



Appeal Decision

Site visit made on 20 January 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/D0840/W/20/3259244

Chy-An-Godoghyn, Lane To Burra Burra Farm, Three Burrows, Blackwater TR4 8HU

- 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 Messrs C Wells and Hewitt-Boorman against the decision of Cornwall Council.
 - The application Ref PA20/03316, dated 14 April 2020, was refused by notice dated 15 June 2020.
 - The development proposed is the erection of a dwelling, and the formation of a new access and hardstanding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the site is in a suitable location for a dwelling having regard to development plan policy for the supply of housing, with reference to the accessibility of services; and,
 - the effect of the proposal on the character and appearance of the area, with reference to the Cornwall and West Devon Mining World Heritage Site (WHS).

Reasons

Suitability of the site

3. The site comprises part of the garden of the dwelling Chy-An-Godoghyn, which is located to the east of the A30 trunk road, near to Chiverton Cross. The immediate environs consist of small parcels of enclosed land scattered with dwellings within the WHS. There is extant permission for the extension and subdivision of Chy-An-Godoghyn into two dwellings (the Extant Permission)¹.
4. Policy 2 of the Cornwall Local Plan: Strategic Policies Document 2010–2030 (adopted 2016) (CLP) sets out Cornwall's spatial strategy. It seeks to provide housing based on the role and function of each place. Policy 3 conveys this into a hierarchy for the distribution of growth across Cornwall's settlements.
5. There is no dispute between the parties that the site is not within a settlement, and I have no reason to disagree. Paragraph 2.33 of the CLP defines open countryside to be the area outside of the physical boundaries of existing

¹ Ref PA20/00378

- settlements. As such, whilst the area around the site contains loose residential development, it is nonetheless within the open countryside in the CLP's terms.
6. Policy 7 of the CLP states that new homes in the open countryside will only be permitted in given special circumstances. Whilst this includes the replacement or the subdivision of a dwelling, these criteria objectively relate to the building itself and not the subdivision of its grounds to facilitate a new build, nor the 'replacement' of planning permission within a site. Given such, none of the circumstances within Policy 7 would apply to the proposal.
 7. Policy 21 of the CLP states, amongst other things, that encouragement will be given to sustainably located proposals that (a) use previously developed land and buildings provided that they are not of high environmental or historic value or (c) increase building density where appropriate, taking into account the character of the surrounding area and access to services and facilities to ensure an efficient use of land. This is consistent with Paragraph 122 of the National Planning Policy Framework (the Framework).
 8. The site is within walking distance to bus stops along the A390 and bus stops and roadside services on the other side of the A30. The first part of the journey toward them is along a level lane which is lit by the adjacent A30. However, if heading for the A390 bus stops, the next stretch of the lane is not lit. Reaching the eastbound bus stop would necessitate walking a short section of the A390 without a footpath and neither bus stop has shelter from the elements.
 9. The trip to the other bus stops or the roadside services involves crossing six lanes of the A30 with minimal space for refuge. The A30 is an arterial route and the speed and frequency of vehicles creates a highly inhospitable environment which even sprightly people would likely find arduous and unsafe to cross. This acts as a significant disincentive to access the facilities beyond it. The modest retail offer at the roadside services is not an adequate alternative to that provided comprehensively within dedicated outlets such as supermarkets. Conversely, the site's near instantaneous and highly convenient access to the A30 and the A390 would enhance the appeal of traveling to essential day to day services available in settlements such as Truro by private car.
 10. In these circumstances, the site would at best encourage unsustainable means of transport, and at worst, lesser bodied people residing in the dwelling would be dependent upon them. As such, the proposal would not be sustainably located and would conflict with Policy 21 and the Framework in this regard.
 11. When granting permission for the housing at Penstraze², it would or should have been evident to the Council that Penstraze is likely to be subsumed by Truro. Penstraze is closer to Truro and connected to the city by a sheltered bus stop directly in front, which can be, for the most part, accessed via areas of tarmac which largely prevent the need to enter the carriageway. As such, there are material differences between those sites and Chy-An-Godoghyn. I am not beholden to these decisions in any event.
 12. The scheme at Ashton³ was found to form part of the settlement of Tresowes Green, not the open countryside, thereby conforming to Policy 3 and the CLP's spatial strategy, and its accessibility to services would have been assessed within that context. Ultimately, each scheme must be assessed on its own

² Refs PA17/05922, PA18/02309, PA18/03283, PA18/06655, PA19/01566, PA20/03695, PA18/07295

³ Ref APP/D0840/W/20/3246882

merits and site-specific circumstances and these examples are of little influence in my reasoning. The point is also made that car use is high in all locations. However, this does not alter the intention of local and national policy to direct development to the most accessible, well serviced and/or established places.

13. As such, I conclude on this issue that the site is not in a suitable location for a dwelling having regard to development plan policy for the supply of housing, with reference to the accessibility of services. It would conflict in this regard with Policies 1, 2 3, 7 and 21 of the CLP, Policies E1 and E4 of the Truro and Kenwyn Neighbourhood Development Plan (made 2016) and the Framework.

Character and appearance

14. The WHS is a designated heritage asset of the highest significance. Historic mapping indicates that Chy-An-Godoghyn is proximate to the former Burra Burra Mine site, which was surrounded by likely miner smallholdings. Such sites and smallholdings are attributes of the WHS that express its Outstanding Universal Value (OUV).
15. Whilst the area has clearly changed, with mine workings removed and some fields enlarged and developed, the pattern of enclosed smallholdings is still perceptible when traveling around it. Together with its modest lanes, and the fabric of its remaining historic buildings, including Chy-An-Godoghyn, this provides for the character of a formerly industrialised rural scene.
16. Given the site's intimate relationship to Burra Burra, it cannot be ruled out that it was a component of the smallholding landscape. Despite its now clear domestic land use, Chy-An-Godoghyn's grounds maintain a degree of verdant openness which allows for limited legibility of its likely former role. As such, it contributes to the OUV of the WHS, albeit to a modest extent.
17. Whilst I acknowledge efforts to provide a dwelling which responds to the local vernacular, the development would nonetheless impinge on the site's openness, perpetuating the modern residential development which has begun to draw the area away from its mining heritage. The scheme would therefore diminish the site's contribution to the OUV of the WHS.
18. The level of harm to the WHS would be less than substantial. Even so, any such harm merits great weight in accordance with Paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development. As heritage assets are irreplaceable, any harm requires clear and convincing justification.
19. The government is seeking to significantly boost the supply of housing and the proposal would provide a single dwelling to the local housing stock. In doing so, it would provide an economic boost during construction and through increased usage of local services. Given the small scale of the development, and the Council's evidenced housing supply statistics, these public benefits attract limited weight. They do not amount to a clear and convincing justification for the less than substantial harm to the WHS, to which I am bound to attach considerable weight and importance.
20. Consequently, I conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area, with reference to the WHS. It would conflict with the landscape and heritage aims of Policies 21, 23 and 24 of the CLP and the Framework.

Other Considerations

21. Whilst it may be that the appeal proposal is intended as a substitute for the Extant Permission, there is no mechanism before me, like a legal agreement, which allows me to be certain of that eventuality. It follows that it is not actually a fallback position but a discrete development option at the site. On this basis, it does not serve to justify the harm I have identified in this case.
22. My attention is drawn to permission for the expansion of the roadside services and plans for an overbridge across the A30 as part of the multiuser 'Saints Trail'. These matters do not lead the proposal to achieve policy compliance in the present. Although the redevelopment of the roadside services has commenced, and includes expansion of its floorspace, retail is only one aspect of the essential day to day services future occupants would seek to access.
23. Whilst the appellant considers that the overbridge will be delivered and soon, the evidence before me does not allow for such certainty. I understand that a planning application has been submitted for the first section of the trail connecting to Chiverton Cross from the north, but the status of the application is unclear, and it is also unclear if it includes the overbridge. Moreover, given the scale of this infrastructure and the various potential constraints it faces, such as those in relation to protected species and the Fal and Helford and the Penhale Special Areas of Conservation⁴, the evidence before me is not entirely persuasive that the timeframe for its delivery will be met. As things stand, these matters are of limited weight in the scheme's favour.

Other Matters

24. I have also had regard to the concerns raised about the Council's procedural conduct at the appeal. However, this matter is beyond the scope of this section 78 appeal, which relates to the planning merits of the proposal.

Planning Balance

25. I have found that the site would not be a suitable location for a dwelling having regard to the development plan's approach to the supply of housing, being located in an open countryside location with inadequate access to services. There would also be harm to the WHS. These matters bring the scheme into conflict with the development plan when read as a whole. The benefits of the scheme and the other considerations identified would not outweigh this conflict.

Conclusion

26. For the reasons outlined above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

⁴ Appendix J to appellant's Statement of Case