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## Appeal Decision

Site visit made on 6 January 2020

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

**an Inspector appointed by the Secretary of State**

**Decision date: 21 January 2020**

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**Appeal Ref: APP/D0840/W/19/3238165**

**Land West of Chapel House, Well Lane, Gerrans TR2 5EG**

- 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 & Mrs G Pinkney against the decision of Cornwall Council.
  - The application Ref PA19/01418, dated 15 February 2019, was refused by notice dated 3 May 2019.
  - The development proposed is for new dwelling on site of domestic storage building.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. 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.
3. Within the appeal documentation and correspondence, the Appellant has made reference to a costs application. However, no details for the costs application has been received from the appellant. Consequently, no separate decision has been made in relation to costs.

### Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, having regard to the appeal site's location within the Cornwall Area of Outstanding Natural Beauty (the AONB).

### Reasons

5. The appeal site comprises an area of land which the evidence before me indicates is currently used as garden space associated with Chapel House. A public footpath runs along the eastern and northern boundary of the site. In the northeast section of the appeal site is an existing timber and corrugated metal sheet structure which is positioned against the boundary of the site and adjacent to an unmade trackway which is located immediately east of the site. The unmade trackway separates the appeal site from the dwelling at Chapel House, and further separates the site from the rear gardens of dwellings which front onto Churchtown Road east of the site.
6. In my view, the unmade trackway forms part of the logical boundary to the settlement at Gerrans, separating the built form of the settlement located east

of the trackway, from the countryside which extends west of the trackway. In this regard, I am referred to the Roseland Neighbourhood Development Plan (2015 -2030) (the RNDP) which, amongst other matters, confirms that the settlement boundary for Gerrans runs along the eastern boundary of the unmade trackway. Whilst I acknowledge the submissions made by the Appellant with regards to Policy GP3 of the RNDP, it is clear from the supporting text to Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 ('the Local Plan') that neighbourhood plans can provide a detailed definition on settlement boundaries in which the relevant policy will operate.

7. For the above reasons, in combination with the undeveloped nature of land west of the appeal site, the site is located within the countryside for planning purposes. Furthermore, the appeal site is located within the AONB. Accordingly, and as set out in paragraph 172 of the Framework, great weight must be given to the conservation and enhancement of the AONB's landscape and scenic beauty.
8. The appeal scheme seeks to replace the timber and corrugated metal sheet structure with a new dwelling, and provides an area for car parking which would be accessed from the unmade trackway described above. The existing structure, in my view, has the appearance of an agricultural building rather than being a domestic building or outbuilding associated with Chapel House. Whilst I have not been provided with any additional comments from the Cornwall AONB Unit in relation to the appeal scheme, in a recent proposal<sup>1</sup> at this site which concerned a similar scheme, and which also was the subject of a later appeal<sup>2</sup> (the Recent Appeal), it was confirmed that the AONB Unit were complimentary of the proposed design. These comments are supported by the submissions made by the Council in this present appeal.
9. However, I would concur with the findings of the Inspector in relation to the Recent Appeal, in that the appeal scheme would represent a new dwelling within the countryside and would have the effect of extending the settlement into the open countryside associated with the AONB. In this regard, my conclusion is consistent with the decision in the Recent Appeal in that the encroachment into the countryside would be detrimental to the landscape and scenic beauty of the AONB. Accordingly, the scheme would not respect and work with the natural environment and would, therefore, conflict with the aims and objectives of Policies 12 and 23 of the Local Plan and would not accord with the provisions of paragraph 170 of the Framework.
10. It has been put to me by the Appellant, that the appeal scheme would comply with the provisions of Policy 3 of the Local Plan with regards to 'rounding off' of the settlement and in relation to use of previously developed land (PDL).
11. The supporting text to Policy 3 of the Local Plan, defines rounding off as being development on land that is substantially enclosed but outside of a settlement and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). It further confirms that rounding off of settlements should not visually extend building into the open countryside. My attention is also drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) which, whilst being informal guidance,

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<sup>1</sup> Local Planning Authority Reference: PA17/06909

<sup>2</sup> Appeal Reference: APP/D0840/W/18/3195867

provides clarity on the approach to be adopted in relation to rounding off of settlements, and as such I have had regard to this advice.

12. In this respect, whilst I acknowledge that the adjacent public footpath and unmade trackway do somewhat enclose the site, the proposal would, for the reasons given above, visually extend the built residential form of Gerrans into the countryside. As such, I conclude that the proposed development would not meet the definition of rounding off as provided by Policy 3 of the Local Plan.
13. In respect of the use of PDL, Policy 3 of the Local Plan is supportive of proposals which make use of such land where the land is within or immediately adjoining a settlement of a scale appropriate to its size and role. I would again concur with the findings of the Inspector in the Recent Appeal, in that the appeal site can be considered to be PDL within the context of planning policy. Therefore, I find that the proposal would comply with this particular provision of Policy 3 of the Local Plan. I further find that the scheme would be supported in relation to parts of Policy 21 of the Local Plan which promotes the use of PDL.
14. However, both Policy 3 and Policy 21 of the Local Plan also provide that in order to be supported by the relevant policy, consideration of the surrounding area is also required. In this regard, Policy 3 of the Local Plan provides that within the AONB proposals must conserve and enhance the landscape character of the AONB. For the reasons given above, the proposal would be detrimental to these characteristics of the AONB and, consequently, the proposal would not accord with this element of Policy 3 of the Local Plan.
15. Policy 21 of the Local Plan provides that use of PDL will be supported provided that the land is not of high environmental or historical value. As noted above, the site is located within the AONB and as such the land could be considered to be of high environmental and historic value. Consequently, I find that the provisions of Policy 21 of the Local Plan do not, as a whole, support the appeal proposal.
16. Policy 7 of the Local Plan defines open countryside as the area outside of the physical boundaries of an existing settlement. As described above, the appeal site is outside of the settlement boundary and, in my view, within the countryside. Exceptions in relation to new developments in the open countryside are provided for under the provisions of Policy 7 of the Local Plan. This policy supports development proposals within the open countryside where it shown that specific circumstances, such as where there is re-use of a redundant building or where accommodation is required for rural workers, apply.
17. In this regard, there is no evidence before me which indicates that the existing building is redundant, and furthermore it is noted that any replacement must be of appropriate scale and character to the location. For the reasons given above, the proposal would not be of an appropriate character at this location and, consequently, the appeal scheme would not comply with any of the special circumstances which act as exceptions to development within the open countryside.
18. In addition to Policy GP3 of the RNDP as described above, the Council have also cited additional policies of the RNDP in their reason for refusal. Amongst other matters, Policy CV1 of the RNDP provides that development which is located

adjacent to settlements will be supported where the proposed scheme would be well integrated with, and enhance the character of, the settlement. For the reasons given above, I find that the proposed scheme would not be well integrated into Gerrans and, accordingly, the appeal proposal would conflict with this policy.

19. Policies LA1 and LA2 of the RNDP requires that development must conserve and enhance the distinctive landscape and special qualities of the AONB, and must respond to local character. For the reasons given above, in my view the appeal scheme would not conserve or enhance the special qualities of the AONB and would not respond well to local character. Consequently, the proposal would not accord with Policies LA1 or LA2 of the RNDP. Furthermore, given the appeal site's location outside of the settlement, as the proposal does not include provision of affordable housing, the appeal scheme would also conflict with Policy H04 of the RNDP.
20. In summary of the above, the proposed scheme would be in conflict with Policies 7, 12, 21 and 23 of the Local Plan when taken as a whole. Furthermore, I conclude the proposal conflicts with Policy 2 of the Local Plan which concerns the overall spatial strategy for development within Cornwall, as there is nothing before me that suggests that the appeal site or the settlement of Gerrans has a role to play in providing additional general housing for the wider area. The proposed development would also be in conflict with Policies GP3, LA1, LA2, CV1 and H04 of the RNDP and would not accord with the provisions of paragraphs 127 and 170 of the Framework. The conflict with the development plan when taken as a whole, weighs significantly against the proposal, as would the identified harm to the AONB in accordance with paragraph 172 of the Framework.
21. Against the conflict with the development plan as described above, I have attached limited weight to the potential benefits of the appeal scheme in relation to the use of PDL in a location which would have access to the range of services and facilities contained within Gerrans and as well as in respect of the contribution of an additional dwelling towards local supply and the economic benefits arising from employment during the construction phase. I have further attached limited weight to the potential for biodiversity enhancement which would result from a new hedge at the western boundary of the site. The weight attached to these benefits is limited by the scale of the proposal. I therefore consider that the identified harm and development plan conflict outweighs the benefits that would arise from the scheme.
22. Further to the above, whilst I acknowledge the social and economic benefits arising from the proposal, the harm to the AONB would be contrary to the environmental objective of sustainable development as provided within the Framework. Consequently, the scheme would not accord with Policy 1 of the Local Plan or Paragraph 8c) of the Framework which seek to promote sustainable development.
23. The Appellant has referred to a number of other developments which have been approved and which, it is maintained, are comparable to the appeal scheme. In this regard, the evidence before me indicates that the development at Portloe<sup>3</sup> differs from the appeal scheme in that it was considered that that development comprised rounding off of a settlement. It is also noted in respect

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<sup>3</sup> Local Planning Authority Reference: PA18/04974

of that development, that the development was not located adjacent to a public footpath as would be the case in the present appeal. Accordingly, I find that the appeal scheme is not comparable to the circumstances of the cited approved development at Portloe.

24. Further to the above, I do not find that the appeal scheme would be comparable with reference to planning applications at Loe Meadow<sup>4</sup> and 20 Churchtown Road<sup>5</sup>. From the evidence before me, both the developments at Loe Meadow and 20 Churchtown Road are located within the settlement boundary as defined by the RNDP. Furthermore, the development at 20 Churchtown Road concerns an extension to an existing building. Consequently, the circumstances of these two cited planning applications do not appear to be comparable to the appeal scheme.
25. The Appellant has further put it to me that the appeal scheme would be comparable to development at Wheal Rose which was the subject of an appeal<sup>6</sup>. However, that development scheme can be distinguished from the appeal proposal in that the Inspector in the relevant appeal decision concluded that the development would constitute rounding off and would not be seen as a visual extension of the settlement into the countryside. For the reasons given above, these circumstances are not comparable to the circumstances of the appeal scheme. Accordingly, I have determined this appeal on its own merits.

### **Other Matters**

26. I note that a consultation response from Natural England confirmed that the appeal site was located within the 'zone of influence' of the Fal & Helford Special Area of Conservation. Paragraph 176 of the Framework confirms that Special Areas of Conservation should be given the same protection as habitat sites. However, Natural England went on to say that it was a matter for the Council to decide whether an assessment of the proposal was required in this respect. This issue has not been raised by the Council and I have not found it necessary to examine this matter in greater detail as, for the reasons outlined above, it would not alter my overall conclusion in relation to the main issue.

### **Conclusions**

27. For the reasons given above, I conclude that the appeal should be dismissed.

*A Spencer-Peet*

INSPECTOR

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<sup>4</sup> Local Planning Authority Reference: PA19/00241

<sup>5</sup> Local Planning Authority Reference: PA18/07355

<sup>6</sup> Appeal Reference: APP/D0840/W/19/3225000