



Appeal Decision

Site visit made on 19 November 2024 by S Wilson LL.B. MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 05 February 2025

Appeal Ref: APP/D0840/W/24/3344687

Trewince Lodge, Trewince Lane, Port Navas, Constantine, Falmouth TR11 5RH

- 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 Clive Denny against the decision of Cornwall Council.
 - The application Ref is PA23/02928.
 - The development proposed is the erection of new dwellinghouse.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Areas of Outstanding Natural Beauty (AONB) are now known as National Landscapes. This change in terminology has not affected the reasons for their designation or the fundamental aspects of their special qualities. I have accordingly referred to the Cornwall AONB as the Cornwall National Landscape (CNL) in my recommendation. The CNL is made up of 12 separate geographical areas and in this case the relevant one is the South Coast Western (08).
4. The National Planning Policy Framework (the Framework) was updated in December 2024, and I have provided the main parties with the opportunity to comment on the provisions of that updated document in respect of this appeal.

Main Issue

5. Although the Council has given two reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify a single main issue.
6. Accordingly, the main issue is the effect of the proposal on the character and appearance of the area with particular regard to the location of the site within the CNL.

Reasons for the Recommendation

7. The appeal site is located on the edge of the settlement of Port Navas and at the northern end of Trewince Lane, which is a single-track metalled lane that continues as a bridleway unsurfaced beyond the appeal site. Trewince Lane hosts a number of large properties, is heavily wooded, and directly after the appeal site there is a transition to arable farmland. It is here that a clear demarcation of the settlement occurs, with a mature Cornish hedge forming a distinct barrier between the settlement and the farmland beyond. This distinction is emphasised by the heavily wooded nature of the residential settlement in this area and its contrast to the arable land beyond. There is an Area Tree Preservation Order covering the site and the wider area.
8. The key characteristics of the CNL and the Cornwall Character Area CCA 11, within which the appeal site is located, are noted as valleys covered in dense, mature broadleaved woodland, pastoral or mixed farmland with groups of trees on gently undulating plateau which surrounds the ria, and mature Cornish hedges. I noted that the site is highly visible from the bridleway, with the appeal site presenting as one side of a gateway into Trewince Lane upon entry from the bridleway. Once entered onto Trewince Lane the site is highly visible at the site entrance.
9. The tree survey dated 30 March 2023 (the Tree Survey) maintains that there are a number of mature pines and younger oak trees present on site and that shade from trees covers the entire site. It identifies overhanging branches as a threat to the proposal, in that branches may fall onto the proposal and that the availability of natural light may be limited. It identifies that shade arcs can be overcome by positioning development and a reasonable proportion of the garden outside the shade arc.
10. It would not be possible to overcome this issue without the removal of trees on site and the proposal does not address how it would deal with the issue, other than the proposal has been designed to limit its effect upon the landscape. Consequently, I cannot be certain that the existing trees would not encroach on the proposal over time and require pruning or removal, which in turn would have an adverse effect on the landscape and scenic beauty of the CNL.
11. The Tree Survey continues to identify that encroachment within the root protection area (RPA) would require justification supported by sound rationale and that there is only limited potential to develop the land. The appellant maintains that the proposal would not harm the RPAs of any trees on site but fails to provide substantive method and construction detail for the root protection system. The forestry officer's assessment states that no dig access tracks and turning areas, such as the one proposed, have been found to be unsuccessful on other proposals, and that this proposal would lead to an erosion of the existing tree cover. I do not have sufficient detail before me to be certain that the proposal would not harm the RPA of the trees on site. Consequently, I cannot be certain that there would not be a loss of trees which are a key characteristic of the area and an integral part of the landscape and scenic beauty of the CNL in this location.
12. The proposal would introduce development at this sensitive location that has a strong rural character and would be highly visible from both the bridleway and Trewince Lane. Taken together with the erosion of the existing tree cover, the introduction of built form into the location and to the scale proposed would be

visually intrusive and would have an adverse effect on the rural qualities for which the area is noted. Consequently, the proposal would fail to conserve or enhance the landscape and scenic beauty of the CNL or respect its sensitivity and capacity.

13. Accordingly, the proposal fails to accord with Policies 1, 2, 3, 12, 21 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030, Policies C1 and G3 of the Climate Emergency Development Plan Document and the relevant paragraphs of the Framework, insofar as they seek high quality designed sustainable development that conserves and enhances the character and appearance of the area.

Fallback

14. The appellant maintains that they have permitted development rights under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) Schedule 2, Part 1, Class E and that a development under such rights could be more harmful than the proposal. Whilst that may be the case, the suggested permitted development would be for an incidental outbuilding which would have different levels of impact than the residential proposal. Any new incidental development would need to comply with limitations relating to development within the CNL and the GPDO 2015. Nonetheless, given the use of the appeal proposal would be residential and the fallback position would be incidental, I do not consider that the fallback position has a realistic prospect of being implemented. I therefore give this matter very limited weight in the consideration of this appeal.

Other Matters

15. The Framework was updated in December 2024, and I consulted with the parties to this appeal. The Council responded, conceding an inability to meet the required 5-year supply of housing and that Policy 2a of the Local Plan is considered out of date. Regarding Policy 3 (Role and Function of Places) the detailed locational aspects would be considered out of date as a housing supply policy. However, the Council maintains that the more generic locational guidance such as understanding settlement extent, identifying opportunities for infilling, and rounding off remain in general conformity with the Framework and continue to be afforded full weight. Furthermore, the Council stipulate that the Local Plan Policies relating to the protection and enhancement of the countryside and the protection of natural assets remain in conformity with the Framework.
16. Where the development plan is considered to be out of date for the policies most relevant to the determination, paragraph 11d) requires that permission be granted unless the application of policies in the Framework that protect assets of particular importance provides a strong reason for refusing the development proposed. For the purposes of paragraph 11 of the Framework, the CNL is an asset of particular importance as denoted by footnote 7.
17. The policy in paragraph 189 of the Framework seeks to conserve and enhance the landscape and scenic beauty of National Landscapes. In contrast, the proposal would cause significant harm to the CNL, and the application of the policy in paragraph 189 of the Framework provides a strong reason for refusing the proposed development. Consequently, the provisions of paragraph 11d)ii) of the Framework are not engaged in this instance.

18. The development would provide one dwelling which would contribute to the housing stock in Cornwall. There would also be limited employment, economic and social benefits through the creation of employment during construction, and through the ongoing spend of future residents, and their support for local services in the area. Furthermore, the appellant advances that the proposal would provide a biodiversity net gain through the provision of a green roof. However, I have no evidence before me to demonstrate the level of that proposed enhancement and, accordingly, I attach limited weight to that potential benefit. The appellant maintains that the site is previously developed land; however, the Framework excludes residential gardens in a built-up area. The site is located within the built environment, and I conclude that the appeal site is not previously developed land.
19. The limited scale of the development means that, cumulatively, these benefits only carry moderate weight. I conclude that the benefits of the scheme would not outweigh the harm that would be caused to the landscape and scenic beauty of the CNL, to which I must apply great weight.
20. The appellant has raised concerns in respect of the Council's handling of the application which led to this appeal. However, my jurisdiction in terms of an appeal made under s78 of the Town and Country Planning Act 1990 relates to the planning merits of the proposed development.

Conclusion and Recommendation

21. For the reasons given above, the appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith. I therefore recommend that the appeal should be dismissed.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

22. The appeal site is within the Zone of Influence of the Fal and Helford Special Area of Conservation. Whilst an important issue, I have not found it necessary to examine this matter in greater detail as I am dismissing the appeal for other reasons as outlined above in the recommendation.
23. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet

INSPECTOR