



Appeal Decision

Site visit made on 19 March 2025

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Appeal Ref: APP/D0840/W/24/3351349

Little Trerank, Access Road to Little Trerank, Roche, Cornwall PL26 8EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mrs C Bennett against Cornwall Council.
 - The application Ref PA24/03791 sought approval of details pursuant to conditions Nos 1 and 2 of a planning permission Ref APP/D0840/C/22/3304291 granted on 27 February 2024.
 - The appeal development proposed is erection of a partially completed dwelling house.
 - The details for which approval is sought are: condition 1 a scheme for the reduction in the height of the partially constructed dwelling by 1.6m and a timetable for its implementation and condition 2 a landscaping scheme (Details included within the annex of this decision).
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Decision

1. **The appeal is dismissed in part** and the details submitted pursuant to condition 1 attached to planning permission Ref. APP/D0840/C/22/3304291, granted on 27 February 2024, are not approved.
2. **The appeal is allowed in part** and the details submitted pursuant to condition 2 attached to planning permission Ref. APP/D0840/C/22/3304291, granted on 27 February 2024, are approved.

Applications for costs

3. An application for costs was made by Mrs C Bennett against Cornwall Council. This application is the subject of a separate Decision.

Preliminary Matters

4. The description of development used in the banner heading above is taken from the enforcement notice, as corrected by the Inspector in Decision Letter APP/D0840/C/22/3304291 (the Appeal Decision).
5. Planning permission was granted on 27 February 2024 pursuant to an appeal brought under Section 174 of the Town and Country Planning Act 1990 (the Act) against an enforcement notice. The appeal included an application for planning permission deemed to have been made under section 177(5) of the Act.
6. An application was made to the Council for the approval of details in relation to conditions 1 and 2 attached to the Appeal Decision. The Council failed to determine the application within the prescribed period. It has subsequently confirmed in its statement that it would have refused the details proposed in relation to condition 1 but raised no issues in respect of condition 2.

7. The matters in dispute have therefore informed the main issues under the appeal.

Background and Main Issues

8. The Appeal Decision related to the partial erection of a dwelling house on the site. In this appeal the Inspector considered the main issues to be the effect of the dwelling on the character and appearance of the area.
9. Prior to the Appeal Decision there was a previous appeal for a dwelling on the site with the development described as 'Retention and completion of the dwelling with amended height/siting' (Ref. APP/D0840/W/20/3246038). This appeal was dismissed on the basis that the proposed development would have an unacceptable effect on the character and appearance of the area but found the effect on living conditions to be acceptable.
10. The wording of Condition 1 is included within the annex of this decision. Parties agree that the details were submitted to the Council within the appropriate time frame, so part i) has been completed. Although the Council failed to make a decision the appeal was lodged and valid within 11 months and therefore the requirements of part ii) have been met. How about: To be approved the submitted scheme for reduction of the building height by at least 1.6m must be acceptable in planning terms.
11. Based on the information before me, including the case from the Council and the Appeal Decision, the main issue is the effect on the character and appearance of the area.

Reasons

Character and Appearance

12. The appeal site is located to the south of Harmony Road and is accessed via a single lane track. The partially complete house is located in close proximity to its immediate neighbour but is well separated from other housing within the village. Due to the open nature of the adjacent fields the house is visible from Harmony Road and also from nearby Public Rights of Way, including 412/6/1 and 412/14/1.
13. The houses close by to the site are a mix of bungalows and fairly modest two storey homes. Pitched roofs and gables form a strong part of the areas character in terms of roof forms although there are also examples of hipped roofs. Buildings with any other form of roof are not common in this part of the village.
14. Condition 1 requires the height of the dwelling to be reduced by 1.6m and this is proposed on the plans by removing the existing ridge and flattening the top of the roof. Whilst this design achieves the 1.6m reduction in height, further assessment is required as to whether this meets reasoning for imposing the condition.
15. Based on the evidence before me, I acknowledge that previous Inspectors have considered the 2015 permission (ref: PA14/10722) as a realistic fallback. I also accept that the principle of the house has been accepted by the allowing of the appeal to which these conditions relate.
16. The Appeal Decision acknowledges that the planning history on this site has consistently concluded that the development has an unacceptable effect on the character and appearance of the area. The Inspector agreed with earlier findings

that the scale, bulk, massing and prominence of the building are unacceptable within the landscape.

17. The Inspector also accepted that the building approved under the 2015 permission, had it been constructed, would also have appeared as a large building in the countryside and somewhat incongruous in scale relative to its close neighbour. Whilst the Inspector acknowledged the fallback position in relation to the original permission, he identified the difference in the approved height and the height of the partially completed house to be significant.
18. The figure of 1.6m relates to the relative height difference of the house approved in 2015. The Inspector refers to a scheme, which was not before him at the time, which retained the floor levels and replaced the roof at a lower pitch. He accepted that despite the drawings not being before him that it would be possible for the height of the building to be reduced and therefore a large degree of the harm currently caused to the character and appearance of the area could be overcome.
19. Furthermore, the Inspector concluded that “No doubt there are other design solutions possible that could achieve a similar height reduction with a more acceptable roof pitch, for example, through the introduction of dormer windows. However, these would be for the appellant to pursue and for the Council to assess the quality any design changes submitted for approval”.
20. The scheme before me whilst reducing the overall height does not alter the pitch of the roof and whilst the top section is removed much of the bulk of the roof remains. The proposed alterations to the roof would appear contrived and result in a building with a style of roof which is not common in the area. Given the prominence of the building in the landscape it would be a highly visual anomaly. Despite the reduction in height the building would still have a harmful effect on the character and appearance of the area. Whilst acknowledging that there may be more than one design solution to achieve the aims set out in the Appeal Decision to reduce the prominence of the building, these have not been met with the proposals submitted. The proposed alterations do not overcome the concerns raised in previous appeals in terms of the scale of the building and the further change to the design worsens its visual impact in the landscape. I therefore do not agree that the details can be approved as part of condition 1.
21. I acknowledge that in reaching this conclusion there are serious implications for the appellant following a significant number of years of planning applications and appeals. However, ultimately, the proposal before me would have a harmful impact on the character and appearance of the area which would be contrary to Policy 2, 12 and 23 of the Cornwall Local Plan which amongst other things seeks designs which are high quality and demonstrate physical and aesthetic understanding of their locality and are of an appropriate scale, height and mass and sustain local distinctiveness and character. It would also be contrary to policies in the Roche Parish Neighbourhood Plan including Policies H1, H2 and G1 which expect high design standards and protect against insensitive development impact on rural character.

Other Matters

22. I note the personal circumstances of the appellant and the associated financial implications, however, even if I attribute weight to these it would not outweigh the harm identified. The appellant states that the design proposed is the most cost-

- effective solution and whilst other options may be unviable, I have not been presented with any alternatives or their associated costs which would enable me to reach a different conclusion.
23. The focus of this appeal is whether the proposed design reducing the height of the building by 1.6m is appropriate. This assessment can be made on the basis of the proposed plans supporting the application. Whilst previous appeals have considered measurements and datum points no further assessment of these matters has been needed to assess this appeal.
24. The reduction in the height of the building could be achieved in a number of ways. The appellant may be of the view that they consider the Council believe this to be by reducing the ground level and that this would be contrary to the Appeal Decision. However, consistent with this decision I agree that there are alternative approaches to changing the design of the roof which would retain much of the form of the building in a manner which would reduce the bulk and mass of the building and be more in keeping with the area. The Council have previously refused a scheme with a reduced pitch due to the squat form of the building, however, other design options are possible as indicated by the Inspector considering the Appeal Decision.
25. The design changes to the roof may have been suggested by the adjacent neighbour, however, it is for the determining body to decide if the proposed design is appropriate.
26. In terms of other examples with similar roof forms, the house in Penwithick is approximately 4 miles from the site and not within the village of Roche. Although it demonstrates an alternative roof form it is not within the immediate locality and no context of the house has been provided. It does not provide justification for the out of character design in this location.
27. The houses constructed on Withiel Turning are not comparable in terms of context or setting. They are a modern design and part of a housing development. The context is more industrial and they are not surrounded by other more traditional housing as is the case for the appeal site.
28. Correspondence detailed in the appellants statement references the Council considering the building to have an overbearing impact on the neighbouring property. Taking into account the findings of previous Inspectors and my own judgements while on site I do not find that there would be an adverse impact on neighbouring properties.
29. The Council raise no objections in respect of the landscaping details relating to condition 2. Having reviewed the details in relation to the site I have no reason to reach a different conclusion.

Conclusion

30. For the reasons given above the appeal should be dismissed in respect of condition 1 and allowed in respect of condition 2.

H Faulkner

INSPECTOR

ANNEX

Condition 1

The building operations hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision a scheme for a reduction in the height of the partially constructed dwelling by at least 1.6m shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Condition 2

No further development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall provide planting plans with written specifications including:

- i) Full schedule of plants;
- ii) Details of the mix, size, distribution and density of all trees/shrubs/ hedges;
- iii) Cultivation proposals for the maintenance and management of the soft landscaping;
- iv) All planting, seeding or turfing comprised in the approved scheme of landscaping should be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice should be given to the local planning authority when the approved scheme has been completed;
- v) Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.