



Appeal Decision

Site visit made on 20 February 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2025

Appeal Ref: APP/D0840/W/24/3348022

Martyns, Restronguet, Mylor Bridge, Cornwall TR11 5ST

- 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 Hester Russell against the decision of Cornwall Council.
 - The application Ref is PA23/06173.
 - The development proposed is the construction of a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a replacement dwelling at Martyns, Restronguet, Mylor Bridge, Cornwall TR11 5ST in accordance with the terms of the application, Ref PA23/06173, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is whether the proposed development would be in a suitable location, taking account of its effect on character and appearance, including the scenic beauty of the Cornwall National Landscape.

Reasons

3. The appeal site is located just outside of the small village of Restronguet and as such is regarded as being within the countryside for planning purposes. It is almost entirely covered with trees although it does also contain the remnants of several buildings that are in various states of disrepair. Nevertheless, the north eastern part of the site does benefit from a Certificate of Lawfulness (the CoL) which confirms the lawful use of part of the wider site for residential purposes.
4. The proposed development would involve the construction of a replacement dwelling. Policy 7 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (the LP), states that replacement dwellings within the countryside will be permitted where they would be broadly comparable to the size, scale and bulk of the original dwelling, and of an appropriate scale and character for their location. This position is reiterated within Policy H1 of the Mylor Parish Neighbourhood Plan 2020 – 2030 (the NP).
5. In this instance, the original dwelling appears to have been a single storey chalet which was of a very modest size. In contrast, the proposed replacement dwelling would be a two storey structure which would have a much larger footprint and overall mass. As such, the proposal would be in conflict with that element of LP Policy 7. However, it seems to me that the proposed home would be of a similar

size to many others within the vicinity, and as a result, its overall bulk and mass would not look out of place or overly conspicuous.

6. The proposed dwelling would be located on part of the wider site, just outside of the red line boundary identified within the CoL. The Council's Chief Planning Officer's Advice Note on Barn Conversions and Replacement Dwellings in the Countryside (the CPOAN), provides some guidance for schemes such as the one before me. Of particular note is the final section which sets out that, for replacement dwellings, a different siting may be justified if it can be demonstrated that there are significant benefits, such as for landscape character.
7. The site is located within the Cornwall National Landscape (the NL). Paragraph 189 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty within NL's. Furthermore, the Levelling Up and Regeneration Act 2023 (the LURA) requires decision makers to actively seek to further the purpose of conserving and enhancing natural beauty within NL's. The NL Management Plan (NLMP) contains various policies which seek to preserve the character and appearance of the area, including Policy PD-P11 which states that new development should maintain local distinctiveness, reflect local vernacular and avoid large scale dwellings with very extensive glazed elevations. The site is also located within Landscape Character Area CCA16 as identified within the Cornwall Character Area Study, 2023. Particular characteristics of note include the presence of rivers and creeks with wooded valleys. There is also a blanket Tree Preservation Order (TPO) which covers the site.
8. The proposed development would involve the loss of a number of existing trees on the site and it would therefore conflict with NP Policy W2 and Policy G3 of the Climate Emergency Development Plan Document (CEDPD) which, in part, seek the retention of trees and canopies. However, the Council's Tree Officer notes that the majority of trees proposed for removal are of poor quality, with many of them being diseased or of non-native species. Furthermore, the Tree Officer also outlines that none of the trees proposed for removal to facilitate the development are included within the TPO by virtue of being of insufficient age, and that protected trees have been given ample space to avoid harm, including their root protection areas.
9. It is also noted that the northern part of the site, in the vicinity of the existing chalet and outbuildings, is unlikely to be suitable for development due to the presence of valuable mature oaks, some of which have notable veteran features. Based on the evidence before me, and from what I observed on my site visit, I have no reason to disagree with the position set out by the Tree Officer. The proposed development would also involve the provision of a significant planting scheme of large native species, including on the elevated western boundary of the site, which has the potential to strengthen canopy spread in those areas.
10. Therefore, while I acknowledge that there would be a reduction in the canopy where development would take place, the removal of non-native or diseased trees, the ongoing protection of trees covered by the TPO, and the proposed planting scheme, all weigh heavily in favour of the proposed development. Based on the approved plans, I do not consider that there would be a need to remove further trees in future given that there would be sufficient space between the proposed dwelling and the canopies of remaining trees.

