



Appeal Decision

Site visit made on 14 January 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th January 2025

Appeal Ref: APP/D0840/W/24/3351376

Land adjacent to 20 Trevu Road, Camborne, Cornwall, TR14 7AD

- 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 James against the decision of Cornwall Council.
 - The application Ref is PA23/06168.
 - The development proposed is new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (NPPF) came into force on 12 December 2024. However, the policies that are relevant to this appeal have not changed, albeit some of the paragraph numbering is different. In view of this, I have not sought the parties comments on the revised NPPF.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area with particular regard to its impact on the retention of existing preserved trees.

Reasons

4. The appeal proposal involves the construction of a new dwelling on a triangular area of land adjacent to 20 Trevu Road. The appeal site has a large frontage to Trevu Road and contains a number of mature trees, as well as planting and areas of lawn. The mature trees are the subject of an area Tree Preservation Order (TPO). The site also contains a single storey garden shed and a concrete slab.
5. The Council's Statement of Case (CSOC) confirms that matters relating to the sustainability of the appeal sites location, highways, impact on other residential properties and the design and scale of the proposal, are not at issue. There is no evidence before me that would lead me to reach a different finding on these matters. The Council do contend that the proposal would fail to preserve the long term future of mature preserve trees and that their removal would harm the character and appearance of the area. They also contend that further harm would result from the failure to recognise the important role that the mature trees can play in response to climate change.

6. The appeal application was accompanied by tree reports prepared by Tretec, which also formed the basis of previous approvals on the appeal site for a new dwelling, a matter I return to later. Tretec have also prepared a statement in support of the current appeal, which is reproduced in Appendix J to the Appellant's Statement of Case (ASOC). The plan at paragraph 6 of this statement provides the best depiction of the relationship between the proposed dwelling and mature trees. Adopting Tretec's referencing for the TPO trees, trees No. 747, 748 and 749 (all are Beech trees), to the north east of the new dwelling, would be retained. Whilst this plan does not indicate the canopies of these trees, as I observed on site the new dwelling would be sited under the canopy of tree 748 and sufficiently close to tree 749 for it to be affected by leaf fall, debris and shading.
7. The Council accept that it would be technically possible to accommodate the new dwelling and TPO trees through the use of piled foundations exclusively on the area of existing concrete slab, supported by tree protection measures and agreed method of working. They also recognise the benefit of proposed replacement tree planting, as shown on the proposed layout. However, the Council contend that the development would put considerable pressure on trees 748 and 749 which would likely necessitate their removal after the completion of the development.
8. It is clear from the submitted evidence and my observations on site that the new dwelling would be located close to tree 749 and within or under the crown to tree 748. As such, I agree with the Council that the new dwelling would be affected by presence of trees 748 and 749, even if their crowns were lifted, inevitably leading to pressure from future occupiers for the trees to either be removed or significantly pruned due to concerns over health and safety, tree deposits, overshadowing and root growth. The significant pruning (Tretec's appeal statement suggests that the crowns of the retained trees may need lifting to accommodate the development) or loss of any of these retained trees would, in my view, result in significant harm to the positive contribution that these trees make to local amenity, the urban environment and the character of the area.
9. The effect that retained trees may have on future occupiers of the new dwelling is an important material consideration to which significant weight should, in my view, be attached. Whilst I accept that the Council can exert control over the pruning or felling through the TPO consent process, I concur with Council's Tree Officer's findings that the siting of the proposed dwelling relative to trees 748 and 749 would appear oppressive and threatening, and likely to lead to pressure for their removal as a result of shading, leaf drop and tree deposits, safety and/or damage sustained through further root spread. As such, the appeal proposal would not, in my view, ensure the long term preservation of the retained trees and represents a poor quality and unsustainable form of development.
10. The appeal site is located within the Camborne Conservation Area (CCA) and also within a World Heritage Site. In views, in either direction, on Trevu Road the TPO trees are visually prominent and positively dominate this part of the street, making an important contribution to the special interest and significance of the CCA as a whole. In this respect, section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CAA. Similar advice is to be found in the NPPF and in policies 2 (Spatial Strategy), 12 (Design) and 24

(Historic environment) of the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016) (CLP).

