



Appeal Decision

Site visit made on 5 June 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/D0840/W/23/3321267

Land north-east of Briar Patch, Lower Treluswell, Penryn, Cornwall TR10 9AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M Pascoe & Ms T Cathrow against the decision of Cornwall Council.
 - The application Ref is PA22/08114.
 - The development proposed is described on the application form as, "Proposed erection of detached dwelling, garage, the widening of an existing access, and the installation of a septic tank".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans¹ and accompanying details² that the proposed development includes the formation of a new access. The Council dealt with the proposed development on this basis and so shall I.
3. At the appeal stage, the Council confirmed that the 2nd reason for refusal given in the Council's decision notice, relating to habitats sites, has been overcome. This has been reflected in the main issues, below.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the proposed development, having particular regard to the spatial strategy in the development plan and the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the area; and
 - Ms Cathrow's personal circumstances and the need for the proposed development.

¹ Including Revised Site Plan (Drawing No. 1971.3.310) received by the Local Planning Authority after the submission of Proposed Plans, Sections + Elevations (Drawing No. 1971.3.300) (Rev A), and before the Local Planning Authority's decision notice was issued.

² Including paragraph 3.1 of the appellants' Planning Appeal Statement, photograph #2 submitted with the appellants' Final Comments, and Plate 1 in the submitted Transportation Advisory Note.

Reasons

Location

5. The appeal site comprises a parcel of agricultural land which is part of a wider field, located on the eastern edge of Lower Treluswell. Further to the north-west of the site are a number of former farm buildings, which are now in residential use. The remainder of Lower Treluswell mainly consists of dwellings (some of which benefit from generously-sized plots), and buildings in commercial use.
6. Policy 3 of the Cornwall Local Plan: Strategic Policies 2010 – 2030 (Local Plan) lists the main towns where housing development is expected to take place. Part 3 of Policy 3 of the Local Plan details the circumstances where housing is intended to be delivered other than at the main towns identified in Policy 3. Of these, the circumstances relating to infill schemes and the rounding off of settlements are relevant to the proposed development of one new dwelling.
7. The CPOAN³ provides guidance to ensure consistency in the application of the concepts of infill and rounding off. It advises that it is firstly necessary to identify if the proposed development physically relates to a recognisable settlement. In this regard, local residents have referred to appeal decision Ref APP/D0840/W/22/3300806 and both main parties have addressed the question of whether Lower Treluswell constitutes a settlement or not. However, the definitions of infill and rounding off found in the Local Plan must be read as a whole, and for the reasons that follow, even if I were to find that Lower Treluswell constituted a settlement in planning policy terms, the proposed development would not be in conformity with other key elements of both of these definitions.
8. I have had regard to all of the submitted aerial photographs, and to the appellants' illustration on an aerial photograph of what they have termed a continuing settlement line. I also observed the barns on the U6066 referred to in that same photograph which are the subject of a planning permission relating to residential development⁴.
9. For the purposes of Policy 3, 'infilling' is defined in paragraph 1.65 of the Local Plan as the filling of a small gap in an otherwise continuously built-up frontage that does not physically extend the settlement into the open countryside.
10. The site is located adjacent to the U6066, where it is clearly physically separated from the other buildings on the same side of the road, including Cairngorm Cottage and the barns on the U6066 referred to above. As the frontage of the U6066 is not continuously built-up in the vicinity of the site, with an absence of built form for some distance either side of the site, the proposed development would not fill a small gap in an otherwise continuously built-up frontage. Moreover, as the width of the site is such that the site could conceivably contain more than 2 dwellings, it would qualify as a 'large gap' referred to in paragraph 1.66 of the Local Plan. Hence, the proposed development would not constitute an infill scheme in the terms of Policy 3.
11. Paragraph 1.68 of the Local Plan provides that, amongst other things, rounding off applies to development on land that is substantially enclosed but outside of

³ Chief Planning Officer's Advice Note: Infill/Rounding off (December 2017)

⁴ Local Planning Authority reference: PA21/02735

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 (such as a road) and that it should not visually extend building into the open countryside.

12. Although a small number of buildings exist on the site's side of the U6066, the majority of the buildings which collectively form Lower Treluswell are found beyond the opposite side of the U6066. I observed that it is the long line of mature hedgerow and trees adjacent to the site's side of the U6066 that provides the primary visual demarcation between the built-up areas of Lower Treluswell and the countryside beyond the site. The site extends beyond this hedgerow and into a wider field. As such, it shares a clear visual and physical affinity with the wider area of countryside of which it forms a part.
13. Even though the proposed new dwelling itself would be unlikely to be visible from the U6066, the incursion into the hedgerow to create the proposed new access point would highlight the presence of residential development on site, as would the comings and goings to the dwelling via that access point. Thus, the proposed development would serve to visually extend building into the open countryside.
14. As the proposed development would be located on a specific parcel of land that is itself part of a wider field, the site would not be substantially enclosed. In any event, as the post and rail fence on site and the trees surrounding the wider field are relatively insubstantial features in the context of housing development, it cannot be said that either the site or the wider field has an edge that is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road, for example).
15. Drawing all of the above-mentioned factors together, the proposed development would not fall within the definition of rounding off given in the Local Plan. Nor would it accord with the guidance on this matter found in the CPOAN, which mentions that, amongst other things, rounding off development should not visually extend development into the open countryside. For these reasons, the proposed development would not constitute the rounding off of a settlement in the terms of Policy 3.
16. As the long line of mature hedgerow and trees adjacent to the site's side of the U6066 currently denote the edge of the urban form of Lower Treluswell, the imposition of a planning condition requiring the erection / retention of a fence or the planting of Cornish hedgerow along the side of the site which adjoins the wider field would have little effect in altering this clearly-defined edge along the U6066. Such a condition would not overcome the conflict with Policy 3, particularly in relation to the visual extension of building into the open countryside, referred to above.
17. Although few details have been provided to quantify the number of daily trips by vehicles that are presently undertaken to and from the site, considering the size of the site and its current usage, it appears that the number of daily trips are low. The site could potentially be used on a more intensive basis, but the evidence, including the submitted Transportation Advisory Note (TAN), does not indicate this would be a likely prospect in the foreseeable future. Whilst I note the car usage trends identified in the TAN, the evidence before me does not indicate that the proposed development would reduce the number of daily trips when compared with the current usage of the site.

18. Lower Treluswell appears to have a very limited range of services and facilities. Penryn contains services and facilities suitable for day-to-day living. However, due to the poor quality of the narrow and partially incomplete footpath along the B3292 and the lack of dedicated cycle lanes on the part of this busy road that passes Lower Treluswell, this route is unlikely to be attractive for walking or cycling (including electrically-assisted bicycles), particularly in the winter and during the hours of darkness.
19. Although the appellants have referred to the availability of bus services near the site (including services to Falmouth, Helston and Truro), this has been disputed by local residents. Even if bus services are accessible from near the site, no specific details have been provided in relation to their frequency, including buses which might provide access to the train station in Penryn. Very limited details have been provided to illustrate how Ponsanooth might be accessed by sustainable modes of transport.
20. It follows from the above that the future occupiers of the proposed new dwelling would in all likelihood access the services and facilities required for day-to-day living found at Penryn and further afield by private vehicles. The proposed development would continue to exist long after the personal circumstances of Ms Cathrow (including the benefit of accessing the fully-accessible parking at Penryn train station) and the scenario of Mr Pascoe needing to get to work quickly in the event of an emergency have ceased to be relevant. Hence, the adverse impacts caused by the proposed development in relation to the lack of available sustainable transport options would persist over the long-term.
21. I note the guidance in the CPOAN that in defining settlements there are no expectations of services or facilities and that in a rural place like Cornwall, other than in cities or towns it is unrealistic for public transport, walking and cycling to meet all of residents' transport needs alone. However, in this case, the lack of services and facilities in Lower Treluswell is acute, and based on the evidence before me the availability of sustainable modes of transport is minimal.
22. Furthermore, the guidance in the CPOAN is given in the context of identifying if a proposed development physically relates to a recognisable settlement in the context of infill / rounding off, rather than assessing the credentials of a proposed development in terms of its ability to promote sustainable transport. In this regard, Policy T1 of the Climate Emergency DPD⁵ is of greater relevance, which provides that, amongst other things, new development should be designed and located in order to minimise the need to travel and support a modal hierarchy which prioritises walking, then cycling, then public transport, then car clubs, electric vehicles and lastly private fossil-fuelled vehicles. For these reasons, the guidance in the CPOAN does not change my findings above.
23. Reference has been made to planning permissions relating to The Old Brewery Yard. However, as no plans or Officers' Reports have been provided a meaningful comparison with the proposed development cannot be made. This matter accordingly does not change my findings above.
24. I therefore find that the site is not a suitable location for the proposed development, having particular regard to the spatial strategy in the

⁵ Climate Emergency Development Plan Document (adopted 2023)

development plan and the accessibility of services and facilities. It would conflict with Policies 1, 2, and 3 of the Local Plan which collectively set out the settlement strategy for the area, and with Policy 7 of the Local Plan which provides that, amongst other things, the development of new homes in the open countryside will only be permitted where there are special circumstances, none of which are applicable to the proposed development.

