



Appeal Decision

Site visit made on 13 June 2024

by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Appeal Ref: APP/D0840/W/24/3338445

Nanterrow, Lower Tregongeeves, Polgooth, Cornwall, PL26 7AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Furse against the decision of Cornwall Council.
 - The application Ref is PA22/09414.
 - The development proposed is outline application with some matters reserved for erection of two self-build dwellings including means of access and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline form, with all matters other than access reserved for later approval. The scheme is accompanied by plan ref PL-01 which is referred to as an illustrative site plan. As layout is a reserved matter I have taken this plan as being intended to illustrate demonstrate that appropriate development is possible and how the site may accommodate development, but not to determine the future layout of the site.
3. The Council refused the application on two matters, relating to the effects of the proposed development on the countryside and potential impacts of development on protected species. Local residents have also raised a number of issues, including the potential effects of the proposal on the living conditions of existing occupiers. I have taken these comments into account, along with the appellant's final comments, in reaching a view on the scheme.
4. Polgooth is listed as a named settlement in the St Mewan Neighbourhood Plan with a defined settlement boundary, which the site lies outside of. I am advised that prior to 2021 the appeal site lay in a different parish to that of Polgooth. Accordingly, the site is not covered by the St Mewan Neighbourhood Plan (NP) which predates the boundary change and the policies in the NP carry no weight in this appeal.

Main Issues

5. Accordingly, the main issues for the appeal are:
 - Whether the proposal would comprise an appropriate location for development in the rural area having regard to the principles of sustainable development and the effects of the proposal on the character and appearance of the rural area; and

- The effects of the proposal on protected species.

Reasons

Appropriate Development in a Rural Area

6. The Cornwall Local Plan (LP) contains a number of policies which when taken together seek to direct development to sustainable locations across the County. Policy 3 seeks to direct the majority of development to main towns, at eco-communities to be identified in a Development Plan Document or sites identified in NPs. It also recognises the potential for small scale development through infill or rounding off at settlements. The supporting text explains that this should not visually extend building into open countryside. Policy 7 seeks to resist new housing in open countryside other than in a few limited circumstances. Policy 21 seeks to direct development to previously developed land and to resist the development of best and most versatile agricultural land. Together these policies seek to direct development to sustainable locations whilst allowing for small scale development in appropriate locations in and around settlements.
7. The site lies outside the settlement boundary of the village and so is defined as open countryside. The site comprises open land located to the rear of a detached residential property known as Nanterrow. It forms part of the valley floor which rises steeply to the east towards Tregongeeves Lane which sits at a much higher level than the village, with much of the site sloping sharply upwards towards it. It is densely vegetated with a number of mature trees along Tregongeeves Lane which changes to grazing land as the slope flattens out.
8. I noted on site that immediately adjacent to the south and west of the site sit a group of recently constructed houses which share the proposed access road to the appeal site. These dwellings are separated from the settlement boundary by a holiday park which lies to the west of the site. Whilst I note these are not permanent dwellings, when viewed on site the appeal site is not perceived as being separated from the village. Instead, along the valley bottom the perception of continuous built form is reinforced by the proximity of dwellings and gardens and by the presence of pavements and street lighting. In contrast when viewed from Tregongeeves Lane, in glimpsed views of the site, the existing tree cover and steeply sloped grassed bank are perceived as rural in character and as lying outside the built form of the settlement. It therefore seems to me that development of the site would fall within the definition of infilling, provided the visual effects of the scheme did not extend into the open countryside, which in this case would mean retaining the screening provided by the change in land level and heavy tree cover along Tregongeeves Lane.
9. The illustrative plans seek to demonstrate that only part of the site needs to be levelled and show two relatively modest dwellings built into the hillside and located along the front of the site nearest the adjoining dwellings. In this regard the scheme seeks to avoid the visually intrusive effects that excavation towards the rear of the site would cause, including the potential loss of trees. However, the illustrative layout appears contrived. Ground floor bedrooms to the rear within the slope of the site are reliant on high level windows and lightwells, and the plot positions would result in the main aspect for the dwellings facing directly onto existing homes within a distance of around 13m,

a relationship which is likely to be perceived as intrusive. Whilst I am conscious that the plans are for illustrative purposes only, they nonetheless fail to demonstrate that a satisfactory form of development could be accommodated that would not require extensive excavation towards the rear of the site.

10. I have considered whether development could be accommodated with an alternative layout. However, having regard to the particular topographical and arboricultural constraints of the site, I have concluded that the proportion of the site which would not require extensive and potentially visually harmful excavation is relatively limited. In this regard I take into account the works on the adjoining plot and the submitted topographical survey and illustrative layout. This will be likely to have an urbanising effect, whereby the existing landscape will need to be substantially altered to facilitate the built form of the dwellings. In the absence of evidence to the contrary I cannot be assured that an appropriate development of two dwellings can be assimilated into the settlement without harm to rural character.
11. I therefore conclude that the submitted scheme fails to demonstrate that an acceptable form of development could be provided, and I must conclude that the scheme would harmfully erode the rural character of the area. It would therefore conflict with Policies 1,3,7 and 21 of the LP which taken together seek to achieve sustainable development by resisting development which harms the rural character of the countryside. It would also conflict with guidance in the National Planning Policy Framework (the Framework) which has similar aims.
12. The Council have referred in their statement to policies within the Climate Emergency Development Plan Document (DPD) Policy C1 - Climate Change Principles and Criterion 7 that seek to conserve and enhance the natural environment according to its national and local significance. I have not relied on these policies as they were not cited as reasons for refusal, but in any case do not consider them to be determinative in this case.

Protected Species

13. Policy 23 of the LP seeks to ensure that adverse impacts on protected species are avoided wherever possible. The Council consider that the proposal would lead to a loss of potential habitat for roosting, foraging and commuting bats and have indicated that records show a number of bat species in the local area. The scheme as illustrated would not involve the felling of any trees and so would not lead to a direct loss of roosting opportunities for bats. However, without a protected species survey and in the absence of a proposed layout it is not possible to determine whether the proximity of new development might have a harmful effect on the quality of that habitat and whether any mitigation may be necessary. In these circumstances the matter would not be adequately dealt with by a planning condition.
14. Based on the information put to me I cannot therefore conclude that the scheme would make adequate provision for protected species and the proposal conflicts with both Policy 23 of the LP and guidance in Paragraph 180(a) of the Framework which both seek to ensure that harm to protected species is avoided or where this is not possible, adequately mitigated.

Other Matters

15. Local residents have raised concerns in relation to the impacts of the proposal on highway safety. Taking into account the likely number of traffic movements that would be generated and the comments of the local highways authority, this matter does not add to my concerns. I also note the concerns regarding the structural stability of the rear bank following excavation. Such matters are best addressed by regulation under the Building Acts through the building regulations and are not a matter which alters my reasoning above.
16. I take into account that the proposal would supply two self-build dwellings which would contribute to the supply of housing in an area of acknowledged housing pressure. Nevertheless, whilst this is a benefit that must carry some weight, it would not outweigh the identified conflict with the development plan or my concerns expressed above.

Conclusion

17. The proposal would cause harm to the character and appearance of the area and has failed to demonstrate that protected species would be adequately protected and would conflict with the development plan, taken as a whole. No material considerations indicate the decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons outlined above, and having regard to all other matters raised, I conclude that the appeal be dismissed.

Anne Jordan

INSPECTOR