



Appeal Decision

Site visit made on 9 January 2024

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Appeal Ref: APP/D0840/W/23/3327554

Land to the west of Nos 5 and 7 Fuggoe Croft, Carbis Bay TR26 2PW

- 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 Lillian Perkins against the decision of Cornwall Council.
 - The application Ref PA22/07250, dated 8 August 2022, was refused by notice dated 15 February 2023.
 - The development proposed is Construction of a single storey dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for Construction of a single storey dwelling at Land to the west of Nos 5 and 7 Fuggoe Croft, Carbis Bay TR26 2PW in accordance with the terms of the application, Ref PA22/07250, dated 8 August 2022, and subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2023. However, as its provisions that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area and biodiversity, with particular regard to trees.

Reasons

4. Following recent clearance, the appeal site has two relatively small trees on it, a rowan (T1) and a hawthorn (T2). Although there are limited trees in the gardens adjoining two sides of the site, there are numerous larger trees on/near to the site's other sides. This includes sycamores along the south-west boundary, an alder (T3) and Monterey pine (T4) near to the north-west boundary, and a lime (T5) to the north-east. There is a Tree Preservation Order (P/2/10, TPO2018) covering the site and the adjoining woodland, which the sycamores form the edge of.
5. The trees, many of which are still developing and are yet to reach maturity, give the surrounding area a wooded character and the settlement a verdant appearance and backdrop. They also act as natural breaks between built form and a visual link to the coast trees, and provide an obvious habitat and corridor

for wildlife. They therefore positively contribute to the character, appearance and biodiversity of the locality.

6. The specification of trees in the TPO does not include alder, Monterey pine or lime, and the available evidence indicates that T3, T4 and T5 are not within the actual area covered by the TPO. On this basis, any pruning of those trees' branches that overhang the site would not require approval and could be carried out at any time, irrespective of the proposed development. However, even if the trees were found to be within the TPO, their position in the neighbouring plot means that the appellant/future occupiers could not remove them, and any future approval sought for pruning could only involve, as identified in the submitted Tree survey and arboricultural method statement (June 2022, by Tretec), overhanging branches up to the site boundary.
7. The proposed development would be situated relatively close to the canopies of T3, T4 and T5. However, being located to the north, these trees would not affect the levels of sunlight reaching the development. Proposed windows, the main garden and sitting out areas would also be positioned at a sufficient distance to avoid there being significant issues arising from leaf litter/debris and algal growth, even accounting for the trees growing further. Any leaf drop and/or algal growth on the proposed building would also unlikely be significant and it seems to me could easily be dealt with as part of general maintenance. Consequently, the presence of the proposed dwelling on the site would not result in a need for any significant pruning of these trees. On this basis, the proposed development would not be likely to harm the long-term health of T3, T4 or T5, and the limited extent of any pruning to them that may be desired/required would not be particularly noticeable nor significantly reduce the amount of habitat or corridor links available for wildlife.
8. T1 would be relocated, with the suggestion that it either be moved into the woodland to the south or repositioned elsewhere on the site. The Council has not raised any concerns with this and, as I observed on my site visit, the rowan's small size means that it has limited visual and biodiversity value, especially relative to the preserved woodland and other trees in the locality. Subject to further details being secured by condition, its relocation would therefore be acceptable.
9. T2 is not particularly large and therefore also currently has limited visual and biodiversity value. It would however be retained on the site, and its position means that, even with future growth, it would not significantly affect the proposed dwelling, main garden area, patio or parking area in terms of sunlight, leaf drop or algae. The sycamores within the preserved woodland to the south-west of the site run along the proposed driveway and are larger, more imposing specimens. However, their further degree of separation and position would also be sufficient to avoid them resulting in significant shading, leaf litter and algal growth affecting the proposed dwelling and garden area, both now and in the future. The proposed development would therefore be unlikely to lead to pressure to either remove the hawthorn or significantly prune it or the sycamores. As such, it would not risk the trees continuing to contribute to the wider landscape and green infrastructure network.
10. The proposed driveway and associated kerbs/walls would be reasonably close to the trunks (and therefore likely within the root protection areas) of the sycamores and hawthorn. Although it is said that there may be an old service

road that could be uncovered and resurfaced, I have little substantive evidence that any such road exists. However, the available evidence indicates that the laying of a new hard surface could, subject to suitable materials and construction methods, be done without harming the preserved trees.

11. There may be a desire to prune some branches overhanging the proposed track and parking area in future. However, if it were necessary, the need for any such pruning would only be limited. Any such pruning would thus neither significantly affect the value of the preserved woodland trees and their visual or biodiversity contribution, nor affect their long-term health. In any event, with a path associated with the approved care home being in a similar position to the proposed track, the available evidence indicates that any pressure for pruning the trees along the proposed track would be similar to what would likely be required to ensure the safety of the path associated with the care home.
12. For the above reasons, I conclude that the proposed development would not harm the character and appearance of the surrounding area and biodiversity, with particular regard to trees. I therefore find that it accords with Policies GD1 and OS3 of the St Ives Area Neighbourhood Development Plan 2015 – 2030 (NDP), Policies 12 and 25 of the Cornwall Local Plan Strategic Policies 2010 – 2030, and Policy G1 of the Climate Emergency Development Plan Document. Amongst other aspects, these seek to ensure a network of spaces provides permeability for wildlife; support development that has no significant adverse impact on the area's landscape; and require development to retain and incorporate trees which make a significant contribution to the character of the landscape and nature conservation, maintain the area's distinctive natural character, and retain environmental assets that contribute to the functionality of ecosystem networks. The proposal would also be consistent with the provisions in the Framework in relation to achieving well-designed and beautiful places and conserving and enhancing the natural environment.

Other matters

13. A number of other matters have been raised by interested parties and I have taken them all into account. This includes: the need to protect trees and the woodland floor during construction; whether the relocation of the rowan would be successful; a two-storey dwelling on the site not being acceptable; land contamination and ground stability issues due to past mining activity; and highway safety considerations regarding access to the proposed development, including in relation to Fuggoe Croft accommodating additional vehicles associated with construction works and future occupiers of the dwelling, loss of space for vehicles to turn, and the potential for the future creation of an access road to the approved care home via Fuggoe Croft.
14. 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 overall conclusion that the appeal should be allowed. Some of the issues raised, such as regarding land contamination and tree protection and relocation can also be covered by planning conditions. Furthermore, the driveway approved as part of this appeal would only serve the dwelling, as per the proposed plans, and any potential future proposal seeking to provide vehicular access via Fuggoe Croft to the

approved care home would be considered on its own merits, separately from this proposal.

Conditions

15. 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.
16. 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 trees on and surrounding the site, a pre-commencement condition securing further tree-related details, including tree protection measures and subsequent monitoring, along with full details of suitable construction methods and relocation of the rowan, is necessary to avoid damage to retained trees in the interests of the character and appearance of the surrounding area and biodiversity. Due to the identification of potential contaminated land issues which require further investigation, a pre-commencement condition securing further details is also necessary in the interests of environmental protection and public health and safety.
17. A condition covering materials is necessary in the interests of visual amenity. However, I have amended the timing of the condition because the details do not need to be provided prior to all works commencing on site. A condition covering drainage is necessary to ensure that the development does not increase the risk of flooding. A condition preventing the dwelling being used as a second home or holiday let is necessary and reasonable with regards to the supporting text and associated policy (H2) in the NDP. With the appellant's references to soft landscaping options on the site, the proposed sedum roof and the provision of bird/bat boxes or bee bricks, and the relevance of these matters to the visual amenity and biodiversity of the locality, a condition covering these matters is also necessary and reasonable.
18. The Council's appeal statement includes a suggested condition requiring a construction method statement. However, setting out that such a condition would not be justified in this instance, its Officer Report identifies that the development would not result in an obstruction to the estate road and that Public Protection could be involved if necessary with any building work issues. On this basis and given the scale of the development, such a condition is not necessary. I have therefore declined to impose it.

Conclusion

19. 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. 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 following approved plans: Location Plan; Site survey plan (Drg No 536/001); Roof/site plan (Drg No 536/002); Floor plan (Drg No 536/003); and Elevations (Drg No 536/004).
- 3) Prior to the commencement of the development hereby permitted (including any facilitative vegetation clearance, tree works, demolition or construction), the following details shall be submitted to and approved in writing by the local planning authority: tree protection measures, monitoring and site supervision (by a suitably qualified tree specialist, eg arboricultural professional with the minimum of a level 4 qualification as recognised by the Qualifications and Credit Framework); construction methods for the dwelling's foundations, the driveway and the provision of services; and relocation of the rowan (T1) including location, methods, timing and its future maintenance. The development thereafter shall be implemented in strict accordance with the approved details.
- 4) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. The risk assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced). If any contamination is found which poses risks identified as unacceptable in the risk assessment, a remediation report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until details of additional measures for its remediation have been submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale, and a verification report shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 5) Prior to the commencement of above ground works, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be 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) The development hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The approved drainage shall be retained and maintained thereafter.
- 7) The development hereby permitted shall not be occupied until a scheme for landscaping, covering the planting of shrubs/plants on the site, the sedum roof

and the provision of bird/bat boxes or bee bricks, has been submitted to and approved in writing by the local planning authority. The scheme shall specify plant species, sizes and numbers, the number and position of boxes/bricks for wildlife, and the timing of its implementation. The landscaping shall thereafter be implemented in accordance with the approved scheme and the wildlife boxes/bricks maintained and retained. Any planting which within a period of five years from the implementation of the landscaping scheme dies, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.

- 8) The dwelling hereby permitted shall not be occupied otherwise than by a person as his or her Only or Principal Home. For the avoidance of doubt, the dwelling shall not be occupied as a second home or holiday letting accommodation. The Occupant shall supply to the local planning authority (within 14 days of the local planning authority's written request to do so) such information as the authority may reasonably require in order to determine whether this condition is being complied with.

END OF SCHEDULE