11. As the proposal would, in my view, fail to secure the long term preservation of trees 748 and 749, their loss would have a negative impact on the character and appearance of the CCA. The proposed replacement planting would not mitigate for that loss and as such the proposal would not preserve or enhance the character or appearance of the CCA. As is required, particularly by paragraphs 202, 210, 212-213 of the NPPF considerable importance and weight must be attached to the harm to this heritage asset. In the context of paragraph 215 of the NPPF the appeal proposal would lead to less than substantial harm to the significance of this heritage asset. As the public benefits of the appeal proposal (which I summarise later), delivering either economic or social or environmental objectives, are modest, they would not be sufficient to outweigh the harm I have identified to the significance of the heritage asset.
12. I also concur with the Council's findings in relation to the important contribution that the TPO trees make to mitigating the effects of climate change, and their value to biodiversity. Their loss would lessen the important role that mature trees can play and the ability to improve resilience to the effects of climate change. Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help to mitigate and adapt to climate change, and that existing trees should thus be retained wherever possible. Paragraph 139 of the NPPF also gives weight to role of local design guidance, in this case the Cornwall Design Guide (December 2021) (CDG).
13. Paragraphs 3.3.4 and 3.3.5 of the CDG recognise the important role that trees play in terms of local distinctives and sustainability, and of development contributing to distinctiveness. Paragraph 3.5.1 outlines the benefits of retaining existing trees, with paragraph 3.5.2 stating that the expectation is that existing trees are retained on site.
14. The Climate Emergency Development Plan Document (February 2023) (CEDPD) also adopts a similar approach, with policy C1 requiring new development, amongst other matters, to mitigate against and improve resilience to the effects of climate change and conserve the natural environment. Part 4) of policy G3 continues by requiring minor developments, such as the appeal scheme, to explore all options in relation to canopy provision and take appropriate measures both to avoid or reduce harm to on-site trees.
15. All of the above policies and guidance support my findings in relation to this issue.
16. The Appellant contends that appropriate weight should be accorded to the planning history of the appeal site, specifically previous approvals for a new dwelling, that there has not been any change in planning circumstances since the most recent of those approvals and therefore no reason as to why planning permission should not be granted again for a new dwelling on the site. It is, of course, entirely reasonable for the decision maker to have regard to any change in planning circumstances. It is also entirely reasonable for the decision maker, when determining a planning application, to have regard to the provisions and requirements of new policies and guidance that has come forward since a previous approval for development.

17. Turning to the planning history, the evidence before me indicates that the most recent approval for a new dwelling on the appeal site was in 2020, and that this followed previous approvals in 2014 and 2017. All the approvals sought to construct a new dwelling on the existing concrete slab, a matter I return to later. I understand that the 2020 approval proposed a larger building footprint than the 2017 approval. Even so, the Delegated Report for the 2020 approval states that it was determined on the basis that the 2017 approval still remained extant. The latter would, therefore, have formed a legitimate fall-back option and thus accorded significant in that it could have been implemented if the revised scheme were not approved. Moreover, my reading of this Delegated Report is that the extant consent was the reason why the Council's Tree Officer was reconsulted on the application, having, it would appear, originally objected to the revised scheme on the basis of its impact on the future longevity of the preserved trees.
18. Furthermore, the 2023 Delegated Report, for the appeal application, states that its determination was based on the fact that the 2020 approval had expired and that there was thus no extant consent or fall-back option. It is clear that this was part of the reason for Council Officers revisiting the principle of a new dwelling on the appeal site, particularly in relation to the impact of the development on the preserved trees. In view of this and whilst the sites planning history remains a consideration, in the absence of an extant consent the weight to be accorded to it is, in my view, considerably reduced.
19. The Appellant contends that weight should also be accorded to the fall-back option of constructing a double garage on the appeal site. I do not agree. The garage was approved in 2004 and I understand a material start was made on this through the construction of the existing concrete slab. Even so, this approval involves a completely different form of development to the appeal proposal. Based on the approved plan and decision included with the ASOC, I understand it is for a double domestic garage with a small storage/workshop area at first floor, within the pitched roof design. The approval does not include ancillary residential accommodation and whether it could be adapted or requires further approval to include such accommodation is not a matter that is before me and neither is it something I can comment on in the context of an appeal submitted under section 78 of the Town and Country Planning Act. Even so, the pressures from the approved unoccupied incidental building on the preserved trees would be very different, in my view, to those arising from the proposal that is before me for a 3 bedroom dwelling.
20. The 2023 Delegated Report and the CSOC confirm that the other reason for revisiting the impact of the new dwelling on the preserved trees was the emergence of new local and national policies and guidance, that had come forward since the 2020 approval. These new policies/guidance had evolved over time and increased the recognition of the environmental, amenity and biodiversity benefits of existing trees. In doing so, the weight that should be attributed to the protection and retention of existing trees had increased accordingly. I concur with the Council's findings in this respect. In relation to the NPPF, paragraph 136 now acknowledges that trees make an important contribution to the character and quality of urban environments. That advice did not exist in the 2019 version of the NPPF which was in existence at the time of the determination of the 2020 approval.
21. Similarly, paragraph 139 of the NPPF has also evolved since 2019 in response to the National Design Guide and National Model Design Code with more weight

given to local design guidance. In this case the latter includes the revised guidance on trees and climate change within the 2021 CDG and the new policies of the 2023 CEDPD, with the latter forming part of the development plan. Whilst a version of the CDG existed at the time of the 2020 approval, this was, I understand, adopted in 2013 and was revised and updated in 2021 to reflect changes in policy/guidance that had evolved since.

22. For the above reasons, I am satisfied, on balance, that there has been a material change in planning circumstances since the 2020 approval. Also, that significant weight should be accorded to the changes in local and national policy/guidance that have come forward and evolved since the 2020 decision.
23. Accordingly, I find that the proposed development would be contrary to policies C1 and G3 of the CEDPD, paragraphs 3.3.4, 3.3.5, 3.5.1 and 3.5.2 of the CDG, policies 1, 2, 12, 23 (Natural environment) and 24 of the CLP as well as the corresponding policies of the NPPF.

Planning balance

24. The modest benefits of the appeal proposal that I referred to earlier include making a contribution to meeting future housing provision and boosting supply, generating short term employment during construction and improving local spend, benefits that are supported by other policies in the development plan and NPPF. Even so, the housing benefit, in the form of one new unit, would be small. The Council also indicate that they are able to demonstrate a 5-year supply of housing land and the proposal is for market housing and would not, therefore, meet any identified local affordable need. As such, these modest benefits are not sufficient to outweigh the harm that I have identified or the conflict with the policies of the development plan, when read as a whole or the conflict with adopted design guidance and NPPF policies.
25. In relation to A Secure Home for All (December 2021) this plan sets out how the Council will respond to the need to increase the availability of homes for local residents in the current crisis. No new policies are promoted and the plan confirms that the spatial strategy of the CLP continues to provide an up to date level of housing supply and flexibility. Whilst I have, therefore, had regard to this plan as a material consideration it has not affected my overall findings.
26. Whilst I have also had regard to and sympathise with the Appellants personal circumstances, they are not sufficient, either alone or cumulatively with the above modest benefits, to affect my findings. In relation to the appeal decision included with the ASOC, I note that this dates from 2013 and therefore pre-dates the local and national policies/guidance referred to above. Even so, I have not been provided with any planning background to this case and have, as is required, determined this appeal on its individual merits. For these reasons, this decision does not affect the findings I have reached.
27. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR