
Appeal Decision

Site visit made on 16 February 2021

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

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021

Appeal Ref: APP/D0840/W/20/3260870

**Land East of Evergreen Lodge, Back Lane, Canonstown, Cornwall
TR27 6NF**

- 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 Raimondas Budrikis against the decision of Cornwall Council.
 - The application Ref PA19/09309, dated 24 October 2019, was refused by notice dated 26 June 2020.
 - The development proposed is the construction of 5 dwellings with garages on vacant land.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 5 dwellings with garages on vacant land at Land East of Evergreen Lodge, Back Lane, Canonstown, Cornwall TR27 6NF in accordance with the terms of the application, Ref PA19/09309, dated 24 October 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. In the interests of accuracy and consistency, I have used the address of the appeal site as provided on the Council's Decision Notice, in the banner heading above.
3. Furthermore, it is noted that the submissions in this appeal refer to the settlement as being known as 'Canonstown' or 'Canons Town'. For the purposes of this appeal, and as noted above and in the interests of consistency, I have used the term 'Canonstown' throughout this decision.

Main Issue

4. Although the Council has given two reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify a single main issue.
5. Accordingly, the main issue in this appeal is whether or not the proposed development would be in a suitable location, having regard to Local Planning Policy and to the character and appearance of the surrounding area.

Reasons

Policy Context

6. The development plan comprises the policies of the Cornwall Local Plan Strategic Policies (2010-2030)¹ (the Local Plan). It is understood that the Ludgvan Parish Neighbourhood Plan (the Neighbourhood Plan) was scheduled for a referendum in April 2020. However, due to Covid-19 restrictions, the referendum has been postponed. Planning Practice Guidance provides that in such circumstances, the policies of the Neighbourhood Plan can be given significant weight in the determination of this appeal.

Location of Development

7. The appeal site comprises a relatively flat parcel of land set back behind dwellings which front onto the A30 highway and which separates those dwellings from residential and commercial development located within Back Lane. Chapel Lane, an unmade narrow trackway, bounds the site on its north eastern side. As I observed on my visit, the appeal site is predominately surrounded by development to its north, east, south and west.
8. Whilst it is noted that the Neighbourhood Plan does not place the appeal site within a defined settlement boundary, Policy LUD6 of the Neighbourhood Plan confirms that support will be provided for small scale developments within settlements not having a settlement boundary, subject to certain criteria.
9. The Council's settlement strategy is contained within Policy 2 of 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.
10. Policy 3 of the Local Plan sets out the strategy for the delivery of housing across Cornwall and growth is centred on the named, larger settlements within the county. Canonstown is not listed as 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 help meet housing requirement by: identification of sites where required through Neighbourhood Plans, rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining the settlement of a scale appropriate to its size and role; infill schemes that fill a small gap in an otherwise continuous built frontage.
11. The main parties have referred me to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (the CPOAN) which, amongst other things, provides some guidance in relation to rounding off, infill and other development within a settlement. 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. It is common ground between the main parties that Canonstown is a settlement within the context of the Local Plan. Based on observations made on my site visit and on the plans provided in support of the planning application, in my view Canonstown has a well-defined shape, with the built up area of the

¹ Adopted November 2016

village being predominately concentrated in a linear pattern either side of the A30 highway and either side of Heather Lane which connects with the A30 highway northeast of the site. There is further substantial residential and commercial development within Back Lane which runs parallel to and set back behind residential dwellings which front onto the A30 highway.

13. There is dispute as to whether the appeal site is located within the settlement or within the open countryside for planning purposes. Both the supporting text to Policy 7 of the Local Plan and the guidance contained within the CPOAN, provide that open countryside is defined as an area outside of the physical boundaries of an existing settlement.
14. In this regard, the appeal site is bounded to the south and east by residential development which fronts onto the A30 highway. Whilst I note that there is an area of more open land to the northeast of the site and on the other side of Chapel Lane, that land exhibited the character and appearance of domestic garden space associated with the dwellings which front onto the A30 highway east of the site. To the north the site is enclosed by Back Lane with further residential development being located beyond that lane to its north and northwest.
15. In light of the above factors and given the built form of Canonstown extends further west of the site, the appeal site is located within the logical boundaries of the settlement and, therefore, the appeal proposal would not represent development within the open countryside as defined within the Local Plan. In my view, given its surroundings, the appeal site has a greater physical and visual affinity with the built up area of Canonstown rather than being within the open countryside located further to the northwest of the site. Given that the appeal site is located within the settlement, the provisions of Policy 7 of the Local Plan do not apply to the appeal proposal.
16. While the submissions regarding the use of the site and whether the proposal would constitute the rounding off of the settlement are noted, there is no substantive evidence before me that the site can be considered to be PDL and, in my view, given that the scheme would not provide symmetry or completion to the settlement boundary, the proposal could not be considered to be rounding off.
17. Amongst other matters, the Appellant maintains 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. Policy LUD6 of the Neighbourhood Plan also provides support for infill schemes within settlements.
18. In light of the appeal site's surroundings as described above, the appeal proposal would not extend the settlement into the open countryside. In terms of Policy LUD6 of the Neighbourhood Plan, the appeal scheme would be infill development within an existing continuous built up frontage. It is noted that the Neighbourhood Plan does not restrict infill development to small gaps only.

19. However, whilst Policy 3 of the Local Plan does not specifically define what would constitute a “small gap”, the supporting text to this policy indicates, in terms of the Local Plan, that a large gap would be bigger than one or two dwellings between buildings or groups of buildings. In this instance, and given the proposed layout of the scheme, the proposal would be for more than two dwellings between existing buildings at Canonstown and consequently the proposed development would not represent infill in the context of the Local Plan.
20. Notwithstanding the above, it has also been put to me by the Appellant that the appeal scheme would accord with the definition of “other development within a settlement” as provided for within the CPOAN, and would also comply with the provisions of Policy 21 of the Local Plan which concerns best use of land.
21. In terms of other development within settlements, the CPOAN confirms that other development within the form and shape of the settlement and which does not strictly accord with the definition of infill or rounding off, will be acceptable where there is no significant harm arising to social, environmental or economic considerations. The CPOAN continues by providing that development in this respect would accord with Policy 21 c) of the Local Plan which concerns best use of land.
22. I would concur with the Council’s Officer that the appeal proposal would not give rise to any adverse impacts on the living conditions of nearby residents with regards to overlooking or loss of outlook by reason of the separation distance between the proposed development and the nearby residential dwellings. Furthermore, there is no substantive evidence before me which would indicate that development of this site would result in any harm with regards to economic considerations.
23. Policy 21 c) of the Local Plan provides that encouragement would be given to proposals which increase building density taking into account the character and appearance of the area and the accessibility of services and facilities. In these respects, based on the evidence before me and from observations made on my visit, the appeal site does provide convenient access to those limited services contained within Canonstown and to bus stops located on the A30 highway and which provide convenient access to nearby larger settlements, such as at Hayle, as well as to the train station at St Erth.
24. Nonetheless, Policy 21 c) of the Local Plan requires that increases in building density must take into account the character and appearance of the area. In this regard, the Council maintain that the layout of the proposed scheme would be at odds with the pattern of development exhibited within Canonstown and its wider surrounding area.
25. In respect of this concern regarding the impact on the character and setting of Canonstown, it is acknowledged that the settlement predominantly comprises ribbon development along the A30 highway and along Heather Lane. However, as noted above, the land to the rear of dwellings which front onto the A30 highway includes Back Lane, where development occupies space on either side of that lane. Closer to the junction between Back Lane and Heather Lane, residential development does not form a ribbon on the western side of Heather Lane, but rather is arranged in a compact group which occupies all of the available space between the A30 highway and Back Lane. In this respect, and

having regard to the proposed layout of the appeal scheme, I find that the proposed arrangement of dwellings at the site would not necessarily be at odds with, or would represent harm to, the pattern of development at this location or to the setting of Canonstown.

26. The immediate surrounding area is characterised by a mixture of residential and commercial development in association with horticultural enterprises, with residential development comprising a mix of substantially sized detached dwellings and more modestly sized terraced dwellings. Here variety is the rule, with modern properties and commercial development interspersed amongst more traditional forms of development. Buildings within the settlement and wider surrounding area are constructed in a variety of materials, with buildings close to the site exhibiting a varied palette of external finishes.
27. Given the above, the appeal scheme would not be physically or visually discordant when viewed in the context of the surrounding and nearby built form. In my view, and based on the evidence before me, I find that the appeal scheme would not be harmful to the character or appearance of the surrounding area nor would be harmful to the setting of Canonstown.
28. In summary of the above, the appeal site is located within the settlement at Canonstown and would accord with the provisions of the CPOAN with regards to other development within a settlement. The appeal scheme would not be harmful to the character or appearance of the surrounding area and would not be harmful to the setting of Canonstown.
29. The proposed development would comply with the provisions, aims and objectives of Policies 2, 3, 12 and 21 of the Local Plan which, amongst other matters, seeks to deliver housing based on the role and function of places and which respects local distinctiveness. For the same reasons, the scheme would comply with Policies LUD6 and LUD7 of the Neighbourhood Plan which support small scale development within settlements which respects local distinctiveness. The proposal would also accord with paragraph 127 of the National Planning Policy Framework (the Framework).
30. 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.

Other Matters

31. Concerns have been raised by interested parties with regards to highway safety and in respect of drainage. These are important concerns and I have fully considered the submissions of interested parties in relation to these matters.
32. Whilst the concerns regarding drainage are noted, details of the final scheme can be secured by condition which requires that improvements to Back Lane are carried out in accordance with a detailed design to be agreed with the Local Planning Authority. Such a condition would further ensure that matters of highway safety can be considered as part of that agreed detailed design. Whilst

I acknowledge that there are concerns regarding the potential use of Chapel Lane to provide vehicle access onto the A30 highway, this is a private civil matter which is outside the scope of this appeal decision.

Conditions

33. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. I further find it reasonable to include conditions requiring details of any landscaping and external finish, be agreed with the Local Planning Authority, in the interests preserving the character and appearance of the surrounding area.
34. In the interest of highway safety and public convenience, I have included conditions requiring details of Construction Traffic Management Plan and the design of proposed highway improvements be agreed with the Local Planning Authority prior to commencement or any works at the appeal site. It is further reasonable to include a condition that requires the parking and turning areas be constructed prior to the development being brought into use in the interests of highway safety, public convenience and the living conditions of future residents.
35. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance. The wording of the pre-commencement conditions, have been agreed by the Appellant.

Conclusions

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

Mr A Spencer-Peet

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
- 2) The development hereby approved shall in all respects accord strictly with drawing number: Site/Location Plan received by the Local Planning Authority on 25 October 2019 and drawing numbers: D1A A, D2A A, D3A A, D4 A, D6A A, D8A A, D9A A and D10A A received by the Local Planning Authority on 1 May 2020 and drawing numbers: D5B B, D7B B and D11B B received by the Local Planning Authority on 29 May 2020.
- 3) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall provide planting plans with written specifications including:
 - Details of 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;
 - Full schedule of plants;
 - Details of the mix, size, distribution and density of all trees/shrubs/hedges;
 - Cultivation proposals for the maintenance and management of the soft landscaping;
 - Details of all boundary treatments;
 - 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;
 - All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice shall be given to the Local Planning Authority when the approved scheme has been completed;
 - Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species as those originally planted.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces of the building hereby permitted, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.

- 5) Prior to the commencement of the development hereby permitted, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Highways England). The Management Plan should include as a minimum:
- i) the anticipated number, frequency and size of construction vehicles;
 - ii) construction vehicle routing as use of the A30/Chapel Lane junction will not be permitted;
 - iii) parking arrangements for contractors' vehicles;
 - iv) how delivery and storage for all plant and materials will be accommodated on site as parking or unloading on the A30 Trunk Road will not be permitted;
 - v) provision of a suitable turning area on site to ensure that all construction and delivery vehicles exit and enter the site in a forward gear;
 - vi) during construction, traffic management shall be implemented in accordance with the agreed plan.
- 6) Prior to the commencement of construction of the dwellings hereby permitted, the improvements to the Back Lane and Heather Lane access shall be implemented in full and in accordance with the detailed design to be agreed in writing with the Local Planning Authority and maintained as such thereafter.
- 7) Before any of the development hereby permitted is brought into use, parking and turning areas shall be laid out and constructed in accordance with approved drawing no. D1A A; and the said areas shall not thereafter be obstructed or used for any other purpose.