25. The proposed development would conflict with part c. of Policy 21 of the Local Plan which provides that, amongst other things, to ensure the best use of land, encouragement will be given to sustainably located proposals that increase building density where appropriate, taking into account access to services and facilities to ensure an efficient use of land.
26. The proposed development would conflict with part 1) of Policy T1 of the Climate Emergency DPD which provides that, amongst other things, development should be designed to facilitate integration between different modes of travel, especially walking, cycling and public transport.
27. The proposed development would also conflict with chapter 9 of the National Planning Policy Framework (the Framework) which seeks to promote sustainable transport.
28. Considering that paragraph 15 of the Framework provides that, amongst other things, the planning system should be genuinely plan-led, significant weight is given to the above-mentioned adverse impacts.

Character and appearance

29. Lower Treluswell contains dwellings in a dispersed development pattern, with commercial uses near to the B3292. Buildings and walls built of stone are common, as are broad stretches of hedgerow and trees, which contributes to the rural nature of the area. The form, scale, and materials used for the proposed single-storey dwelling would harmonise well with its local rural context.
30. Notwithstanding this, the proposed development involves the removal of a large section of hedgerow to accommodate the proposed new access. As this hedgerow is located in a prominent position close to the junction which provides the main routes through Lower Treluswell, the proposed development would considerably undermine the hedgerow's existing contribution to providing a key visual indicator of the termination of the main built-up area of Lower Treluswell. It would also serve to compromise the attractiveness of the hedgerow which forms an important part of the verdant character of the area.
31. The proposed development would thereby unduly reduce the contribution which the hedgerow bounding the site makes to the distinctive rural character and appearance of the area. The imposition of planning conditions to secure a scheme for soft landscaping, including boundary treatments, would not alter these adverse impacts, due to the prominent position of the part of hedgerow proposed to be removed to form the new access.
32. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with part 1. a. of Policy 12 of the Local Plan which provides that, amongst other things, proposals should create places with their own identity and promote local distinctiveness while not preventing or discouraging

appropriate innovation, and with part c. of Policy 21 of the Local Plan which provides that, amongst other things, to ensure the best use of land, encouragement will be given to sustainably located proposals that increase building density where appropriate, taking into account the character of the surrounding area.

33. The proposed development would conflict with part 1. of Policy 23 of the Local Plan which provides that, amongst other things, development proposals will need to sustain local distinctiveness and character.
34. The proposed development would also conflict with paragraph 135 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
35. Considering that paragraph 131 of the Framework provides that, amongst other things, the creation of high quality places is fundamental to what the planning and development process should achieve, significant weight is given to the above-mentioned adverse impacts.

Personal circumstances

36. I have been referred to evidence relating to the personal circumstances of Ms Cathrow. This evidence includes the professional opinion of a world-wide acknowledged expert in their field. Whilst, in the interests of privacy, it is not necessary to set out the details here, the evidence leaves no doubt that Ms Cathrow has a genuine need for the type of dwelling proposed.
37. The proposed new single-storey dwelling has been designed specifically with Ms Cathrow's health condition in mind. It would thereby meet Ms Cathrow's needs and contribute to Ms Cathrow's well-being.
38. As the proposed new dwelling is intended to provide a suitable home for Ms Cathrow, I have considered the above-mentioned evidence in light of the relevant provisions of the European Convention on Human Rights as set out in Schedule 1 of the Human Rights Act 1998 (as amended). Specifically, Article 8 provides that everyone has the right to respect for their private and family life, their home, and their correspondence. Article 8 is however a qualified right, meaning that interference with the right may be permissible if there is a clear legal basis for it and it is necessary in a democratic society.
39. I have also considered this evidence in relation to the aims of the Public Sector Equality Duty (PSED) set out in the Equality Act 2010 (as amended), in relation to the relevant protected characteristics, which include age and disability.
40. In the terms of the PSED, the proposed development would involve positive considerations in that it would contribute towards eliminating discrimination against persons with the protected characteristics of age and disability, advancing equality of opportunity for those persons, and fostering good relations between them and others.
41. I acknowledge that paragraph 2.28 of the Local Plan refers to the need for specialist housing to meet community needs, and that one of the aims of the Framework (as set out in paragraph 63 of the Framework), is to ensure that

housing is provided which meets the needs of older people and people with disabilities.

42. Few substantive details have however been provided to support the appellants' claim that it would not be possible to find a dwelling suited to Ms Cathrow's needs within the wider area. As such, it has not been demonstrated that the proposed development on this particular site is the only way that these needs could be met, or that it is the least harmful viable option available. More importantly, the Planning Practice Guidance (PPG) provides that, in general, planning is concerned with land use in the public interest⁶. In this regard, the proposed new permanent dwelling would likely remain in situ far beyond the point at which Ms Cathrow's personal circumstances cease to be material.
43. Few substantive details have been provided to demonstrate the extent of any positive impacts arising via the proposed development with respect to Mr Pascoe's business and Cornwall's Social Services team.
44. These factors limit the weight which can be given to the personal circumstances cited. The personal circumstances therefore attract no more than moderate weight in favour of the proposed development.

Other Matters

45. As the proposed development would conflict with part c. of Policy 21 of the Local Plan in relation to both of the first 2 main issues above, the proposed development would not fall within the circumstances described under the 'Other development within a settlement' sub-heading in the CPOAN, in relation to the development of land which does not entirely fit the definition of infilling or rounding off. This is not a matter which alters my findings on the main issues above.
46. It is common ground between the main parties that the proposed development would not affect the setting or significance any listed buildings. I have no substantive evidence before me that points to a different conclusion. Whilst reference has been made to the freeing-up of a 4-bedroom family dwelling in Falmouth, no mechanism is before me to secure this. Accordingly, these are neutral matters, which do not weigh in favour of the proposed development.

Other Considerations

47. The proposed development of one new self-build and fully-accessible dwelling would support the Government's objective of significantly boosting the supply of homes, in the context of the housing crisis in Cornwall referred to by the Council. It would contribute towards housing choice and mix in the local area, particularly by providing a dwelling which may be particularly attractive to older people.
48. The future occupiers of the proposed new dwelling would likely contribute to the economic and community life of the wider area over the long-term, and economic benefits would also accrue to local businesses through the construction phase of the proposed development.

⁶ Paragraph 21b-008-20140306

49. If the proposed development were acceptable in all other respects, potentially planning conditions could be imposed to secure renewable energy technologies on site.
50. Planning conditions could be imposed to secure the proposed ecological mitigation and enhancement measures. However, the submitted ecological information does not indicate that the proposed development would result in a biodiversity net gain of any significance.
51. Although it has been suggested that the proposed development would make an efficient use of the site, taking account of my findings on the 2nd main issue above, it would not comply with paragraph 128 e) of the Framework which provides that, amongst other things, planning decisions should support development that makes efficient use of land, taking into account the importance of securing well-designed places. Furthermore, given the minimal quantum of development proposed and the size of the site, the above-mentioned benefits when considered collectively would not be significant. Little weight has been given to them, as a result.

Planning Balance

52. I have found above that the site is not a suitable location for the proposed development and that it would have an unacceptable and harmful effect on the character and appearance of the area. The PPG provides that planning permission usually runs with the land and it is rarely appropriate to provide otherwise⁷. As the adverse impacts of the proposed development would persist beyond Ms Cathrow's occupation of the proposed new dwelling, the imposition of a planning condition limiting the benefit of the planning permission to Ms Cathrow would not overcome the adverse impacts identified.
53. Significant weight has been given to the adverse impacts of the proposed development, for each of the first 2 main issues. With moderate weight being given to the personal circumstances cited on the 3rd main issue above, and little weight given to the other considerations in this appeal, it is clear that the collective benefits of the proposed development, including in relation to the personal circumstances cited, would not outweigh the adverse impacts identified.
54. It follows that the proposed development would conflict with the development plan when considered as a whole. None of the other considerations in this case indicate that this appeal decision should be taken otherwise than in accordance with the development plan.
55. The dismissal of this appeal would mean that a dwelling suitable for Ms Cathrow, who has specific needs relating to their age and disability, would not be provided on site. However, there is no suggestion that Ms Cathrow would be made homeless, and as stated above it has not been demonstrated that suitable alternative accommodation is not available in the wider area.
56. Considering this, and as the adverse impacts of the proposed development would be considerable and long-lasting, it would be proportionate and necessary to dismiss the appeal, having regard to the legitimate and well-established planning policy aims set out above at paragraphs 28 and 35 of this appeal decision.

⁷ Paragraph 21a-015-20140306

Conclusion

57. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR