



Appeal Decision

Site visit made on 16 October 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2024

Appeal Ref: APP/D0840/W/23/3333654

**Penstowe Holiday Village, Penstowe Park, Kilkhampton, Bude, Cornwall
EX23 9QY**

- 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 Carey against the decision of Cornwall Council.
 - The application reference is PA23/01803.
 - The development proposed is the erection of dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case is the effect of the proposal upon the character and appearance of the area, including having regard to the presence of nearby trees and the impact the trees would have upon the living conditions of future occupiers.

Reasons

3. The appeal site comprises an area of shrubs and grass positioned within Penstowe Park holiday village (the park). The site is part of a rectangular parcel of open space that is bounded on two sides by estate roads, with the garden of the neighbouring property to the east. The land slopes down towards the south and is mostly surrounded by a variety of detached and semi-detached houses. In most cases these houses are set back from the roads and footways behind gardens and / or open space. There is a row of tall, mostly evergreen trees to the south of the appeal site, including some that are protected by a Tree Preservation Order. This row of trees forms a continuous linear group with a long, composite crown, and there are also a variety of other deciduous and evergreen trees nearby, some of which are growing amongst the homes, with others delineating footways and roads.
4. The trees near the appeal site contribute to the attractive verdant diversity that characterises much of the park, and they make a leafy edge and contrast to the areas where there are very few trees. Those trees nearest the site comprise a sycamore and a row of Monterey Cypress and the height and linear grouping of these trees is such that they make a distinctive focal point within the area. They create a green skyline and setting to the nearby houses, and their prominence is enhanced by their positioning upon a hillside. The trees

can be seen from long distances away. Not only do they form a distinctive linear group, but they also contribute to the rich diversity of species that is found within the park. As such these trees make an important contribution to the character and appearance of the area.

5. There are a variety of houses nearby, including large clusters of repeated sizes and styles of dwellings, as well as converted buildings and older, more traditionally styled homes. The simple form of the dwelling and its palette of materials would not appear unduly conspicuous in such a context. However, the positioning of the house very close to the road would be at discordant odds with the spacious settings of all the nearby dwellings. Despite the variety of houses within the park, their set back from the roads and footways is a repeated characteristic that creates an open, spacious appearance. The proximity of the house very close to the footway would not only appear oddly constricted but also contrived, and this harmful juxtaposition would be particularly incongruous within a context where no other nearby dwelling has such an immediacy to the road. Moreover, the position of the dwelling very close to two roads would further harmfully exaggerate its incongruity.
6. There is no disagreement between the parties as regards the principle of the development, and the appellant has explained the positioning of the dwelling would allow it to fit into the plot, as well as make good use of unused land. As identified by the appellant's Arboricultural Impact Assessment (2023), the Monterey Cypress are mature, and the tall height and large size of these trees and the sycamore would have an impact on the light levels experienced to the rear of the property. Whilst a Sessile Oak has been felled, the remaining trees to the south of the site would shade the garden, as evidenced by the appellant's shadow diagram. However, this diagram does not depict winter shading, and the height and size of the trees, along with the evergreen nature of the Monterey Cypress and their close proximity to the appeal site, would all combine to reduce both sunlight and daylight to the property. This would occur throughout the year and would be particularly noticeable when the sun was low in the sky, such as occurs during mornings and evenings, and winter months.
7. The design of the house reflects its proximity to the road as the principal rooms and windows face the rear garden, but in doing so the outlook for future occupiers would be onto the row of trees. Whilst these trees make a positive contribution to the area, they would be an oppressively close and dominating outlook for future occupiers of the dwelling. Even with the slope of the land down towards the south, the tall height and broad spread of these trees is such that they would form an abrupt and imposing outlook for users of the rear facing rooms and of the garden, and particularly so given that Monterey Cypress have dark coloured foliage. Furthermore, some of the Monterey Cypress contain large areas of bare wood. The absence of foliage would have been a response to the presence of the felled tree, and as it would not regenerate, this stark appearance would further exaggerate their oppressive dominance.
8. The combination of the presence of partially bare canopies and the separation of the Monterey Cypress from the dwelling would help to mitigate the nuisance experienced from needle and cone deposits. Notwithstanding this, the size and proximity of the trees is such that deposits would still occur into the garden. The sycamore would also deposit leaves and seeds, and all the trees would disperse pollen. The proximity of the trees to the dwelling and its garden

would also necessitate the ongoing monitoring and management of the trees, and this should include works to minimise incidences of deadwood drop following the exposure of such wood after the felling of the Sessile Oak.

9. The trees both individually and as a group make an important contribution to the character and appearance of the area. Together the Monterey Cypress create a composite evergreen crown that has a distinctive linear continuity within the area, and as advised within BS5837:2012 – Trees in Relation to Design, Demolition and Construction, their presence should inform development. Even with the location of the dwelling at the northernmost extent of the site, the trees would have an unacceptable impact upon the living conditions of future residents. I share the concerns of the Council that there would be likely pressure for significant works to the trees and such works would be to the detriment of the contribution they make to the park.
10. For these reasons, the scheme would have an adverse impact upon the character and appearance of the area, and the trees would unacceptably harm the living conditions of future occupiers. The suggested conditions would not overcome these harms. As such the proposal would conflict with Policies 1, 2, 12, 13, 16 and 23 of the Cornwall Local Plan (2016), Policy G1 of the Cornwall Climate Emergency Development Plan (2023), and supporting guidance in the Cornwall Design Guide (2021). These seek amongst other things, sustainable development that demonstrates an understanding of its location, that which promotes local distinctiveness and has a clear understanding and response to its setting, as well as that which provides homes with gardens with cohesive and useable spaces suited to a range of activities, thereby reflecting objectives of the National Planning Policy Framework.

Other Matters

11. There is disagreement between the main parties as to whether a felled Sessile Oak was protected, with the Council's Enforcement Team investigating the matter. Although the Council consider determination of the appeal would be inappropriate pending the outcome of these investigations, as I am dismissing the appeal for other reasons, I have not pursued the matter.
12. Local residents have raised a number of other concerns, including land ownership, the use of the property, construction disturbance, highway safety concerns, and a loss of privacy. The appellant has also questioned the need for planning permission to re-align the road. The need for planning permission for particular works and matters of land ownership would be for the relevant parties to resolve, and as regards the other matters, following my findings on the main issue, I have no need to consider them further.

Planning Balance and Conclusion

13. The scheme would provide a dwelling in an area where future residents would benefit from nearby services and facilities, and in addition to these social and economic benefits, there would be further, albeit time limited economic benefits deriving from the construction phase.
14. However, these benefits would be modest and would not outweigh the significant harm to the character and appearance of the area nor that arising to future occupiers, and the suggested conditions of the parties would not mitigate these fundamental harms. The scheme would conflict with the

development plan taken as a whole, and there are no considerations that indicate the decision should be made other than in accordance with the development plan.

15. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR