



Appeal Decision

Site visit made on 27 September 2023

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal Ref: APP/D0840/W/23/3319816

Land adjacent to 1 Woodland Court, Truro, Cornwall TR1 1XT

- 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 J Street against the decision of Cornwall Council.
 - The application Ref PA22/07287, dated 9 August 2022, was refused by notice dated 4 October 2022.
 - The development proposed is described as construction of an infill dwelling on vacant plot in residential location.
-

Decision

1. The appeal is allowed and planning permission is granted for an infill dwelling at Land adjacent to 1 Woodland Court, Truro, Cornwall TR1 1XT in accordance with the terms of the application, Ref PA22/07287, dated 9 August 2022, and subject to the conditions set out in the schedule to this decision.

Application for costs

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

Preliminary Matters

3. It has been put to me that the appeal site has recently been cleared, including removal of various trees and vegetation, a pond and part of the historic wall. Whilst I acknowledge the various concerns related to this and that the site was previously part of the garden of 1 Woodland Court (No 1), I have little substantive evidence that such actions were prohibited or required permission. The Council has also not indicated otherwise. I have therefore determined the appeal on the basis of the existing situation and the submitted evidence.
4. I have amended the description of development used in my decision from that set out in the banner heading above, which has been taken from the planning application form. The amended description leaves out wording that is unnecessary to describe the development.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area;
 - the living conditions of adjoining occupiers, with particular regard to overlooking of the rear gardens of Monterey Gardens; and
 - designated nature conservation sites.

Reasons

Character and appearance

6. Previously forming part of the garden of No 1, the site is now a separate corner plot fronting Tremorvah Wood Lane (the Lane) and Woodland Court. At the time of my site visit, it contained some rubble and existing vegetation had clearly recently been cut back. The surrounding area contains a variety of built form, including the Woodland Court development with its distinctive design and more conventional terraced properties on Monterey Gardens. The presence of mature trees and the set back of properties in the locality, often behind fences/walls and planting, provide the built-up area with a leafy suburban character and verdant appearance. Although the site contributes to this and the area's pleasant balance between the built environment and soft landscaping, it reads as an overlooked, vacant parcel of land. I also observed on my site visit that some corner plot properties have a lesser set back, with for example the sides of 1 Monterey Gardens and 20 Woodland Court – which are seen in the same context as the site – extending closer to the Lane and public right of way leading to Tregolls Road respectively.
7. The proposed development would bring built form closer to the Lane, which is a well-used through route for pedestrians. Although the side elevation would be relatively close to it, the submitted plans show the proposed dwelling would not be flush with the boundary. Furthermore, there would be space, despite the lay-by, for soft landscaping between the side of the dwelling and the footway. The presence of other nearby properties extending closer to the highway/footway means that the appeal proposal would also not read as an incongruous feature out of keeping with the locality's urban grain and pattern. In addition, with accommodation being provided in its roof, the height of the proposed 1.5 storey dwelling would not be significant. Combined with its pitched roof and main south-west elevation not being particularly long, the proposed dwelling would therefore not appear as a dominating or unacceptably prominent feature from the Lane. The space around the dwelling, similar to that of other properties in the locality, would also provide sufficient scope for planting to the front and rear (and side) to maintain the area's verdant nature.
8. The proposed dwelling would be set further back within its plot than No 1. However, its position would provide a suitable sense of openness for a corner plot and scope for more soft landscaping at the front than if it aligned with No 1. Its set back position would also reflect that of 5 Woodland Court, at the other end of the terrace. Although the submitted evidence indicates that the proposed ridge height would not continue the step down of 1-5 Woodland Court towards the Lane, the proposed ridge would be lower than No 1's main ridge and only marginally higher than No 1's lower ridge. I also observed on my site visit that the existing step down neither appears as an obviously critical design feature nor a particularly conspicuous or important element in the streetscene.
9. On the basis of my findings above and with the proposed dwelling's design also reflecting the existing Woodland Court properties, it would therefore read as a suitable infill scheme that would sufficiently integrate into its surroundings and respect its setting. The site's position outside the historic wall and the set back of Nos 1, 9, 10 and 21 Woodland Court from the Lane, which is consistent but not conspicuous in public views due to the high wall running along the Lane, do

not lead me to a different conclusion. In coming to this view, I have also taken into account the Council's powers to require landowners to tidy their properties.

10. Consequently, I conclude that the proposed development would not harm the character and appearance of the surrounding area. I therefore find that it accords with Policy 12 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP) and Policy E4(a) of the Truro & Kenwyn Neighbourhood Plan Revision (NPR). Amongst other aspects, these expect development to maintain character, reflect the context and provide continuity with existing built form, and be of an appropriate scale and layout with a high-quality design. The proposal would also be consistent with the provisions in the National Planning Policy Framework (Framework) in relation to achieving well-designed places and the guidance in the Council's Cornwall Design Guide and Chief Planning Officer's Advice Note: Good Design in Cornwall.

Living conditions

11. Whilst the submitted evidence indicates that the window-to-window distance to 1 and 2 Monterey Gardens (Nos 1-2) would be acceptable, the proposed dwelling would be situated relatively close to the shared boundary with those properties. The appeal proposal could therefore result in overlooking of those properties' rear gardens, with any resulting loss of privacy harming the living conditions of the existing occupiers.
12. However, although the distance to the shared boundary would be approximately 9.5-10 metres, on my site visit I observed outbuildings in the rear gardens of Nos 1-2 along with walls and soft landscaping separating the site and those plots. These would significantly restrict potential overlooking from the proposed first-floor rear windows (irrespective of the window design) and prevent overlooking of the rear gardens of Nos 1-2 from the proposed development's ground-floor rear windows and garden. This is also a residential area with several dwellings located in relatively close proximity. As such, a certain degree of mutual overlooking would not be unusual. Indeed, my attention has been drawn to the similarly limited distance between 5 Woodland Court and the rear boundary it shares with Monterey Gardens properties.
13. Accordingly, and subject to a condition securing full details of proposed soft landscaping and boundary treatment on the site, I am satisfied that the appeal proposal would not result in an unacceptable loss of privacy for adjoining occupiers. Any perception of being overlooked that might arise does not lead me to a different conclusion.
14. For the above reasons, I conclude that the proposed development would not harm the living conditions of adjoining occupiers, with particular regard to overlooking of the rear gardens of Monterey Gardens. I therefore find that it accords with CLP Policy 12. Amongst other aspects, this requires development to protect individuals and property from overlooking and unreasonable loss of privacy. It would also be consistent with the provisions in the Framework in relation to providing a high standard of amenity for existing users.

Designated wildlife sites

15. The appeal site is within the zones of influence of the Fal and Helford Special Area of Conservation (SAC) and Penhale Dunes SAC. The submitted evidence, including the Council's European Sites Mitigation Supplementary Planning

Document (SPD, July 2021), indicates that certain types of development, including all new housing, within 12.5 kilometres of the SACs add to increasing recreational impact at the designated sites, which have been identified as vulnerable to such threats. Alone and/or in-combination with other relevant development in the area, the proposed development would therefore be likely to have a significant effect on the SACs. Accordingly, under the Conservation of Habitats and Species Regulations 2017, Appropriate Assessment of the implications of the project for the designated sites in view of their conservation objectives is required. In accordance with CLP Policy 22, appropriate mitigation would, where necessary, also need to be secured.

16. The qualifying features of the Fal and Helford SAC include saltmarsh, intertidal mudflats and sandflats, subtidal sandbanks, large shallow inlets and bays including habitats such as reefs and rocky shores, estuaries, and Atlantic salt meadows and shore dock. The qualifying features of the Penhale Dunes include dunes with creeping willow, humid dune slacks, grey and white dunes, early gentian, petalwort and shore dock. The conservation objectives for both sites seek to ensure that their integrity is maintained or restored and that the sites contribute to achieving the Favourable Conservation Status of the Qualifying Features by maintaining or restoring the: extent and distribution of qualifying habitats and habitats of qualifying species; structure and function of qualifying natural habitats and the habitats of qualifying species; supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; and the populations and distribution of qualifying species.
17. The available evidence indicates that without mitigation it would not be possible to ascertain that the development proposed would not adversely affect the integrity of the SACs through the effects of increased recreational impacts on their interest features. However, the SPD sets out that the adverse effects of development can be mitigated by managing access to or within the SACs, managing visitor behaviour near and within them, and making the designated sites more resilient to recreational pressure. Collectively, these are known as Strategic Access Management and Monitoring (SAMM).
18. Unless developers choose to provide their own mitigation measures, the SPD indicates that such mitigation can be strategically led through a SAMM plan, which has been drawn up and costed for both SACs, is funded by financial contributions from relevant development and delivered by the Council. The SPD identifies that developers can make use of the strategic mitigation by providing a financial contribution towards SAMM.
19. Based on the submitted evidence, the securing of the necessary mitigation would be sufficient to mitigate the effects of the development on the designated site. In this instance, the appellant has submitted a section 111 Undertaking covering the contribution required for both SACs and has already made the necessary payment, as confirmed by the submitted receipt. The evidence before me also indicates that the contribution would be used for the intended purpose and that the mitigation would be implemented in a timely manner via the SAMM plans and in-line with the measures set out in the SPD.
20. I am therefore satisfied that the financial contribution, as detailed in the Undertaking and already made to the Council, is sufficient to mitigate the effects of the development on the designated sites. Confirming this, Natural

England indicate that the mitigation would ensure the development would not adversely affect the integrity of the European Sites and their relevant features.

21. On this basis and following consultation with Natural England, I am able to ascertain, as the competent authority undertaking Appropriate Assessment, that the integrity of the designated sites would not be adversely affected by the proposed development. Consequently, I find that the appeal proposal accords with CLP Policy 22 and NPR Policy E1 (which sets out that development which would cause an adverse effect on any European site will not be permitted). The proposal would also be consistent with the provisions in the Framework in relation to conserving and enhancing the natural environment.

Other matters

22. The historic wall, an attractive feature in the locality and retained as part of the Woodland Court development, is identified by the Council as a non-designated heritage asset. Its significance stems from, amongst other aspects, it being a historic remnant of a walled garden associated with the listed Alverton Manor and its method of construction. However, with part of the wall on the site having now been demolished, the Council indicate that its significance has been diminished and the appeal proposal has not been identified as harming the non-designated heritage asset or conflicting with relevant policies in the adopted development plan or Framework. With the part of the now-removed wall forming what was the most visible section on the site, and given that the demolition has already been carried out, I have no reason to disagree.
23. The site is located near to the Truro Conservation Area, which is significant for, amongst other aspects, its architectural and historic interest stemming from the variety of historic streets and buildings in the city's historic core. However, given my findings above and the separation provided by existing built form, the appeal proposal would not harm its setting. With the degree of separation and the presence of intervening built form, the proposal would also not affect the settings or significance of the grade II* listed Alverton Manor or the grade II listed former stable block.
24. A number of other matters have been raised by interested parties and I have taken them all into account. Those related to planning include: loss of daylight and overshadowing of Nos 1-2 and their relatively small gardens; the effect of the proposal on daylight, sunlight, space and privacy for other occupiers in the locality; noise disturbance and pollution; flood risk; highway safety issues, including in relation to increasing traffic movements, construction works, parking issues and the location of the proposed vehicular access and parking area on the junction; the Lane providing a pedestrian route to various services and facilities, including a primary school, hostel and care home; the effect on wildlife, including from the loss of planting and habitats on what was previously a wildlife garden; the community having spoken out against this and various recent similar proposals on the site, and the Council's planning committee having considered and refused the scheme in the first instance; the developer removing part of the wall and planting to overcome previous reasons for refusal; the remaining wall being dangerous; extra demands on local services and utilities; the site not being built on when the street was constructed; and setting a precedent. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these

matters. Consequently, they do not lead me to a different conclusion that the appeal should be allowed. Some of the issues raised, such as regarding construction works and wildlife, can also be covered by planning conditions.

Conditions

25. I have had regard to the various suggested planning conditions and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, for clarity and consistency, and to ensure that details are submitted for the Council's approval where relevant.
26. In addition to the standard time limit condition, I have imposed a condition requiring the carrying out of the development in accordance with the approved plans in the interests of certainty. Given the position and constrained nature of the site, a pre-commencement condition securing the provision of a construction method statement is necessary and reasonable in the interests of the safe and efficient operation of the highway and the living conditions of existing residents. A landscaping condition is also necessary in the interest of the character and appearance of the surrounding area and the living conditions of adjoining occupiers. It is a pre-commencement condition because details relating to the protection of retained trees and hedgerows during construction are needed prior to works commencing.
27. A condition relating to the external materials of the dwelling is necessary in the interests of the character and appearance of the surrounding area and to ensure that the materials reflect those used in the Woodland Court development. A condition relating to the provision of bat boxes, bird boxes and bee bricks in the approved development is also necessary in the interests of biodiversity. However, as such details are not needed in advance of all works taking place, I have amended both conditions accordingly.
28. With the site being in a critical drainage area and to avoid the development increasing flood risk, a condition covering surface water drainage is necessary. Although the appellant's critical drainage and flood risk assessment anticipated this would involve a pre-commencement condition, the Council has not proposed this and I am satisfied that the Council's suggested condition would be sufficient in this instance.
29. A condition relating to the glazing finish and opening extent of the first-floor side window is necessary in the interests of the privacy of adjoining occupiers. However, the Council's suggested condition prohibiting new openings in the first-floor rear and side elevations is not necessary given my findings above and because permitted development rights also include certain restrictions and limitations on such openings. I have therefore declined to impose it.

Conclusion

30. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development would accord with the development plan as a whole and the Framework. The appeal is therefore allowed.

T Gethin BA (Hons), MSc, MRTPI

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plan, 3976-01 Rev B (received by the Council on 09/08/22).
- 3) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities, where appropriate; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; and hours of working.
- 4) No development shall commence, including any works of demolition, until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include: details of all existing trees and hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development; full schedule of plants with planting plans and written specifications including details of the mix, size, distribution and density of all trees/shrubs/hedges; means of enclosure/boundary treatments; car parking layout; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor proposed artefacts and structures (eg furniture, play equipment, refuse or other storage units, signs, lighting etc); retained historic features and proposals for restoration, where relevant; and an implementation programme. The protection measures shall be completed in accordance with the approved scheme before the development hereby permitted commences and shall thereafter be retained until it is completed. The hard and soft landscaping works shall be carried out in accordance with the agreed implementation programme. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.
- 5) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces (including doors/windows/roof covering and method of fixing, cladding, stonework, guttering, treatment of any flat roofs, balustrades, railings and guards) of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 6) No development shall commence above slab level until a scheme for the incorporation of bat boxes, bird boxes and bee bricks has been submitted to and approved in writing by the local planning authority. Such details shall include the location and specific details of each feature. The approved features

shall be installed prior to the occupation of the dwelling and shall thereafter be retained and maintained as such.

- 7) The development hereby permitted shall not be occupied until surface water disposal works serving the development have been completed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The system shall be retained and maintained thereafter in accordance with the approved details.
- 8) The development hereby permitted shall not be occupied until the first-floor window on the north-east elevation has been fitted with obscured glazing. The obscure glazing shall be retained thereafter and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened.

END OF SCHEDULE