Eastcliff, and forms part of Porthtowan’s dramatic coastal scenery. This headland, together with that on the opposite side of the bay, frame views of the beach and provide the village with a spectacular landscape setting. Whilst not within a nationally designated landscape, the site does lie within the Heritage Coast. Within this area, Policy 23 of the Local Plan says development should maintain the character and distinctive landscape qualities of the area.
14. Being located on an open coastal slope, the proposed dwellings would be very prominent in views from Coast Road to the south. The development would be seen in juxtaposition with the existing dwellings in Eastcliff, and would be at a lower level than many of them, such that from most viewpoints they would not break the skyline. However, they would consolidate and extend this prominent group of buildings, adding to the impact they have on the otherwise exposed natural scenery of the headland. The development would also eat into the gap between this isolated pocket of buildings and those at the bottom of the slope. This would weaken the link between the coastal slope to the southwest of Eastcliff and the open plateau to the northeast, diminishing the contribution it makes to the landscape setting of the settlement.

15. The dwellings would be of a simple contemporary form, with timber-clad exterior walls. Their design would not, of itself, be harmful, as there is no distinct character to the group of buildings at Eastcliff. However, the extensive excavations and retaining structures that would be necessary to accommodate the buildings and access/parking areas would have a significant urbanising impact on the landscape. Furthermore, their full two-storey height would not be characteristic of the surrounding buildings, and would be readily evident in southerly views. Their apparent bulk would be emphasised by the land sloping down away from them. Consequently, they would be a more strident feature in the landscape than the existing dwellings in the cluster, many of which are modest bungalows or houses built along the contours of the hillside. There would be little scope for any meaningful landscaping in the south-eastern corner of the site to soften these views, and any such planting would, in any event, be incongruous given the open character of the coastal landscape.
16. To conclude on this issue, the proposal would not constitute rounding off or the development of PDL. It would visually extend built development into the countryside leading to harm to the character and distinctive landscape qualities of the Heritage Coast. The development would, therefore, be contrary to Policies 2, 3, 7, 12 and 23 of the Local Plan, and Policies 6 and 10 of the Neighbourhood Plan which, taken together, seek to achieve sustainable development, by delivering new dwellings in accordance with the settlement hierarchy, avoiding new houses in the countryside, and protecting landscape character.

Living conditions

17. Pensilva and Casita lie close to the access drive along the southwestern boundary of the site, but are at a significantly lower level. Both are single storey on this elevation, with their eaves at, or below, the level of the drive. Their roofs slope up away from the site, and do not contain any dormer windows or rooflights. The windows in the rear walls of these dwellings face the retaining bank that supports the driveway at close quarters, so have little outlook. The presence of planting on top of this wall means that there is little, if any, visibility of the appeal site from these windows. The land between the dwellings and the driveway is largely steep, or taken up by car-parking and stepped accessways, so is not readily used for outdoor recreational purposes by the occupants of the dwellings. Consequently, both of these dwellings are reliant on windows and gardens to their southerly aspect for outlook and private outdoor space.
18. Tolvarne is set further away from the driveway, but is still orientated with its main windows and outdoor amenity space to the south. It is also at a considerably lower level, and has a substantial hedge to the driveway boundary, which effectively screens views of the appeal site from any windows in its rear elevation.
19. The proposed dwellings would be considerably higher than those to the south, with large areas of glazing and balconies on the south-facing gables. The sectional drawings show that the ground floor level of Unit 2 would be roughly the same as the ridge of Pensilva. As there would only be about ten metres between these two buildings, there is clearly potential for dominance and overlooking. However, as Pensilva is so close to the retaining bank, there would be little, if any, intervisibility between windows. Furthermore, the occupants of

Pensilva are not reliant on the land to the north of the dwelling for their main outdoor amenity space, or for outlook from principal rooms. Consequently, the presence of the dwellings would not significantly affect their living conditions.

20. Similar considerations apply to the relationship between the proposed dwellings and Casita and Tolvarne, although in these cases there are greater distances between the buildings. Overall, the main outlook for existing occupants is to the south, and this would be unaffected by the proposal. Due to the topography and hedge screening, there would be little overlooking of the windows in the rear elevations of the dwellings. The proposed dwellings would be a rather dominant presence when viewed from the driveway, but would not significantly affect the living conditions of occupants from within their dwellings, or when using their main outdoor amenity spaces.
21. I therefore conclude on this issue that the development would not have a harmful effect on the living conditions of the occupants of 'Towan', 'Casita' and 'Pensilva', with regard to privacy and outlook. The proposal would, therefore, accord with Policies 1, 2 and 12 of the Local Plan insofar as they seek to protect individuals from loss of privacy, overshadowing and overbearing impacts.

Planning Balance

22. Paragraph 60 of the Framework seeks to significantly boost the supply of homes, and Section 11 promotes the effective use of land to provide dwellings. The development would provide two houses, which would assist with these aims, and would be a benefit of the proposal. However, as I have found that the site does not lie within the settlement, this benefit does not attract the great weight applied by paragraph 69 of the Framework.
23. There would be economic benefits associated with the construction phase of the development, and the future spend by occupants in the local area. Occupancy of the dwellings by permanent residents would help to support the services and facilities in Porthtowan. However, due to the relatively small scale of the proposal, these benefits would be modest, so the weight I give them is limited.
24. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The limited benefits associated with the proposal do not outweigh the conflict that I have found with the settlement policies of the development plan, and with the development plan policies that seek to prevent harm to the character and distinctive landscape qualities of the Heritage Coast.

Conclusion

25. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR