
Appeal Decision

Site visit made on 14 November 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 06 December 2016

Appeal Ref: APP/D0840/W/16/3157492

Nicholas, Halamanning, St Hilary, Penzance, Cornwall TR20 9HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr Brian Baker against the decision of Cornwall Council.
 - The application Ref PA16/00281, dated 18 February 2016, was refused by notice dated 14 April 2016.
 - The development proposed is described on the application form as 'demolish Mundic shed and construct two semi-detached holiday cottages on same footprint'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application to which this appeal relates was made in outline with matters of access, appearance, landscaping, layout and scale reserved (the 'reserved matters'). As such the plans supporting the application are only illustrative.
3. In refusing permission the Council cited that the proposal would conflict with saved policy H-8 of the Penwith Local Plan adopted originally in February 2004 (the 'former plan'). However on 22 November 2016 the Council adopted the Cornwall Local Plan: Strategic Policies 2010-2030 (the 'Local Plan') which supersedes saved policy H-8 of the former plan.
4. However policies of the Local Plan, then emerging rather than adopted, were considered within the Council's appeal statement, as were references made to elements of the National Planning Policy Framework (the 'Framework') within their decision notice. The appellant has also commented upon the changing policy context at appeal. I have therefore determined the appeal with reference to the extant development plan and to relevant material considerations.

Main Issue

5. The main issue is whether or not the location of the development proposed is acceptable with reference to local and national policy.

Reasons

Location

6. The appeal site is currently occupied by a dilapidated agricultural building of utilitarian appearance, referred to by the appellant as the mundic shed.¹ The mundic shed is clearly in a poor state of repair and the appellant explains in his planning statement that it is redundant. It falls within land connected with the property named Nicholas, this land being principally an open field containing various other utilitarian and ostensibly agricultural structures.
7. I understand that the appellant and his wife work as carers via the charity Shared Lives South West. The appellant explains in his appeal statement that this means that 'we have young adults with learning difficulties and/ or mental health issues, who live with us on a medium to long term basis...'. The land and buildings associated with Nicholas therefore support activities beneficial to those being cared for.
8. Access to the appeal site is via a private lane which also serves a number of nearby properties. On account of the presence of hedgerows and trees bounding the appeal site on all sides and as a result of the largely level topography of the land, the existing mundic shed is not readily apparent from outside the confines of the appeal site. In any event the Council appears to raise no objection at this juncture to the design of the proposal.
9. Although the dispersed settlements of St Hilary and Halamanning fall relatively close-by, the appeal site is outside of any established settlement boundary either within the former plan or the Local Plan. Aside from occasional properties scattered nearby, the surroundings of the appeal site are clearly rural in character: irregular fields demarcated by traditional hedgerows, many of which at the time of my site visit appeared to be in active agricultural use.
10. The wider area is characterised by a scattering of dwellings historically associated with mineworkers' smallholdings falling within the Tregonning and Gwinear Mining District of the Cornish Mining Landscape World Heritage Site. In rural character and settlement pattern the appeal site also represents characteristic features of the Mounts Bay East Character Area as identified in the Cornwall and Isles of Scilly Landscape Character Study released in 2008.
11. There are a number of public rights of way nearby, a primary school within St Hilary, and a bus stop which I understand is served by four services daily approximately 700 metres distant from the appeal site. However the nearest services and facilities catering for the majority of day-to-day needs fall approximately two kilometres away within the settlements of Rosudgeon and Goldsithney. I observed during my site visit that the route that must be taken to reach these services and facilities is unappealing to pedestrians and cyclists, not only on account of its length but also as narrow, winding, unlit carriageways without dedicated walkways must be used for some distance.
12. I appreciate many properties in rural Cornwall are served by similar carriageways and that it is not inconceivable that future occupants of the proposed cottages may on occasion walk or cycle to reach nearby facilities. However a dispersed historic settlement pattern does not serve to justify

¹ The term 'mundic' referring to the compromised structural integrity of concrete which results from the degradation over time of mineral elements contained within it, commonly occurring where concrete has been formed originally of mining spoil.

unacceptable located development in the present, and for the above reasons in my view it is highly likely that those who would make use of the proposed holiday cottages would be reliant upon the use of private vehicles in conflict with the encouragement within the Framework to promoting sustainable patterns of development and modes of transport.²

13. Given the dispersed nature of properties in the surrounding environment, the rural setting of the appeal site, and the distance from nearby services and facilities it is in my view reasonable to summarise that the appeal site represents an isolated location within the countryside.
14. The proposal is to demolish the existing mundic shed and to erect in its place two holiday cottages. I understand from the appellant's appeal statement that these cottages are intended to be used primarily by the families and carers of those cared for by the appellant and as such would be designed with sensitivity to be accessible to all users. However the appellant's planning statement also sets out that the operation of the holiday cottages would be as 'a separate business' to the care which is currently provided.
15. Whilst it is the intention for the proposed cottages to be let out on a commercial basis, there is no indication in the information before me that they would not be capable of accommodating facilities necessary for day-to-day private domestic existence.³ Consequently it is reasonable to approach this decision on the basis that the accommodation that would be provided by the proposed cottages represents housing as well as their intended operation as a business.⁴
16. In this context both the Local Plan and the Framework accord support in general terms to development with social and economic benefits including tourist facilities. However policy 7 '*Housing in the countryside*' of the Local Plan sets out that the development of new homes in the open countryside will only be permitted where there are special circumstances, and sets out a list of types of development that may be permissible.
17. The proposal does not represent a type of development permissible via policy 7 in that it is not a replacement dwelling, the subdivision of an existing dwelling, the proposal is to demolish rather than re-use the existing mundic shed, and no argument has been made that the proposal relates to temporary or permanent accommodation for rural workers. I would further note that there is little evidence before me to indicate that the existing building would be suitable for conversion, particularly given that the appellant refers to it as a mundic shed which indicates that it may not be structurally sound.
18. Similarly paragraph 55 of the Framework establishes that new isolated homes in the countryside should be avoided unless there are special circumstances, and provides a non-inclusive bulleted list of the factors that may constitute such special circumstances. Again the development is not of a type set out in this bulleted list for the reasons given above, and as no case has been made

² Including at bullet point 11 of paragraph 17 of the Framework.

³ Particularly as the plans supporting the application show that they would each be of sufficient size to accommodate three bedrooms, a lounge and kitchen/ dining area.

⁴ Taking account of the approach in *Gravesham Bc v SSE and O'Brien*, [1983] JPL 307, as refined by subsequent case law.

that the proposal would be of exceptional quality or innovative design, particularly as the proposal is in outline with matters of appearance reserved.

19. The proposal would clearly be beneficial to the appellant, to those that would make use of the cottages, and the appellant avers that there is a relative paucity of comparable accommodation in the immediate area. However there is no indication in the information before me that the care provided by the appellant or the continued residential use of Nicholas would be compromised by the absence of such development, and there is limited methodological evidence before me to substantiate that similar accommodation is unavailable nearby.
20. I appreciate that those making use of the proposed cottages may value its tranquil rural situation and proximity to Nicholas, and thus that the accommodation may be popular for these reasons. However this is not to say that such accommodation is justified in any location without due consideration to accesses to services and facilities, as is reiterated via policy 5 'Tourism' of the Local Plan.
21. For the above reasons the proposal would be for accommodation in an isolated rural location of a type which is not supported by policy 7 of the Local Plan or paragraph 55 of the Framework, and the occupiers thereof would likely be reliant on the use of private vehicles leading to significant adverse environmental impacts contrary to the relevant provisions of policy 5 of the Local Plan and to relevant elements of the Framework. I therefore conclude with reference to local and national policy that the location of the development proposed is not acceptable. In line with the statutory basis for decision-taking I now turn to the other considerations relevant to the proposal.

Other considerations

22. The Framework further sets out that it is the purpose of the planning system to contribute to the achievement of sustainable development, i.e. seeking economic, social and environmental gains jointly and simultaneously. It also offers support to the sustainable growth of all types of business in rural areas, and seeks to boost significantly the supply of housing (including by setting out that local planning authorities should demonstrate a five-year supply of housing sites to meet needs).⁵
23. The proposal would have some social and economic benefits to the appellant, in supporting employment during construction and operation, and as occupants of the holiday cottages would make use of services and facilities in the wider area. However these benefits would inevitably be modest in respect of two cottages, and for the reasons given above it has not been demonstrated that the use of Nicholas and its land for present purposes would be undermined by the absence of the proposal. Consequently such qualified benefits do not outweigh the clear harm that I have identified above would result from the location of the proposal.
24. I appreciate that it is the intention for the proposal to be sensitively designed with reference to the surrounding context and indeed environmentally. These measures would reduce the impacts of the proposal, however carry little weight

⁵ Including at paragraphs 28 and 49.

in its favour given that they are principally designed to mitigate the impacts arising from the development (which would not occur in the absence of the development proposed).

25. The proposal would also represent a modest addition to housing stock. The Council contends, and the appellant appears not to dispute, that they are able to demonstrate a five-year supply of deliverable housing sites. However even if the Council were unable able to demonstrate such a supply, the adverse effects resulting from the location of the proposal would significantly and demonstrably outweigh the qualified benefits of the proposal with reference to the approach in the Framework.

Other Matters

26. The Council's officer report sets out that the current access lane is, by virtue of being narrow, unconsolidated in part and having limited visibility, not suitable to accommodate the uplift in traffic that would result from the proposal (a similar stance as was reached, albeit informally, in relation to withdrawn application Ref PA15/00435). However access is a reserved matter and consequently in the absence of definitive information here I am unable to reach a conclusion on whether the proposal would be acceptable in this respect. For this reason, and as each proposal must be determined on its particular merits, the references made by the appellant to the permitted establishment of six dwellings served by an unconsolidated track elsewhere in Halamanning and to dwellings at Retallack Farm are not significant in this decision.

Conclusion

27. The proposal would have some social and economic benefits, alongside representing an incremental increase in housing stock. However I have set out above that the weight that can be accorded to these benefits is limited, and therefore considered collectively they do not outweigh the environmental harm that would arise on account of the unacceptable location of the proposal. I therefore conclude that the proposal conflicts with the development plan taken as a whole and with the approach in the Framework, that it does not represent sustainable development, and consequently dismiss the appeal.

Thomas Bristow

INSPECTOR