

Appeal Decision

Site visit made on 21 September 2022

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date: 1st November 2022

Appeal Ref: APP/D0840/W/21/3288120

Merrymeeting Farm, Tresarret, Bodmin, Cornwall PL30 4QH

- 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 Paul Sessions against the decision of Cornwall Council.
 - The application, Ref. PA21/02583, dated 9 March 2021 was refused by notice dated 11 November 2021.
 - The development proposed is described as 'the erection of a Para 79(e) dwelling'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a Para 80(e) dwelling at Merrymeeting Farm, Tresarret, Bodmin, Cornwall PL30 4QH in accordance with the terms of the application, Ref. PA21/02583, dated 9 March 2021 and subject to the conditions in the attached Schedule.

Procedural Matter

2. The description of the proposed development is 'the erection of a 'Para 79(e) dwelling'. This is a reference to Government policy which since the application was made has been superseded by the National Planning Policy Framework revision of July 2021 ('the Framework'). The relevant reference is now paragraph 80(e) with the only change being the omission of '*or innovative*' as the qualifying basis for the principle of a new home under the paragraph.

Main Issue

3. The main issue is whether the proposed dwelling would be acceptable in this countryside location having regard to (i) its impact on the character and appearance of the surrounding landscape; (ii) its sustainability in terms of accessibility to daily services and facilities, and (iii) Government policy in the Framework for isolated homes in the countryside. As a paragraph 80(e) application, whilst the development plan is the starting point, both (i) and (ii) must be assessed with (iii) as a material consideration of great weight.

Reasons

4. The background to this appeal is the Council's failure to determine application ref. PA20/00297 on the same site but which was refused permission by virtue of a dismissed appeal on 10 November 2020. The current proposal is tantamount to a re-submission of that scheme, but with amendments to specifically address the concerns of the previous Inspector. The appellant's statement shows that
-

this has been carried out by the specific identification of his objections and an explanation of the scheme's amendments to deal with each one in turn.

5. The amended plans and proposals have also been the subject of reviews by the South West Design Review Panel ('the DRP'), the last one being in February 2021 shortly before the appeal application was made to the Council. The Review's conclusion at its meeting on 10 February 2021 is that the proposed dwelling now qualifies for being a justified exception to the development of isolated homes in the countryside on the basis of paragraph 80(e) of the Framework.
6. This says that the design of an isolated home should be of 'exceptional quality' in that it:
 - *'is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas, and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area'.*

The officer's report on the application, although recommending refusal nonetheless acknowledges that because of its exceptional design quality the proposal satisfies the first above requirement of paragraph 80(e). Whilst the architectural style is not my personal preference, nothing I have seen or read leads me to disagree with the Council's and DRP's conclusion that the first requirement of Paragraph 80 e) has been satisfied.

7. This confines the Council's objections to (i) the effect of the development on the site and its landscape setting, bearing in mind that it lies within an Area of Great Landscape Value ('AGLV') and the Bodmin Moor Landscape Character Area and (ii) its limited accessibility to services with the consequence of over-reliance on travel by private vehicles.
8. Turning firstly to (ii), the Council regard this as evidence of the development's lack of sustainability in harmful conflict with the policies of the Cornwall Local Plan: Strategic Policies 2010-2030 ('the Local Plan') and several paragraphs of the above-mentioned Framework. However, paragraph 80 must be read together with paragraph 79. These combine to explain that to promote sustainable development in rural areas, housing should normally be located where it will enhance or maintain the vitality of rural communities (for example in villages). However, there are some circumstances where the development of isolated homes may be acceptable.
9. Five examples are given for such development, with (e) as repeated in paragraph 6 above, being the example relevant to this appeal. This effectively says that despite the disadvantage of an isolated location, the merits of a dwelling's design and an enhancement of its setting are capable of justifying the particular development. The Framework is current Government policy and is now six years more up to date than the Local Plan policies. I therefore conclude that if confirmed as a qualifying paragraph 80(e) proposal, the appeal scheme's relative lack of sustainability in terms of accessibility to daily services and facilities is, by definition, not a sound reason for refusal of permission. In short, the absence of a sustainable location (other than walking and cycling to Bodmin on the Camel Trail) has already been factored into paragraph 80(e).

10. This leaves the effect of the development on the site and its landscape setting as still a potentially justified reason for refusal. However, any development has the effect of altering its context by the very reason of its existence, but in this case with actual harm most likely to arise arising from such factors as unsuitable external materials, inappropriate scale, an absence of screening or by not being in harmony with the landscape contours or local features.
11. However, I consider that the issue of external materials has been resolved with the amendments from the previous scheme and that the Landscape and Visual Appraisal has clearly demonstrated that with its low profile, design quality and backdrop of mature trees the development would harmonise with the pleasing rural landscape of the AGLV. In summary, I consider that the dwelling with the proposed landscaping and ecological enhancements would '*be sensitive to the defining characteristics of the local area*' as required in Paragraph 80(e).
12. The arguably even higher hurdle in paragraph 80(e) is the requirement for the development to '*significantly enhance its immediate setting*'. I acknowledge the Council's difficulty in coming to terms with the concept of a new dwelling built on an undeveloped field in the AGLV amounting to such enhancement. Nonetheless, this approach in the Local Planning Authority's decision-making appears to invite a 'like for like' comparison of before and after the development, and in so doing to equate the principle of the development of a new home in the countryside with at best a neutral impact on the character and appearance of the rural landscape and at worst some harm.
13. On this basis there would be no scope for any paragraph 80(e) developments anywhere, especially as there is no suggestion in the Framework that the site for an isolated home must in some way need enhancement by reason of the site having poor visual quality or by already being degraded in some other way.
14. My interpretation of the policy therefore is that it is the *combination* of the building's outstanding design with its altered immediate setting in the form of a garden or appropriate landscaping within the curtilage that would result in an outcome that could be properly regarded as enhancement. In effect, the loss of the agricultural field in existing countryside has to be discounted from the equation and the approach is more one of achieving a successful adaptation of this part of the countryside to a more domestic setting.
15. In this development, the proposed landscaping with its 350m of native species-rich field hedges, 1ha of species-rich meadow and 0.7ha of wetland adopts an appropriately informal approach, sympathetic to this part of rural Cornwall and the AGLV landscape in particular. In addition the scheme would achieve a significant biodiversity net gain. The realignment of the driveway has also played an important part in amending the proposal since the dismissed appeal.
16. As regards the Area of Outstanding Natural Beauty ('AONB'), I agree with the previous Inspector. (His view was that the setting of the AONB would not be harmed by the proposal because of the distance to the boundary; the landscaping proposed, and the single storey nature of the proposal).
17. Overall I take the view that by any reasonable measure of the visual impact on the countryside and its ecological interest, the amended scheme would indeed significantly enhance the immediate setting of the building compared to the existing field, perfectly pleasant though that may be.

Conclusion and Conditions

18. For the reasons explained above and having had regard to all other matters raised (whilst also noting that the Blisland Parish Council now support the amended scheme), I conclude that although the appeal proposal would be in conflict with some parts of Local Plan Policies 1, 2, 3, 7, 12, 21 & 23, this would not be unacceptably harmful. This is because the scheme would fully comply with Paragraph 80(e) of the Framework and is thereby justified as an exception to other local and national policies. I shall therefore allow the appeal.
19. The Council has suggested conditions if the appeal is allowed and these have been accepted by the appellant, including the principle of pre-commencement. In agreeing that the conditions are both reasonable and necessary, I have also made relatively minor alterations to them.
20. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. Conditions requiring the approval of external wall and roof materials will ensure that the dwelling is constructed to an exemplary standard commensurate with a paragraph 80(e) application.
21. Conditions regulating the foul and surface water drainage are necessary to avoid pollution and flooding and to ensure that there are no adverse effects on the ecology of the appeal site and its surroundings, including the River Camel Special Area of Conservation. A condition requiring the preparation and implementation of a comprehensive landscaping scheme, in accordance with the principles and details of the submitted Landscape Proposal and including the measures to safeguard and enhance the ecology of the area, will ensure that the scheme complements its countryside location and setting within the AGLV and the Bodmin Moor Landscape Character Area.
22. A condition in respect of the provision of external lighting in accordance with the submitted Light Emission Strategy will safeguard the amenities of the rural area and minimise any potential conflict with the objectives of the Bodmin Moor International Dark Sky Landscape. Finally, a condition restricting permitted development is essential to preclude future alterations and additions that would undermine the Paragraph 80(e) status of the dwelling. It will additionally meet the concern of the Parish Council in this regard.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
- 2) The development shall be carried out in full accordance with the following approved plans: Topo Survey 1058 0001; Site Plan LP481_1; Block Plan BP481_A; Location Plan LP 481_1; Floor Plan 481.1.100A; Roof Plan 481.1.101A; Site Layout with Floor Plan 1:500 481.1.102A; Site Layout with Roof Plan 1:500 481.1.103A; Section A-A 1:100 481.3.104A; Site Layout with Floor Plan 1:250 481.1.105A; Site Layout with Roof Plan 1:250 481.1.106A; North and Southeast Elevations 481.1.107A; East and West Elevations 481.1.108A; WWTP Position 481.1.109;
- 3) No development above ground level shall take place until details and samples of the proposed walling and roofing materials 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;
- 4) Prior to the construction of any external wall of the development hereby approved, a sample panel of walling of at least one metre square in size shall be erected on the site and subsequently approved in writing by the Local Planning Authority. The panel shall be retained on site until the completion of the development and the walls shall be constructed only in the same way as the approved panel;
- 5) No development shall take place until a full surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall (i) include details of the size, position and construction of the drainage scheme; (ii) be carried out only in accordance with the approved details; (iii) be fully operational prior to the first occupation of the development hereby approved and (iv) be retained as such thereafter;
- 6) No development shall take place until a comprehensive landscaping scheme, including the proposals in the 'Ecological Constraints and Opportunities Plan' March 2019 and the 'Ecological Mitigation and Enhancement Strategy' January 2020, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all planting areas, tree and plant species, numbers and planting sizes; the proposed means of enclosure and screening; details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development. The landscaping scheme shall be carried out by the end of the planting season immediately following the completion of the development or the first occupation of the dwelling, whichever is the sooner, or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority;
- 7) No external lighting shall be installed or used on the site other than that which has first been submitted to and approved in writing by the Local Planning Authority. Details to be submitted shall show how and where external lighting will be installed (including the type of lighting), so that it can be clearly demonstrated that areas to be lit shall be installed in

accordance with the specifications and locations set out in the details.
The approved scheme shall thereafter be retained;

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing that Order, no extensions, new window/door openings, or outbuildings shall be erected, constructed or sited in the application site, other than those permitted by this Decision;
- 9) The development hereby permitted shall not be occupied until the proposed drainage works shall have been constructed in accordance with the details contained in the Nutrient Neutrality Report provided by Ecological Initiatives and received by the Council on 3 June 2021. The dwelling shall not be occupied until a management and maintenance schedule has first been submitted to and approved in writing by the Local Planning Authority. The drainage works shall thereafter be retained and maintained in accordance with the approved details.