
Appeal Decision

Site visit made on 27 November 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 06 January 2020

Appeal Ref: APP/D0840/W/19/3237217

The Lodge, Road from Five Lanes to Trevenna Cross, Trevenna Cross, St Mawgan TR8 4HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Ms Sarah Howie against Cornwall Council.
 - The application Ref PA19/02509, is dated 20 March 2019.
 - The development proposed is described as an application for outline planning permission with all matters reserved for the construction of two dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for outline planning permission with all matters reserved for the construction of two dwellings at the Lodge, Road from Five Lanes to Trevenna Cross, Trevenna Cross, St Mawgan TR8 4HA, in accordance with the terms of the application Ref: PA19/02509 dated 20 March 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Ms Sarah Howie against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters

3. Outline planning permission is sought with all matters reserved. The details submitted with the application include reference to layout. Whilst not formally part of the scheme and provided for illustrative purposes, I have nevertheless treated these details as a useful guide as to how the site might be developed. I have determined the appeal on this basis.
4. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Main Issue

5. The Appellant has submitted this appeal on the basis of non-determination of the planning application. Following the submission of the appeal against non-determination, the Council has identified the reasons the local planning

authority would have given to refuse planning permission. The Appellant has seen these details and has had the opportunity to respond.

6. In light of the submissions before me, the main issue is whether or not the proposed development would be in a suitable location for new dwellings, having regard to the character and appearance of the surrounding area.

Reasons

Policy Context

7. The development plan comprises of the Cornwall Local Plan Strategic Policies 2010-2030¹ (the Local Plan) and Saved Policy 14 of the Restormel Local Plan (the Restormel Local Plan). Whilst I am informed that St Mawgan in Pydar is a designated area for a Neighbourhood Plan, such a plan is at a very stage and consequently I have attached very limited weight to this consideration in the determination of this appeal.
8. Policy 3 of the Local Plan seeks to control the distribution of new dwellings across Cornwall and provides that housing within named larger settlements will be allocated according to the Site Allocations Development Plan Document and Neighbourhood Plans. Policy 7 of the Local Plan supports development proposals within the open countryside where it shown that special circumstances apply. The supporting text to this policy defines open countryside as being the area outside of the physical boundaries of an existing settlement where it has a clear form and shape.
9. My attention is also drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (The CPOAN) which, whilst being informal guidance, provides clarity on the approach to be adopted in relation to infill and rounding off of settlements, and as such I have had regard to this advice.

Location of Development

10. The appeal site comprises land located at Trevenna Cross. The site comprises part of a grassed garden area associated with the Lodge and an area of land which is currently used as part of a larger equestrian sand school. The site is bounded to the north by a highway and is bordered to the east and west by residential development. The area of land to the south of the appeal site comprises the remaining part of the sand school and part of the grassed area of garden associated with the Lodge which is bounded on its southern side by a highway.
11. There is dispute between the main parties as to whether Trevenna Cross would constitute a settlement in planning policy terms. In this regard, the main parties have referred me to the CPOAN which provides some guidance on what would constitute a settlement, as well as providing further guidance in relation to matters of rounding off, infill, previously developed land and affordable housing exception sites. Whilst being informal guidance, the CPOAN provides clarity on the approach to be adopted in relation to such matters, and as such I have had regard to this advice.
12. The CPOAN provides that a settlement is a place where people collectively live in permanent buildings and that local residents are well placed to assist in

¹ Adopted November 2016

- determining whether a particular group of buildings is considered to be a settlement. The advice note goes on to confirm that smaller villages and hamlets should have a form and shape with clearly definable boundaries, with further confirmation that there are no expectations of services and facilities.
13. Whilst I acknowledge that Trevenna Cross does not contain any services or facilities and comprises only a few number of separate buildings and dwellings when compared to other nearby larger settlements, it is apparent that a small community does reside within permanent buildings at Trevenna Cross. Whilst I acknowledge the findings of the Inspector in relation to a site located near to Summercourt², in this instance I find that Trevenna Cross is not a straggle of low density buildings, but rather comprises a group of buildings with a clearly definable form and shape.
 14. In my view, the settlement comprises the group of buildings centred on the Round House and which extends on both sides of the highway which runs adjacent to the northern boundary of the site. The settlement extends outwards from Trevenna Cross in a north east direction, with further substantial dwellings set within generous grounds occupying land on one side of the highway. Furthermore, correspondence from local interested parties in relation to the planning application, describe Trevenna Cross as a 'hamlet' and, consequently, I conclude that the appeal site is located within a settlement.
 15. Whilst I acknowledge that the appeal site comprises a gap in built form adjacent to the highway which passes through Trevenna Cross, the appeal site is nonetheless physically and visually attached to the settlement. In my view, the site has a relationship and greater affinity to the built form of Trevenna Cross than with the more open areas of countryside which are located to the west, south and southeast of the Lodge.
 16. Consequently, due to the semirural character and appearance of this location and given that the site would be located adjacent to existing housing, it follows that the land could not be regarded as being in the countryside for planning purposes, nor would development at this site constitute isolated homes in the countryside. Accordingly, assessment of the proposal against Policy 7 of the Local Plan or paragraph 79 of the Framework, should not apply in this instance.
 17. It has been put to me by the Appellant that the appeal proposal would amount to infill as described within Policy 3 of the Local Plan, and in terms of the CPOAN. In this regard, Policy 3 of the Local Plan provides that infill development would fill a small gap in an otherwise continuous built frontage and does not physically extend the settlement into the open countryside. The policy continues confirming that proposals should consider the significance or importance that large gaps can make to the setting of settlements and ensure that this would not be diminished. The CPOAN broadly reflects this guidance, adding that when assessing proposals for infill, smaller villages and hamlets should be part of a network of settlements and/or be in reasonable proximity to a larger village or town with more significant facilities such as a primary school.
 18. Immediately to the west of the site, there is a development site which has recently been granted planning permission³ for conversion of a workshop to a dwelling as well as the adjacent dwelling at the Lodge. To the east of the site is

² Appeal Reference: APP/D0840/W/18/3193384

³ Planning Application Reference: PA18/10361

situated the dwelling known as Little Trevenna. Considering the position of the site between existing housing, it can reasonably be taken to constitute a gap within a continuously built up frontage. Furthermore, the site is located in reasonable proximity to the larger settlement of St Mawgan, which the evidence before me indicates contains a primary school.

19. The proposal would not extend the settlement into the countryside and, in light of the supporting text at paragraph 1.66 of Policy 3 of the Local Plan with regards to infill, the gap between existing development would not be larger than one or two dwellings between buildings or groups of buildings. In my view, the site makes no significant contribution to the setting of the settlement and, for the above reasons, the proposal would comply with the provisions of both the terms of Policy 3 of the Local Plan and would accord with the guidance as set out in the CPOAN, with regards to infill. Consideration of whether all of the site would constitute previously developed land would be unnecessary as the proposal would accord with the terms of this policy with regards to infill.
20. The appeal site forms part of the Landscape Character Area LCA14, Newlyn Downs. The Cornwall & Isles of Scilly Landscape Character Study (2008) says that the distinctive features of this area include its wide rolling pastoral/arable land, extensive hedging, quiet rural character and largely uncluttered landscape. The appeal site is also situated within the Watergate and Lanherne Area of Great Landscape Value (the AGLV).
21. It has been put to me by the Council that the proposal would be harmful to the intrinsic beauty of the surrounding countryside by reason of the loss of undeveloped land and the introduction of two dwellings at the site with all the associated domestic paraphernalia that would accompany residential occupation of the proposed dwellings.
22. Whilst I acknowledge that the appeal site is located towards the top of a small ridge and is situated just above the level of the highway which runs adjacent to the northern boundary of the site, the proposal would be well screened by vegetation including the substantial row of trees that are to be retained on its northern boundary.
23. Furthermore, the proposal would introduce two storey detached dwellings, set within generous grounds, and which would be arranged in a linear pattern adjacent to the highway. The proposal would therefore reflect the pattern of development located at Trevenna Cross and, in respect of views of the proposal and the appeal site from both close to the site and from more distant locations within the wider surrounding area, the development would be seen in the context of, and having a physical and visual relationship with, existing residential development within Trevenna Cross.
24. In my view, and for the above reasons, I conclude that the proposal, subject to the reserved matters concerning design and external appearance, would not be harmful to the character and appearance of the surrounding area, nor would be harmful to the AGLV or its setting.
25. I therefore find that the appeal scheme would comply with Policies 2 and 23 of the Local Plan and would accord with the provisions of saved Policy 14 of the Restormel Local Plan and paragraph 170 of the Framework. Together these policies seek to ensure that development respects and enhances the quality of place and respects the landscape character of Cornwall's natural environment.

Other Matters

26. It has been put to me that the appeal site is not well located with regards to access to services and facilities as may be required on a day to day basis. In this respect, I acknowledge that there are no services or facilities within Trevenna Cross and because of the somewhat limited access to public transport and the absence of footways and street lighting along highway connecting Trevenna Cross to St Mawgan, I agree with the Council that a portion of trips generated by the development would therefore be likely to be by motor vehicle.
27. However, that is often the case in rural areas and, in this respect, I conclude that the services and facilities within St Mawgan would be within reasonable walking or cycling distance from the site and that whilst the bus service may be somewhat limited, the site would nonetheless provide some opportunities for transport other than by private motor vehicle. Paragraph 102 of the Framework refers to the fact that sustainable transport solutions will vary between urban and rural areas and, in this regard, I conclude that the proposal would accord with Policy 27 of the Local Plan, which concerns matters of transport and accessibility, and would accord with paragraphs 102 and 108 of the Framework.
28. The Framework provides that the concept of sustainable development comprises three dimensions – being the economic, social and environmental elements of the proposal. In this respect, the proposal would provide social benefits in terms of a contribution of two dwellings towards housing supply. The proposal would provide economic benefits in terms of employment opportunities during the construction phase and I recognise that the appeal scheme may support the services and facilities found within nearby larger settlements in accordance with paragraph 78 of the Framework.
29. For the reasons given above, there would be no harm to the character and appearance of the surrounding area, the proposal would be located within the settlement and would not encroach into the countryside. Furthermore, the appeal site would have access to some public transport options and would not be located far from access to basic services and facilities. Once these matters are considered together, the proposed scheme could be considered to be sustainable development in the terms of the Framework and in terms of Policy 1 of the Local Plan for which there is a presumption in favour of.
30. It has been further put to me that the proposal would have an impact on the local drainage system, bats and would not provide a safe form of access. However, the application is in outline and therefore there will be an opportunity to satisfactorily address access provision at the reserved matters stage. Furthermore, I have not been provided with any substantive evidence which demonstrates that the proposal would affect the drainage system or would have a harmful impact on ecology with particular reference to bats or their habitat.
31. In support of the submissions made, interested parties have also referred me to other appeal decisions concerning development which, it is maintained, provide comparisons to the appeal scheme. However, I do not have full details of the circumstances that led to those matters being approved or dismissed and so I cannot be sure that they represent a direct parallel to the appeal proposal. In any case, I have determined this appeal on its own merits.

32. It is noted above in relation to the location of development, that there are differences in the character and location of the development at Summercourt, and I further note that with reference to the appeal decision at the former Chough Construction Builders Yard, that that decision was decided some years before the current version of the CPOAN was issued. The decision above with regards to whether Trevenna Cross would constitute a settlement and whether the proposal would amount to infill, has been made in accordance with the definitions and guidance contained within the recently issued CPOAN.
33. I also note the comments made regarding potential precedent. However, any future proposals would have to be considered and determined on their individual merits. In any event, as I have not found any reasons to withhold planning permission it could not set an unacceptable precedent in planning terms.

Conditions

34. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Policy Guidance.
35. Other than the standard outline conditions dealing with reserved matters and time limits, in the interests of protecting the character and appearance of the surrounding area, I find it reasonable to include a condition with regards to the protection of existing trees and hedgerows.
36. Where necessary, and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance. The Appellant has been provided with the opportunity to comment on the wording of the Council's suggested pre-commencement conditions and these have been agreed by the Appellant.

Conclusions

37. For the reasons given above, the appeal succeeds and planning permission is granted subject to the conditions identified.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, means of access, landscaping, layout and scale, (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2) An application for approval of reserved matters must be made no later than the expiration of 3 years from the date of this decision and the development hereby approved shall commence no later than 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 3) No development shall commence until a scheme detailing all existing trees and hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development has been submitted to and approved in writing by the Local Planning Authority. The protection measures proposed shall be completed in accordance with the approved scheme before the development hereby permitted commences and shall thereafter be retained until it is completed. Notice shall be given to the Local Planning Authority when the approved scheme has been completed.