
Appeal Decision

Site visit made on 13 September 2016

by Nick Fagan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 September 2016

Appeal Ref: APP/D0840/W/16/3147048

**Land adjacent to Stamps Hill, Trolver Croft, Feock, Truro, Cornwall
TR3 6RT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Russell against the decision of Cornwall Council.
 - The application Ref PA15/05910, dated 25 June 2015, was refused by notice dated 9 September 2015.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the proposed development on the character and appearance of the area, having regard to the effect on trees and the location of the site within the Cornwall Area of Outstanding Natural Beauty (AONB).

Reasons

3. The appellant has submitted the application for the proposed development in order to try and overcome the reasons why the Inspector dismissed a similar proposal for a new dwelling in 2014¹.
4. The Council acknowledges that the proposed dwelling has been repositioned even further away from the protected trees to the east, which form part of a group of important mature trees above the houses at Trolver Croft on this side of Penpol Creek as described in the previous appeal decision.
5. The Council maintains that despite this the canopies of the nearest trees have the potential to overhang the site and that this would impact on the usability of the curtilage to the south of the proposed dwelling.
6. Having ascertained during my site visit the exact boundaries of the proposed southern curtilage, which would be used for car parking, I agree that a tree outside the site could well be adversely affected. However, this tree is in a poor condition and its removal would not significantly adversely affect the level of tree cover when viewed from the opposite side of the Creek.
7. Furthermore, a S106 Unilateral Agreement dated 9 May 2016 has been submitted obliging the appellant's son, who owns the adjacent land

¹ APP/D0840/A/14/2217652

immediately to the south, to plant 30 Sessile Oaks and a native hedge on the land and to provide for the maintenance and aftercare of such new planting. I therefore agree with the appellant's arboriculturalist that the proposal would not harm the significant trees to be retained immediately adjoining the site and that the land to the south would be enhanced by this new tree planting.

8. However, in order to create a useable garden for the new dwelling, which I agree is a necessary requirement of such a proposal, the site includes the whole of the front garden of Stamps Hill to the north. The proposal would also involve the removal of the Cornish hedge along the current boundary between that garden and the land to the south which has been partially cleared in order to erect the garage the subject of the 2011 permission.
9. I agree with the Council that this is an unacceptably contrived attempt to overcome the previous Inspector's decision because it leaves Stamps Hill with no useable garden area. The only outside garden area that would be retained is the terraced area immediately next to the house and the steep slope and pond area to the north of the drive. Such an area would be insufficient and unsatisfactory for a house of this size and would be significantly out of character with the curtilages of surrounding properties in Trolver Croft.
10. Cornish hedges are an important characteristic of this part of the AONB and its removal to create such a contrived plot for the new dwelling would fail to enhance the natural beauty of the AONB contrary to Policy PD8 of the AONB Management Plan 2011-2016 and 'saved' Policy 3F of the Carrick District Wide Local Plan (LP), which requires such landscape features to be protected and retained.
11. Similarly, 'saved' Policy 40 of the LP states that new development should be sited and designed so as to respect the distinctive character of the area including with particular regard to, amongst other things, local features. I am in no doubt that the existing Cornish hedge is such a local feature that should be preserved.
12. The above policies are consistent with the paragraph 115 of the National Planning Policy Framework, which states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and AONBs – areas which have the highest status of protection in relation to landscape and scenic beauty.
13. Consequent to this and for the reasons given above the proposed development is unacceptable and the appeal is dismissed, notwithstanding my conclusion that important existing trees would be preserved and that the proposed new landscaping scheme would enhance the tree cover in the area.

Nick Fagan

INSPECTOR