11. In terms of the design of the proposed dwelling itself, it would clearly have a relatively modern appearance. However, in my view, it would be a pleasing design which would utilise traditional materials, such as slate, in a contemporary fashion. I recognise that several local policies and the NLMP seek to ensure that developments reflect local design and vernacular. However, it does not seem to me that this represents a complete moratorium on the provision of more modern designs that incorporate local materials. Indeed, there are many modern dwellings within the wider area which form part of the NL landscape, and in this instance, I am of the view that the extensive use of local slate would sufficiently reflect local character. The dwelling would have several large windows, particularly within the east elevation. However, this amount of glazing is not unusual, and I do not consider that it would be 'very extensive' in the words of Policy PD-P11 of the NLMP.
12. The removal of trees may well mean that the proposed dwelling would be visible to some extent from the creek or the peninsula opposite. However, even if this were the case, the dwelling would appear closely related to existing homes to the south and east of the site, and as such, would appear as a natural addition rather than an intrusion into the surrounding landscape. Furthermore, closer range views from Restronguet Hill would be largely screened by the retained planting. The overall character of the immediate surroundings would therefore not be eroded.
13. Taking all of this into account, I am satisfied that the proposed development would preserve and enhance the character and appearance of the area, as well as the scenic beauty of the NL. Furthermore, the benefits of the scheme, notably the ongoing protection of trees subject to a TPO, the proposed planting scheme, the design of the dwelling, and the removal of the dilapidated buildings, are significant, and therefore the guidance set out within the CPOAN has been met.
14. As such, I conclude that the development would conform with LP Policies 1, 2, 3, 12 and 23, NP Policies H1, H2, L1, L2 and Policy C1 of the CEDPD. Taken together, these policies seek to ensure that development is appropriately sited, that it is well designed, contributes to combating climate change, and that it preserves character and appearance, including the contribution made by trees. There would also be no conflict with the guidance contained in the Cornwall Design Guide 2021, the policies of the NLMP, the relevant sections of the Framework or the requirements of the LURA.
15. I do however find a very limited conflict with LP Policy 7 given that the proposed dwelling would not be broadly comparable in size to the existing chalet. There would also be conflict with NP Policy W2 and CEDPD Policy G3 given that existing trees would be removed. However, this again would be a very limited conflict without ensuing harm due to the overall benefits to trees on site as identified above.

Other Matters

16. The site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC). However, given the existing lawful residential use of the site, the proposal would not involve a net increase in the number of dwellings. As such, there would not be a likely significant effect upon the SAC and no mitigation is required.

17. I note that the Council has advised that it can no longer demonstrate a five-year supply of deliverable sites. However, given my findings in relation to this appeal, this issue does not change my overall decision and so I have not applied the 'tilted balance'.

Conditions

18. I have imposed conditions to identify the relevant timescales and plans in the interests of certainty. I have imposed a condition to ensure that the development is safe from flooding and various conditions to preserve character and appearance, including those in relation to materials, landscaping, trees, demolition and lighting. Further conditions are necessary to manage the impact of construction, and to provide energy efficiency measures. The Planning Practice Guidance sets out that the removal of permitted development rights may not pass the tests of reasonableness or necessity. However, in this instance, I have included a condition to remove certain rights on the basis that the site is within an area covered by a TPO. As such, the condition is both reasonable and necessary to ensure the ongoing preservation of character and appearance.

Conclusion

19. I have found that the development would be in a suitable location and that there would be no harm in relation to character and appearance or the scenic beauty of the NL. I have found conflict with LP Policy 7, NP Policy W2 and CEDPD Policy G3, although the resultant lack of any harm means that this conflict would be very limited. I have already set out that the proposal would result in several benefits, which in combination, would be significant. In this instance, the benefits clearly outweigh the conflict with the development plan and indicate that permission should be granted.
20. The appeal is therefore allowed.

C Butcher

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing no's: 2229 3 3 0001 Site Plan – Location Rev C; 2229 3 3 0006 Site Plan – Demolition Rev A; 2229 3 3 0008 Site Plan – Proposed Rev C; 2229 3 3 0101 Proposed Ground Floor Rev F; 2229 3 3 0102 Proposed First Floor Rev E; 2229 3 3 0103 Proposed Roof Plan Rev E; 2229 3 3 0104 Proposed Garage Plan and Elevation Rev C; 2229 3 3 0201 Site Sections Rev B; 2229 3 3 0202 Site Sections Rev B; 2229 3 3 0301 Elevations – Proposed Rev E; 22372-LA-00-01 Garden Layout Rev 1; 22372-LA-00-02 Structural Planting Plan Rev 1
- 3) The development hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of foul and surface water drainage has been completed in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The details shall include a programme for maintaining the system if required. The system shall be retained and maintained thereafter in accordance with the approved details.
- 4) No development shall commence until details of the materials to be used in the construction of the external surface (doors/windows/lintels/sills/rendering/cladding/roof covering) of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 5) No development shall commence until a Construction Environment Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include and/or comply with the following details (as applicable) and development must be carried out strictly in accordance with them: dust control measures; wheel washing; times of working; noise control measures; measures to mitigate the effects of and to control lighting during construction; site plan showing storage areas, site office and any facilities buildings/containers, management of surface water during the construction phase.
- 6) No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of: times and frequency of deliveries, area for unloading, supervision of deliveries, including any unloading, construction traffic parking.
- 7) No development shall commence until a soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of species, numbers of plants and trees, locations of planting and timings for planting and details of managing and maintaining the soft landscaping including trees for the lifetime of the development.
- 8) No development, including demolition or groundworks shall commence until the tree protection measures set out in the submitted Tree

Retention Plan and the Tree Survey dated January 2023, have been implemented. The tree protection measures shall be retained in accordance with the approved details throughout the demolition, groundworks and construction phases unless otherwise agreed in writing by the local planning authority.

- 9) No development shall take place until details of the driveway construction method have been submitted and agreed in writing by the local planning authority. This must include an appropriate no dig above ground level system within the root protection areas of existing trees. The approved method shall be retained thereafter.
- 10) No development, including demolition or groundworks shall commence until a method statement setting out monitoring of works and tree protection measures by a suitably qualified arboriculturist for the duration of all works on site has been submitted to and approved in writing by the local planning authority and the development hereby approved shall be carried out in strict accordance with the approved method statement.
- 11) Demolition of the existing dwelling and outbuildings as identified on plan 2229 3 3 0006 Rev A shall be completed and all arisings removed from the site prior to work commencing on the dwelling hereby approved.
- 12) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the first occupation of the development. The lighting scheme shall be implemented in accordance with the approved details and retained as such thereafter.
- 13) Prior to the first occupation of the dwelling hereby permitted, the energy and water efficiency measures and renewable energy provision detailed in the approved Energy Statement (Energy Statement prepared by KAST Architects dated July 2023) shall be fully implemented and the mechanical ventilation and heat recovery unit and air source heat pump shall also be installed and completed in accordance with the details included on the plans hereby approved. The energy and water efficiency measures and renewable energy provision shall thereafter be retained and maintained as such.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without an express grant of planning permission, namely: the enlargement, improvement or other alteration of the dwellinghouse; the enlargement of the dwellinghouse consisting of an addition or alteration to its roof; any other alterations to the roof of the dwellinghouse; the erection of construction of a porch outside any external door of the dwelling; the provision within the curtilage of the dwellinghouse of

any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.