
Appeal Decision

Site visit made on 26 July 2016

by Colin Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 5 September 2016

Appeal Ref: APP/D0840/W/16/3148654

The Bungalow, Enys Hill, Penryn, Cornwall TR10 9BA

- 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 Roger Fergus against the decision of Cornwall Council.
 - The application Ref PA15/08103, dated 27 August 2015, was refused by notice dated 24 November 2015.
 - The development proposed is the erection of a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling at The Bungalow, Enys Hill, Penryn, Cornwall TR10 9BA in accordance with the terms of the application, Ref PA15/08103, dated 27 August 2015, subject to the conditions set out in the Schedule at the end of this Decision.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the Area of Outstanding Natural Beauty (AONB).

Reasons

3. The appeal site comprises an open field containing a polytunnel and a small unit, which the appellant describes as two caravans linked together. Although there is an existing property (The Bungalow) in close proximity, this is not particularly conspicuous due to the local topography and the presence of trees and vegetation along the field boundaries. As such, the site maintains a distinctly open and verdant appearance. This is characteristic of the wider area which is mostly dominated by agricultural fields, hedgerows, and mature trees. Indeed, the landscape is of such scenic quality that it has been designated as an AONB. These areas have the highest status of protection and the *National Planning Policy Framework* (the Framework) states that 'great weight' must be given to conserving scenic beauty within them.
 4. There are a number of public footpaths in the area, the closest of which run to the north and east of the site. However, the existing unit cannot be easily seen from those vantage points due to its modest size and its positioning next to the field boundary. As such, it has very little impact on the character and appearance of the immediate area or the wider landscape.
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5. I understand that the unit benefits from a Certificate of Lawful Development for use as a dwellinghouse. On this basis, the proposed new house is described as being a replacement dwelling. However, the house would be significantly larger than the existing unit and it would be positioned further towards the centre of the existing field. Due to its size in comparison to the existing caravan, it would not be as well screened by surrounding hedges and could be glimpsed from the public footpath through the trees, albeit at a distance. Although generally well screened, it could also be seen in longer views from elsewhere within the wider landscape, including adjacent fields. Whilst the new house would not be a prominent feature, it would nonetheless add to the quantum of development within the protected landscape.
6. However, I am aware of an extant permission¹ for a detached bungalow which would be situated in a similar part of the field as the appeal proposal. Information supplied by the appellant indicates that this was recommended for refusal but supported by the planning committee. I have not been informed of any reasons why this extant permission could not be implemented and therefore consider it highly likely that the bungalow would be constructed in the event of the current appeal being dismissed. It is therefore a material consideration to which I attach substantial weight.
7. Whilst the proposed house would be taller than the proposed bungalow, it would not appear any more conspicuous when seen from the nearest public footpaths to the north and west of the appeal site. The house would occupy a smaller footprint than the bungalow and the site is well screened by trees and vegetation along the field boundaries. Even when the trees are not in leaf a good deal of screening would be present and the appeal site is physically separated from these footpaths. Although the presence of a new house or bungalow within the centre of the appeal site would be perceived from the footpath network, the exact form of the development would not be very apparent unless standing immediately outside the entrance looking in.
8. For similar reasons, there would be little difference between the impact of the proposed bungalow and the impact of the proposed house when seen in longer views (including from other parts of the footpath network). Even though the house would be taller than the bungalow, the topography of the area and the degree of screening from trees and hedges along various field boundaries would not result in it being any more conspicuous. Although either dwelling would be visible from adjacent fields and other vantage points, one would not result in greater harm to the AONB than the other. In summary, the effect of the proposed house compared to the proposed bungalow would be largely indiscernible.
9. Ordinarily, a new house in the location proposed may not comply with development plan policies which govern the siting of replacement dwellings and which aim to protect the character appearance of designated landscapes. However, in this particular case I have given substantial weight to the extant permission for a bungalow in a similar location to the appeal proposal. Notwithstanding the 'great weight' that the Framework assigns to the protection of designated AONB landscapes, I have found that the appeal proposal would not result in additional harm.

¹ Council Ref: PA16/00268

10. Taking into account material considerations, I therefore conclude that the proposal would have an acceptable effect on the character and appearance of the AONB. As such, the development would be compatible with the overall intentions of Policies 3A and 6J of the Carrick District Wide Local Plan 1998. These policies aim to protect the appearance of the countryside and specify where replacement dwellings should be located. In these particular respects, the proposal would be compatible with the intentions of the Framework, including paragraphs 17 and 115. The development would also be compatible with the Cornwall AONB Management Plan 2011-2016. Whilst the Council has referred to the emerging development plan within their evidence, it has not been adopted and therefore carries limited weight even though it has reached an advanced stage of preparation.

Conditions

11. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed. There is also a condition to ensure that the existing unit is removed before the replacement is constructed so that the two dwellings may not exist on the site at the same time. To protect highway safety, there is a condition to ensure the proposed parking and turning spaces are implemented. To maintain the character and appearance of the area, conditions are imposed to ensure trees are protected and that external materials are agreed with the Council. So that adequate drainage arrangements are put in place, there is also a condition for surface water drainage measures to be implemented. Taking into account the appellant's comments, this condition has been worded so that the suitability of a sustainable drainage system can be assessed.
12. The appellant refers to the conditions which were imposed for the extant permission for the bungalow. Although fewer conditions were imposed for that scheme, I consider the above conditions necessary in this case for the reasons stated. One condition previously imposed was the removal of certain permitted development rights in order to protect the appearance of the area. Although removal of such rights should only be carried out in exceptional circumstances, the location of the site within an AONB justifies me imposing a similar condition in this particular instance.

Conclusion

13. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

Colin Cresswell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg No 1 (Site Location Plan) Dwg No 2 (Existing Site Plan) Dwg No 3 (Proposed Replacement Dwelling Siting) Dwg No 4 (Proposed ground Floor Plan) Dwg No 5 (Proposed First Floor Plan) Dwg No 6 (Proposed Elevations and Section) Dwg No 7 (Existing Principal North Elevation and Site Section) Dwg No 8 (Existing Floor Plan and Principal North Elevation) Plan No 3206 1 (Proposed Site Section).
- 3) The development hereby permitted shall not be constructed until the existing dwelling (labelled "caravan" on the Dwg No 2- Existing Site Plan) has been permanently removed from the site together with all the materials resulting from its demolition.
- 4) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) No dwelling shall be occupied until space has been laid out within the site for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

CONTINUED OVERLEAF.....

Schedule of Conditions (continued)

- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of *British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations* (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the following development shall not be carried out without an express grant of planning permission:
 - i) Any enlargement of the dwelling hereby permitted.
 - ii) Additions or alterations to the roof of the dwelling hereby permitted.
 - iii) The provision within the curtilage of the dwelling hereby permitted of any building, enclosure or pool.