



Appeal Decision

Site visit made on 7 January 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/D0840/W/24/3346224

Shortlands, Ropewalk, Penpol, Devoran, Cornwall TR3 6NP

- 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 Paul Stephens (Stephens and Stephens) against the decision of Cornwall Council.
 - The application Ref is PA22/09743.
 - The development proposed is demolition of existing bungalow and erection of two new dwellings houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). The alterations result in the paragraphs that are referred to on the Council's decision notice being renumbered. Both parties have had the opportunity to comment on the revisions to the Framework, and I have considered the amended advice in my determination of the appeal.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area, including the setting of the Cornwall National Landscape.

Reasons

4. The appeal site lies near the top of the western slope of a valley that descends to an inlet of Restrounguet Creek. Both sides of the valley are occupied by dwellings from the waterside to their upper slopes. There are some historic, locally distinctive houses on the lower land around the head of the creek, but for the most part the dwellings on the western slope are large, modern two-storey buildings. Some have flat, or mono-pitched roofs, whilst others are of a more traditional form. Consequently, the valley side is entirely taken up by a diverse mix of houses with little cohesion or local distinctiveness. The only unifying theme is the generally large scale of the buildings, and their detached nature.
5. The valley slope on the opposite side of the creek lies within the Cornwall National Landscape (the CNL). As the western slope, containing the appeal site, is prominent in views across the creek, it is an important feature in the setting of the CNL. Section 85 of the Countryside and Rights of Way Act 2000 requires that, in determining this appeal, I must seek to further the purposes for which the CNL was designated. The Planning Practice Guidance clarifies that this duty is relevant in

considering development proposals that are situated outside the CNL boundary, but which might have an impact on its setting or protection.

6. The appeal site is currently occupied by a bungalow that has no historic or architectural interest. It covers less of its plot than is characteristic of the surrounding development, and it sits unobtrusively amongst the other buildings on the valley slope. The most notable feature of the site is the copse of trees that grows in its southern corner. These mature trees are highly visible in views out of the CNL, from where they form a prominent hilltop feature, silhouetted against the sky. Their impressive scale is important in softening the built form below, and reducing the visual dominance of the large houses in the panoramic view from the opposite side of the creek. Consequently, due solely to the presence of the trees, the site as a whole makes a positive contribution to the setting of the CNL.
7. The replacement of the existing bungalow with two dwellings would make more efficient use of land within an existing settlement. This benefit of the proposal should be given great weight, in accordance with paragraph 73 of the Framework. Nevertheless, in achieving the efficient use of land, paragraph 129 says that the desirability of maintaining an area's prevailing character and setting should also be taken into account. As the appeal site is substantially larger than most surrounding plots, its subdivision would result in two plots that would be comparable in area with that of many others on this hillside. The layout and density of the proposal would, therefore, accord with the surrounding pattern of development.
8. The proposed dwellings would be of contemporary design, comprising a series of off-set cuboid forms clad in stone, timber, and zinc, with large areas of glazing on the elevations facing the creek. Being located on the upper slope, they would naturally assume a degree of prominence when viewed from the opposite side of the valley. However, they would be seen amongst the existing large-scale houses that already cover this slope, many of which are also of contemporary design, with large windows taking advantage of the creekside views. They would, therefore, assimilate readily into the existing panorama, and would not result in any meaningful change to the overall appearance of the landscape when viewed from the CNL.
9. In arriving at this conclusion, I am mindful that Policy PD-P11 of the Cornwall Area of Outstanding Natural Beauty Management Plan 2022-2027 (the AONBMP) advises that development within the setting of the CNL should reflect vernacular scale and detailing, avoiding the uncharacteristic introduction of large-scale dwellings with very extensive glazed elevations and imposing presence. In this case, however, the site is surrounded by other large houses, many of which have extensive glazing. The proposal would not, therefore, be an uncharacteristic introduction. Furthermore, the articulation of the form of the buildings, and the use of a variety of materials, as proposed, would reduce their apparent scale so that their presence would be no more imposing than the other surrounding buildings.
10. My conclusion that the form of development proposed would successfully assimilate into the landscape relies, to a significant extent, on the retention of the existing mature trees on the site, which currently make a positive contribution to the character and appearance of the area, and to the setting of the CNL. They would also perform a key role in screening the proposed dwellings, and reducing their apparent visual scale. The overall proposal does, however, include the removal of some of these trees. In particular, three early mature Austrian Pines

would be removed to facilitate the improved driveway access. These are substantial trees in excess of 20 metres in height, and the appellants' Arboricultural Impact Assessment¹ (the AIA) places them in Category A2. This means that they are of high quality, with an estimated remaining life expectancy of at least 40 years, and that they are of particular visual importance as landscape features. I saw nothing at my visit to cast doubt on these conclusions.

11. Whilst the trees are part of a group, T8 and T9 are also seen as individual specimens from the opposite side of the valley. All three are typical of their species, and are attractive, and prominent features. Removal of the trees is not necessary to accommodate the proposed dwellings on the site, and their retention would not be incompatible with the living conditions of future occupants. Their removal is, however, necessitated by the proposed widening of the driveway to create a passing bay. The AIA concludes that the loss of visual amenity would be moderate, and would be mitigated over time by replacement planting along the south-eastern side of the gardens. There would, however, be little scope within the site for any substantial replacement trees, and they would, in any case, take many years to reach the stature of those that would be lost. Consequently, the removal of the trees as a result of the development would be harmful to the character and appearance of the area and to the setting of the CNL.
12. The appellants have indicated in their appeal submissions that they are willing to retain trees T7, T8, and T9, and I am invited to consider imposing a condition requiring the submission of a revised Tree Protection Plan to allow for this. However, the omission of the passing bay would be a significant change to the scheme. My imposition of such a condition would deny those who should be consulted on the revised proposal the opportunity for such consultation. Furthermore, the AIA was prepared on the basis that the trees would be removed, so does not consider whether they could be retained alongside the proposed development. Although a no-dig solution is proposed for the driveway, it would be immediately adjacent to the trees, and there is little detail within the AIA or the submitted plans regarding its extent, method of construction, surfacing, drainage, or what method would be employed to avoid harm to the rooting environment during its construction. I therefore have no expert evidence on which to conclude that a condition requiring retention of the trees would be reasonable.
13. In summary, therefore, as a result of the removal of mature trees to facilitate the development, the proposal would be harmful to the character and appearance of the area, including the setting of the CNL. As a result, the development would be in conflict with Policies 12 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted November 2016) (the Local Plan), and Policies D1, LS1 and LS2 of the Feock Neighbourhood Development Plan 2017-2030 (the Neighbourhood Plan). Amongst other things, these policies seek to sustain local distinctiveness and character and to protect and where possible enhance Cornwall's natural environment. The proposal would also conflict with Policy PD-P11 of the AONBMP which advises that development within the setting of the CNP should protect notable trees.

¹ Reference: evolve Tree Consultancy Ref: EV-4380-TS CA AIA: January 2023

Planning Balance

14. I have found that the proposal would conflict with development plan policies that seek to protect the character and appearance of the area and the setting of the CNL. However, it is not disputed that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. The appellants' evidence indicates that the supply is 3.82 years, so the shortfall is considerable. In these circumstances, the approach to decision-making set out at Paragraph 11d) of the Framework applies.
15. Paragraph 232 of the Framework makes it clear that due weight should be given to existing development plan policies according to their degree of consistency with the Framework. Section 12 of the Framework seeks to achieve well-designed places. Paragraph 135 says developments should be visually attractive as a result of good architecture, and sympathetic to local character, including the surrounding built environment and landscape setting. Section 15 of the Framework seeks to conserve and enhance the natural environment. Paragraph 189 says that development within the setting of a National Landscape should be sensitively located and designed to avoid or minimise adverse impacts on the designated area. I see no fundamental conflict between these aims and those of Policies 12 and 23 of the Local Plan, and Policies D1, LS1 and LS2 of the Neighbourhood Plan. The conflict between the proposal and these development plan policies should, therefore, be given significant weight in this appeal.
16. Set against the harm that I have identified, there would be benefits associated with the development. It would support the Framework's objective of significantly boosting the supply of homes as set out at paragraph 61, and it would make a modest contribution towards addressing the shortfall in housing land supply. Paragraph 73 of the Framework says great weight should be given to the benefits of using suitable sites within existing settlements for homes.
17. The proposal would also provide economic benefits through employment during the construction phase, and the ongoing spend of residents thereafter. However, the relatively modest scale of the development means that these benefits would be limited.
18. Paragraph 131 of the Framework says that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development. Furthermore paragraph 124 advises that the effective use of land in meeting the need for homes should also ensure the safeguarding and improvement of the environment.
19. In my balancing of these issues, I am mindful that it has not been demonstrated that the identified benefits could not also be secured without the harm caused by the removal of the trees. Consequently, when assessed against the policies in the Framework, taken as a whole, the benefits of the proposal are significantly and demonstrably outweighed by the harm to the character and appearance of the area and the setting of the CNL. In particular, application of the Framework's policy regarding the avoidance of harm to the setting of the CNL provides a strong reason for refusing the development. The advice at paragraph 11d) does not, therefore, indicate that my decision should be otherwise than in accordance with the development plan.

Conclusion

20. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR