The Planning Inspectorate

Appeal Decision

Site visit made on 10 September 2020

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

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/D0840/W/20/3250653
Sennen Rise, Mayon Farm, Sennen TR19 7AD

- 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 J Robertson against the decision of Cornwall Council.
- The application Ref PA19/08799, dated 7 October 2019, was refused by notice dated 13 March 2020.
- The development proposed is the construction of two dwelling houses in garden.

Decision

1. The appeal is dismissed.

Main Issues

2. Although the Council has given two reason for refusal, having reviewed the evidence I have considered it appropriate to identify three main issues. This approach is supported by the Appellant's statement.

3. Consequently, the main issues in this appeal are;

    - The effect of the proposed development on the character and appearance of the surrounding area;
    - The effect of the proposed development on the living conditions of nearby residents with particular reference to privacy; and,
    - Whether the proposed development would be in a suitable location for housing with regards to National and Local Planning Policy.

Reasons

Location of Development

4. The Council's settlement strategy is contained within Policy 2 of the Cornwall Local Plan Strategic Policies (2010-2030)[1] (the Local Plan). It sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place.

5. The appeal site comprises part of the generously sized rear garden area at Sennen Rise, being a well-proportioned dwelling set towards the top of a slight incline, within an area of residential development known as Mayon Farm.

[1] Adopted November 2016

Sennen Rise is located at the south eastern edge of Mayon Farm, with the adjacent dwellings predominately being arranged surrounding small courtyards which are located northwest of the dwelling and garden at Sennen Rise. The appeal site is surrounded by extensive areas of agricultural land to the southwest, south, east and north and which is located on the eastern side of the A30 highway.

6. The Appellant has put it to me that Mayon Farm constitutes a settlement within the context of the Local Plan. Furthermore, it is maintained by the Appellant that the proposal would constitute infill, rounding off or use of previously developed land (PDL) within that settlement in accordance with the provisions of Policy 3 of the Local Plan. Mayon Farm does not comprise a named settlement within Policy 3 of the Local Plan. The supporting text to this policy provides that settlements that are not named within Policy 3 of the Local Plan can also help meet housing requirements through windfall development which comprises infill, rounding off or use of PDL.

7. In respect of the location of the appeal site, the main parties have also referred me 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 what would constitute a settlement, as well as guidance in relation to previously developed land, infill and rounding off of settlements, and as such I have had regard to this advice.

8. Whilst I acknowledge that the appeal site is located within the built form of Mayon Farm and that this area comprises a number of separate residential units, in my view, based on the definitions and guidance contained within Policy 3 of the Local Plan and in relation to the CPOAN, the buildings present at Mayon Farm do not display the attributes, role or function of a settlement that is suitable for housing growth.

9. The buildings which comprise Mayon Farm would not constitute a settlement for planning purposes, but rather appear to represent a group of associated buildings which once supported the agricultural activities of a farm holding and which now represents an outlying development. This conclusion would not be altered by the presence of some more modern forms of development which appear to have filled the gap that once existed between Sennen Rise and the A30 highway.

10. Further to the above, I also note the Appellant's reference to the appeal at Trevenna Cross[2] and the conclusions of that appeal with respect of whether that group of buildings would constitute a settlement in the context of the Local Plan.

11. In that regard, as the appointed Inspector in relation to that appeal, the site at Trevenna Cross is well known to me and, whilst the group of buildings at Mayon Farm are arranged in a regular shape, this appears to have been achieved by allocating land and buildings within the boundaries of the former farmstead. This position is not comparable to that at Trevenna Cross where growth has been achieved by developing land adjoining a network of public roads which connect Trevenna Cross to other nearby settlements. Furthermore, whilst I acknowledge that there are a greater number of individual residential units at Mayon Farm when compared to Trevenna Cross, on its own the

[2] Appeal Reference: APP/D0840/W/19/3237217

number of dwellings present is not determinative as to whether the area can be properly described as being a settlement in the context of the Local Plan.

12. In light of the above, I conclude that Mayon Farm is not a settlement in terms of the development plan. Accordingly, the proposed scheme would not represent infill and, by reason of the separation distance between the site and the nearest settlement, would not comprise rounding off or use of PDL within or immediately adjoining a settlement, within the context of Policy 3 of the Local Plan.

13. The supporting text to Policy 7 of the Local Plan defines open countryside as being the area outside of the physical boundaries of an existing settlement. For the reasons given above, the appeal site is located outside of any settlement within the context and definitions of the Local Plan and, accordingly, the provisions of Policy 7 of the Local Plan apply to the appeal scheme. This policy supports development proposals outside of settlements, where it is shown that special circumstances exist. A number of criteria are listed against which proposals may be assessed. None of these special circumstances apply to the appeal proposal and, consequently the proposal would not accord with Policy 7 of the Local Plan.

14. For the above reasons, the appeal scheme would conflict with Policies 2, 3 and 7 of the Local Plan which, together and amongst other things, seek to direct development to sites in line with the role and function of each place.

15. Even in the event that Mayon Farm was considered to be a separate settlement, I consider that the appeal proposal would still not accord with the requirements of Policy 3 of the Local Plan. The appeal scheme would not infill a gap in a continuous built frontage. Furthermore, while I note the submissions of the Appellant with regards to rounding off of a settlement and that the proposal would be bounded on two sides by residential development, there would be no barrier to further growth east of the site. Consequently, the appeal scheme would not accord with the definition of rounding off as described within the supporting text of Policy 3 of the Local Plan or within the definition provided by the CPOAN.

16. Furthermore, Annex 2 of the National Planning Policy Framework (the Framework) includes a definition of PDL and advises that land in built-up areas such as private residential gardens, are not considered to represent PDL. Consequently, if the appeal site was considered to form part of the built up area of a settlement as is maintained by the Appellant, then the appeal site could not be considered to be PDL and ,accordingly, the exception to development with regards use of PDL under Policy 3 of the Local Plan would not apply in this instance.

Character and Appearance

17. As noted above, the appeal site forms part of a garden area at Mayon Farm which is located adjacent to predominately open agricultural fields. By reason of its elevated position towards the top of an incline and, given that a public footpath is located within and adjoining the site, the proposal would be highly visible within the surrounding area.

18. The proposed dwellings would provide accommodation at ground floor level as well as providing additional accommodation space within the roof spaces. In my view, the design, bulk and mass of the proposed roof elements would dominate the appearance of these proposed dwellings, resulting in buildings that would appear somewhat unbalanced. Whilst I acknowledge that the materials to be used in their construction would reflect those used in the construction of nearby residential units, the form, height and mass of the proposed dwellings would not reflect the character or appearance of the nearby dwellings within Mayon Farm.

19. Furthermore, whilst it was noted on my site visit that there are examples of rooflights on a number of buildings within Mayon Farm, the proposed dwellings would incorporate glazing at the gable ends of the proposed individual units which would not be characteristic of the area and would not reflect the design of the nearby dwellings. Consequently, in combination with the unbalanced appearance of the units, the proposed dwellings would be visually incongruous and discordant when viewed either in close proximity or when viewed from a distance.

20. Further to the above, I have been referred to the Cornwall and Isles of Scilly Landscape Character Study[3] (the LCS) which confirms that the site falls within Landscape Character Area CA01 West Penwith South. The LCS describes the characteristics of CA01 as being exposed open landscape with a strong maritime influence and an undulating inland plateau which is defined by small scale prehistoric field patterns. The LCS further provides that views are extensive, with isolated farms, clustered hamlets and villages and church towers being distinctive elements within the landscape.

21. Given the above conclusion in respect of the effect of the proposal on the character and appearance of Mayon Farm, and by reason of the incongruous nature and discordant appearance of the proposed dwellings, the appeal scheme would draw the eye, detracting from the visual appeal of the adjacent open countryside. In this regard, there would be harm to the character and appearance of the surrounding area, albeit that harm to the intrinsic character and beauty of the countryside and surrounding natural environment would be limited given the presence of other residential development at Mayon Farm.

22. In light of the above, the proposal would conflict with Policies 12 and 23 of the Local Plan and would fail to accord with the provisions of paragraphs 127 and 170 of the Framework which, together and amongst other things, seeks to ensure that development is designed to be sympathetic to local character and protects valued landscapes.

Living Conditions

23. The Council has put it to me that the proposed velux windows which would be positioned on the north eastern slope of the roof spaces at the proposed dwellings, would result in unacceptable level of overlooking and loss of privacy for occupants of 1 and 2 Mayon Farm.

24. In this regard, I find that the separation distance between the proposed dwellings and the rear of 1 Mayon Farm would be sufficient to ensure that no overlooking, actual or perceived, would occur and that therefore the appeal

[3] Published June 2008

scheme would not be harmful to the living conditions of occupants of 1 Mayon Farm with regards to overlooking or loss of privacy.

25. However, it is noted that the building at 2 Mayon Farm would be in very close proximity to the front elevation of the proposed dwelling which would occupy plot 1. By reason of this close proximity, in combination with the position of the proposed dwelling at plot 1 which would be elevated on a terrace above the level of the rear garden area of 2 Mayon Farm, the inclusion of velux windows in the roof space would, in my view, result in a significant degree of overlooking, both actual and perceived, and an unacceptable loss of privacy for occupants of 2 Mayon Farm.

26. The Appellant has put it to me that, in the event it was determined that the rooflights would result in unacceptable levels of overlooking or loss of privacy, a condition could be attached to any planning permission which would overcome any harm arising in this respect. However, given that the openings at the gable ends are located under the eaves of the roof, the proposed velux windows within the roof space of plot 1 provide a significant proportion of light and outlook for occupants using the living and kitchen areas of that proposed unit. Consequently, by restricting the use of the velux windows through a condition that requires the use of obscured glazing or fixing shut those velux windows, there would be an unacceptable loss of light and outlook for future residents of the proposed dwelling at plot 1. Therefore, it would not be reasonable to include such a condition in relation to the appeal scheme.

27. For the above reasons, while I find that there would be no harm to the living conditions of residents at 1 Mayon Farm, the proposal would result in harm to the living conditions of occupants of 2 Mayon Farm. This harm could not be sufficiently mitigated by the imposition of conditions and, consequently, the appeal scheme would conflict with Policy 12 of the Local Plan and would fail to accord with the provisions of paragraph 127 of the Framework which, together and amongst other things, seek to protect the living conditions of residents from the harmful impacts of developments.

28. Whilst I acknowledge the comments from interested parties regarding the intermittent occupation of certain residential units within Mayon Farm, the circumstances of occupation at those addresses may not always be the same, whereas the proposed development would represent a permanent feature which, for the reasons given above, would result in harm to any future occupants of that identified nearby residence.

Planning Balance and Conclusions

29. The appeal scheme would contribute two additional units towards local housing supply, in a location which provides convenient pedestrian and cycle access to a range of services and facilities. There would be additional benefits in terms of employment opportunities during the construction phase and I acknowledge that it would be likely that occupants of the proposed dwellings would make use of services and facilities across the area, thereby supporting the local economy. Cumulatively, I attach limited weight to these benefits in the determination of this appeal by reason of the scale of the proposal.

30. Against these matters, the appeal proposal would conflict with the development plan and the Framework when taken as a whole. The harm resulting from the conflict with the development plan weighs significantly against the proposal.

Moreover, the proposal would be harmful to the character and appearance of the surrounding area and would be harmful to the living conditions of residents at 2 Mayon Farm. This identified harm would outweigh the limited benefits of the proposal and would be in conflict with the social and environmental dimensions of sustainable development. Consequently, the appeal scheme could not be considered to be sustainable development in the context of the Framework or in terms of Policy 1 of the Local Plan for which there is a presumption in favour of.

31. For the above reasons, the proposed development would conflict with the development plan and the Framework when taken as a whole. There are no material considerations that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR