
Appeal Decision

Site visit made on 25 January and 2 March 2021

Hearing held on 3 February 2021

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/D0840/W/20/3248199

Land off Tregenna Lane, Camborne TR14 7QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr J. Mitchell of Robertson Development Ltd. against the decision of Cornwall Council.
 - The application Ref PA19/02687, dated 21 March 2019, was refused by notice dated 14 January 2020.
 - The development proposed is described on the application form as '23 dwellings, including affordable housing, landscape, access and associated infrastructure'.
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Decision

1. The appeal is allowed and planning permission is granted for 23 dwellings including affordable housing, landscaping, access and associated infrastructure at land off Tregenna Lane, Camborne TR14 7QU in accordance with the terms of the application Ref PA19/02687, dated 21 March 2019, subject to the conditions below and, subject to my reasoning in paragraphs 56 to 71 of this decision, the obligations contained in the supporting Unilateral Undertaking dated 2 June 2020 ('UU').

Application for costs

2. An application for an award of costs, made by the appellant against the Council, is the subject of a separate decision. During the hearing Ms R. Maher, a local resident, argued that the appellant had acted unreasonably in how they had approached seeking permission. Having given fair opportunity to consider those points during the hearing, I address her arguments subsequently.¹

Preliminary matters

3. Notwithstanding a nearby appeal brought to my attention,² each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. There is, however, some planning history to the site and to its surroundings, to which I have had regard as appropriate.
4. In this instance the development plan includes policies of the Cornwall Local Plan Strategic Policies 2010-2030 ('LPSP') and of the Council's Site Allocations

¹ The Planning Practice Guidance, Reference ID: 16-029-20140306 and 16-036-20140306, explains how an Inspector may initiate an award of costs, applying the same guidance in so doing as if an application were made.

² Ref APP/D0840/W/19/3220826.

Development Plan Document ('SADPD').³ I understand that work preparing a neighbourhood plan here is yet to reach a stage of development such that significant weight may be accorded to any emerging approach.

5. In assessing the proposal I have also had regard to various other material considerations. They include the Council's 'Chief Planning Officer Advice Note: Infill/ Rounding Off' (the 'CPO Note'), the Council's Housing Supplementary Planning Document ('SPD'), the Cornwall and Isles of Scilly Landscape Character Study ('LCS'),⁴ the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG').

Policy context

6. The NPPF emphasises the importance of a plan-led system. However it does not expressly limit housing provision to certain levels in certain areas (where, all things considered, a proposal would be acceptable). The housing requirement in LPSP policy 2a is not expressed as a maximum level.
7. Along similar lines, SADPD policy 1 affords conditional support to 'windfall development', i.e. that which arises from sites which have not previously been identified as likely to contribute towards future housing supply. LPSP policy 3, SADPD policy 1, and also the CPO Note, set out various considerations that should, or may, be applied in assessing whether or not windfall proposals are acceptable; they apply more general principles in respect of the character and design of proposals in relation to a particular type of development.⁵
8. With reference to NPPF paragraph 11) d)., there is neither evidence before me, nor contention, that the policies which are most important for determining the application should be considered as out of date. With reference to NPPF paragraphs 67 and 73, the Council's position is that they are able to demonstrate in excess of a five year housing land supply across Cornwall.⁶
9. LPSP paragraph 1.74 set out that where a five year land supply can be demonstrated, the adequacy of supply in meeting the needs of a particular Community Network Area ('CNA') or town will be material. In this instance the site falls within the Camborne with Pool, Illogan and Redruth CNA ('CPIR').
10. The Council's position is that the anticipated five year supply of homes in CPIR would exceed the CNA apportionment by around 71 homes, rising to 267 over the plan period as a whole. That is not disputed. Nonetheless affordable housing need remains high here. At the time of the hearing 562 individuals were registered on the Council's Homechoice Register as seeking affordable housing in Camborne.
11. Inherent in my reasoning above and subsequently, and insofar as this appeal is concerned, relevant development plan policies are consistent with national policy. For comprehensiveness in respect of policy context, the site falls within an Air Quality Management Area ('AQMA'). Although within flood zone 1, i.e. at

³ Adopted in November 2016 and November 2019 respectively.

⁴ Published December 2017, adopted February 2020, and published in 2008 respectively.

⁵ Notably LPSP policies 1, 2 and 12. In summary NPPF paragraphs 124 and 127 set out how planning should aim towards the creation of high quality places, with new development being sympathetic to local character.

⁶ Corroborated by housing delivery test data published on 19 January 2021. A figure of about 6.5 years' worth of forward supply is given in the Council's Monitoring Report of October 2020.

'low probability' of flooding, reflecting ground conditions and hydrology, the site nevertheless falls within the CPIR Critical Drainage Area ('CDA').

Main issues

12. Against the background above, the main issue is the effect of the proposal on local character.

Reasons

13. The appeal site is a broadly level field of approximately 1.07ha. It is classified as grade 3a agricultural land. However it has simply been left to its own devices for quite some time. As noted above the site falls within an AQMA and CDA. Many local residents, understandably, appreciate the site in its present essentially natural state. However the site does not fall within an area which is formally protected in terms of its character or environmental sensitivity.⁷
14. Beyond a hedgebank to the west, the site abuts a parcel of land of approximately 4.35ha where there is extant permission for the construction of 94 dwellings and a care facility (the 'neighbouring scheme'). At the time of my site visits initial works were underway there. Those works included amendments in terms of access, via the creation of a new arm to, and alterations of, the roundabout junction of Tregenna Lane, Crane Road and Rectory Road.
15. I heard that Robertson Development Ltd. is undertaking elements of the neighbouring scheme and an intended contractor in respect of the appeal proposal. Consequently, notwithstanding site ownership, both sites fall within the appellant's control. Accordingly, on occasion, the evidence refers to the neighbouring scheme as 'phase 1' and the appeal proposal as 'phase 2'.
16. That phrasing has caused some local concern. Some residents worry that allowing the appeal may presage further phases of development (with the potential to cumulatively affect local character). However there is nothing to indicate that any further phases are proposed. Moreover each proposal must be determined individually; even slight geographic or contextual differences may lead to very different assessments as to the merits of a scheme.
17. The neighbouring scheme was initially approved in outline at appeal.⁸ Via decision notice dated 17 December 2019, the Council refused a subsequent application for approval of reserved matters.⁹ That refusal was appealed.¹⁰ Via decision notice dated 2 July 2020, however, the Council approved alternative details,¹¹ and by consequence the previous appeal was withdrawn. The layout of the neighbouring scheme is illustrated on certain plans before me.
18. The appeal site falls within landscape character area CA11 as defined in the LCS ('Redruth Camborne and Gwennap'). The LCS describes CA11 as

⁷ For example within the terms of NPPF paragraph 11, footnote 6.

⁸ Appeal decision Ref APP/D0840/W/16/3142806, dated 9 February 2017.

⁹ Ref PA18/10418. That refusal was on the basis that the then proposed surface water drainage system, which included off-site pumping, was unsuitable with reference to the provisions of LPSP policy 26.

¹⁰ Ref APP/D0840/W/20/3245548.

¹¹ Ref 20/00108, the supporting drainage statement to which explains how an alternative approach to drainage was arrived at, i.e. attenuating surface water run off before discharging ultimately to the Roseworthy Stream (supporting plans J-1103 3001 REV. B, J-1103 3003 REV. A, and J-1103 3401 REV. A).

characterised by a 'small scale', or intimate, rolling landscape comprised predominantly of pastoral fields demarcated by traditional hedgerows punctuated by trees. The landscape here is intertwined with Cornish mining heritage, and reflects a complex overlay of historic land reorganisation.

19. Nevertheless, as aptly observed in the appellant's Heritage Impact Assessment, Boundervean Lane flanking the site to the south retains its 'narrow twisting post-medieval character'. Footpath 203/22/1 next to the neighbouring site is illustrated on maps dating from around 1840. Although the site does not fall within the Cornwall and West Devon Mining Landscape World Heritage Site, the supporting Geophysical Survey Statement indicates the presence of some historic workings here.
20. At present the site is consistent with landscape character. However in my view its significance is highly limited for three main reasons. Firstly the appeal site is a modest parcel of land. The topography here is broadly level. There are no public rights of way across the site. By consequence, and as the appeal site is enclosed by hedgebanks on all sides, it is not prominent within wider views or vistas of the landscape.
21. Secondly the LCS also identifies that CA11 is 'a well populated landscape containing Cornwall's largest built-up area'. In this location Camborne has an irregular periphery. The town blurs into surrounding villages and landscape rather than having a coherent edge. In that context, appropriately-designed residential development here would not mark a discordant departure from the prevailing pattern of development.
22. Thirdly, as set out above, to the west there is extant permission for the construction of 94 dwellings and a care facility. Once implemented, there would be little, if any, meaningful visibility of the appeal site from footpath 203/22/1. To the north and east are dwellings arranged around Tregenna Fields; the plots or accesses of Trevanion, Akwaaba (17b), and Nos 17, 13 and 12 abut the appeal site. On three sides the surroundings to the appeal site are therefore presently residential in character, or would become so in time.
23. I saw that Boundervean Lane to the south, beyond which is a sports ground, represents a substantial enclosing feature in the landscape. Appropriate conditions related to landscape and hedgerow protection could ensure that it would not be directly affected. As a result of the foregoing, having taken account of landscape character, the prevailing pattern of development in the area, and the nature of the immediate surroundings to the appeal site, in my view the proposal may appropriately be termed 'rounding off' within the terms of LPSP policy 3a and SADPD policy 1, with reference to the CPO note.
24. However the support accorded via relevant elements of the development plan to rounding off and to windfall development is conditional; all schemes must otherwise integrate appropriately with its surroundings. Reaching a view in that respect is inherently reliant on planning judgement.
25. The proposal represents a higher level of residential density compared to Tregenna Fields. At the hearing the Council indicated that density at Tregenna Fields is around 14 dwellings per hectare ('dph'). Conversely the proposal

would be around 21dph. Dwellings along Tregenna Lane and Tregenna Court, are of similar, or lower, residential density as Tregenna Fields.

26. Only four of the 23 dwellings proposed would be single storey. By contrast single storey dwellings predominate around Tregenna Fields. More often than not existing dwellings are arranged in single plot depths facing streets (albeit their prominence is somewhat varied on account of different building lines and landscaping). There are few examples nearby of dwellings arranged around shared space useable by both pedestrians and vehicles; the area generally has a more organic pattern of development which has evolved over time.
27. I note the observations made by the Tregenna Action Group ('TAG') in particular, who make the case that there is something of a local vernacular in terms of the prevailing design of dwellings and materials used. TAG refer to the articulation or architectural detailing present at certain nearby properties, most in evidence in respect of older properties along Tregenna Lane, and also to the prevailing use of facing stonework and slate roofs.
28. TAG also draw my attention specifically to paragraph 69 of the SPD, which states how on-site affordable housing provision should be designed so as to be 'indistinguishable from market housing and interspersed in small clusters [within schemes]...'. TAG contend that is not the case in terms of the location, scale and design proposed in respect of the proposed affordable units.¹²
29. However properties at Tregenna Fields and Tregenna Court appear, both in layout and design, typical of mid-to-late 1970s development. They were created when different pressures and preferences applied. Recognising current housing pressures, and in order to make effective use of land,¹³ LPSP policy 21 encourages proposals that 'increase building density where appropriate'.
30. In many urban or peri-urban locations a residential density of 21dph is relatively low. You do not have to go too far here to find instances of comparable residential densities and plot sizes as are proposed. I am aware there was a level of local objection to the neighbouring scheme. Nevertheless that scheme is being undertaken, and will in time become part of the surroundings to the appeal site.
31. The neighbouring scheme is for 94 dwellings arranged across a site of 4.35ha. That equally represents just over 21dph; a calculation which does not account for the care home element of that scheme. As the appeal proposal and neighbouring scheme would make use of the same vehicular access, the clearest visual interrelationship would be between those two sites (rather than from wider vantage points).
32. As noted above there are existing single storey dwellings next to the appeal site. However there are also dormer bungalows at Tregenna Close and two storey houses along Tregenna Fields. Neither the scale nor height of nearby buildings is entirely consistent. The scheme has consciously been designed such that single storey dwellings are located around the northern and western periphery of the site. That arrangement would, in my view, allow for a

¹² Identified on plan '0658-PH2-102 Revision. C.', illustrated on plans included in the supporting 'Housetype Booklet'.

¹³ Reflecting NPPF paragraphs 122 and 123.

comfortable visual transition in terms of scale (from the neighbouring scheme towards Tregenna Fields and Boundervean Lane).

33. As also noted above, the built form of Camborne here reflects different eras of development and therefore of architecture. Bethany Almshouses, obliquely opposite access to the neighbouring site, appears to be an interwar collection of dwellings set around a central courtyard (with latter additions). Properties opposite Tregenna Close along Tregenna Lane are of similar, or post-war era, and are substantial properties set within expansive plots.
34. As set out above Tregenna Court appears 1970s in origin, with Tregenna Fields curving behind it. It appears that Trevanion and Akwaaba, set behind Tregenna Court off a spur of Tregenna Fields, are more recent still. Accordingly there is relatively limited consistency in terms of the arrangement of nearby properties, or a standardised pattern of development here.
35. That is similarly the case in terms of the scale, proportions and detailing of properties; in my view diversity rather than consistency is a better descriptor of nearby architecture. Properties along Tregenna Close are more modest in scale and understated in design than older properties along Tregenna Lane. I saw that many nearby properties have been altered incrementally over time, such that there is limited consistency in terms of design or external materials.
36. Section 11 of the supporting Design and Access Statement sets out how the proposed dwellings would have a traditional overall form and proportions, employing render and elements of stone facing consistent with the appearance and materials of properties found nearby. Subject to ensuring that design via appropriate conditions and suitable landscaping, the dwellings proposed would be appropriate in terms of design.
37. Considered in conjunction with the neighbouring scheme, the clustering of six affordable units would not conflict with the guidance in the SPD as to how affordable homes should be arranged as part of a wider scheme. As shown in the supporting 'Housetypes Booklet', in terms of design features and materials, affordable units would be comparable with market dwellings.
38. I acknowledge that the proposed affordable units are more modest in floorspace than would be the case of other dwellings. However in my view that is not to such a degree that it would be readily perceptible. Moreover during the hearing the Council confirmed that the affordable homes proposed are appropriate in both scale, and also tenure, relative to local needs.
39. Drawing together my reasoning, on account of its nature and surroundings, the site contributes little to landscape character. There is, or would be, residential development around it to the north, east and west. Boundervean Lane to the south represents a substantial historical physical feature. In that context the scheme may reasonably be considered as 'rounding off'.
40. More broadly the scale, density and arrangement of dwellings proposed would not be out-of-keeping with the prevailing characteristics of the area. In respect of appearance, including as regards affordable housing, the scheme represents an appropriately designed proposal set in the context of surrounding architecture. I therefore conclude that the proposal complies with the relevant

provisions of LPSP policies 1, 2, 3a and 12, SADPD policy 1, along with the approach in NPPF paragraphs 124 and 127.

Other matters

41. I have taken careful account of the representations of nearby residents. Amongst other matters those concerns relate to the use of natural as opposed to brownfield land for development, the merits and practical ability of connecting the site with Tregenna Fields via a footpath, implications of additional traffic, the adequacy of drainage provision, and potential pressures on social infrastructure facilities and effects in terms of air quality. I deal with those matters in sequence.

Brownfield land

42. Given the legacy of deindustrialisation in CPIR, the SADPD seeks to prioritise the reuse of brownfield land. I have noted above how future housing supply here is forecast to exceed minimum requirements. However the development plan recognises that some greenfield development will be needed over time.¹⁴ Within the terms of NPPF paragraphs 67 and 73 there is also the need to maintain a rolling supply of housing provision, and there are particular pressures here in terms of affordable housing needs set out above.
43. In that context the development plan makes provision for 'rounding off' of settlements, with which I have found the scheme to be compliant. Allowing a scheme of 23 dwellings would not in my view undermine wider development plan objectives, and would itself contribute towards a healthy future supply. As noted in paragraph 13 above there is no indication that the site has been actively used for agriculture for quite some time, and 1.07ha represents a very small proportion of such land in Cornwall. In that context each proposal must be determined on its merits, and an acceptable scheme cannot be delayed in lieu of other potential schemes coming forward.

Footpath provision

44. The supporting plans, 0658-PH2-102 Revision C. in particular, show a footpath connecting with Tregenna Fields in the north-eastern corner of the site. That element of the scheme would aid connectivity and permeability. However I heard from the Council that footpath provision was not essential for compliance with relevant development plan provisions. There is also evidence before me indicating that there are several practical issues with implementing that footpath, including as regards land ownership, and given that would necessitate the removal of a group of trees.¹⁵
45. In that context I am mindful of the judgement in *Singh*, and the duty on me in respect of preservation of trees.¹⁶ As such, in my view, it is neither necessary nor desirable to require that footpath provision be made. That element is a minor aspect of the scheme as a whole. Footpath provision, in my experience, is commonly addressed via a landscaping condition attached to a permission. Accordingly, it would be reasonable to specify via conditions that the proposed

¹⁴ LPSP paragraph 2.56 and SADPD policy 5.31

¹⁵ Identified as 'G2' in the supporting Tree Survey and Report.

¹⁶ *Singh v SSCLG & Sandwell BC* [2010] EWHC 1621 (Admin), section 197 of the *Town and Country Planning Act* 1990 as amended.

footpath is not effected. Having explored that issue during the hearing, that is an approach which I do not consider would be prejudicial to any party.

Traffic

46. The proposal would increase the level of traffic making use of the Crane Road, Rectory Road and Tregenna Lane roundabout via which the neighbouring scheme is accessed, and also in respect of local routes. I heard how Tregenna Lane and Crane Road are relatively intensively used elements of the highway network (by virtue of their location connecting the B3303 with College Street running centrally through Camborne). I am also told that there is some parking pressure in the area, in particular during peak times and in connection with nearby uses (including St Meriadoc School, Camborne Rugby Football Club and the South Terrace Police Station).
47. However the vehicular movements associated with 23 additional dwellings in the context of what is described in the LCS as Cornwall's largest built-up area would be modest. As set out in the appellant's Transport Statement, the site's proximity to various services and facilities would moderate the extent to which individuals would be reliant on private vehicular use as opposed to walking or cycling. There is no indication before me that the design capacity or safety of the Crane Road, Rectory Road and Tregenna Lane roundabout or of the surrounding highway network is insufficient to suitably accommodate vehicular movements associated with the scheme.
48. Similarly there is no robust evidence before me to indicate that a predicted increase in vehicular movements of between 12 to 16 trips during morning or afternoon peak periods resulting from the proposal would significantly affect the safe or efficient operation of the highway network. Provision is also made for private and visitor parking, obviating the potential for on-street parking pressure to arise in the surroundings.¹⁷ There is also nothing to indicate that highway safety in this location is a cause for concern, based on previous accident data.

Drainage

49. Given ground conditions, hydrology, and mineworking heritage, infiltration of surface water run-off is not the 'preferred option' in terms of drainage provision in the CDA.¹⁸ Nevertheless in this instance the supporting Critical Drainage Mining Risk Assessment, Critical Drainage Area Flood Risk Assessment, and Percolation Test Report indicate that a suitable infiltration system could be designed so as to ensure no greater site run off than present, with 'negligible' implications for groundwater contamination.
50. That position, as opposed to a separate attenuation system designed in respect of the neighbouring scheme, is not disputed by the Council (in their capacity as Lead Local Flood Authority). Whilst I accept the Percolation Test Report represents a snapshot in time, and that recent weather conditions have been atypical, they nevertheless assess that the subsurface of the site is theoretically capable of accommodating resulting surface water run-off subject to some tolerance. By consequence, and subject to appropriately worded

¹⁷ In line with the approach in the Council's advisory document entitled 'Travel Plans'.

¹⁸ As set out in the Environment Agency's note of May 2015 related to CPIR.

conditions related to contamination and detailed scheme design, the proposal would comply with the relevant provisions of LPSP policy 26.

Social infrastructure

51. NPPF paragraph 20. c) sets out how strategic policies in a development plan should address community facilities such as health and education, and paragraph 92. a) how planning should address positively the provision of community facilities including open spaces. Some nearby residents express concern that nearby community facilities, such as open spaces and healthcare provision, are stretched. That may be the case.
52. Nevertheless addressing such issues falls principally to the strategic approach taken in an area via the preparation of a development plan; certain bodies must be engaged with under the Duty to Cooperate in that regard. The Council's Community Infrastructure Levy ('CIL') formulated in that context also, applies to the development proposed. CIL receipts would contribute to the delivery of infrastructure in the area. In that context, and subject to my subsequent reasoning regarding planning obligations, there is nothing to indicate that the scheme proposed would fail to provide appropriately for social infrastructure insofar as is necessary.

Air quality

53. As noted above the site falls within the CPIR AQMA. However, interlinked with my reasoning in respect of traffic, the effect of 23 new dwellings in terms of traffic and vehicular emissions would be modest within the surrounding context. The Council raise no objection to the scheme in terms of air quality, and improvements in that regard are reliant on investment in wider schemes to promote walking and cycling.¹⁹ Suitable measures to limit air quality effects during construction could be imposed by way of a condition requiring adherence to a construction and environmental management plan.

Additional issues

54. Returning to paragraph 2 of this decision, during the hearing I heard concerns expressed as to the approach the appellant had taken in seeking permission on this site. The argument was put that engaging with the process has been complex, and that the proposal has had a negative psychological effect on many members of the local community. I acknowledge circumstances at present are challenging, and that proposals may, and often do, entail an emotional response. However regrettable, that effect, and a degree of complexity, are to some extent inevitable. There is nothing substantive before me to indicate that the appellant has behaved in an unreasonable manner, as opposed to exercising the right to apply for permission and appeal. There is therefore nothing to lead me to initiate an award of costs.
55. As such neither the foregoing, nor any other matters, are sufficient to alter my reasoning regarding the overall acceptability of the proposal as set out in respect of the main issue in this case.

¹⁹ As indicated in the Clean Air for Cornwall Strategy 2020-2025 published in December 2020.

Obligations

56. The UU commits to certain obligations in the eventuality that the appeal were to be allowed. Section 3 of the UU however sets out that the obligations are 'conditional upon the Secretary of State or his Inspector expressly stating in his decision that pursuant to regulation 122(1) of the CIL Regulations and the National Planning Policy Framework each of the specific obligations or contributions contained in this Deed area necessary, directly related to the Development, fairly and reasonable related in scale and kind to the Development'.
57. NPPF paragraph 54 sets out how consideration should be given as to whether 'otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations' (in that order of preference). NPPF paragraph 56 and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 as amended (the 'CIL Regulations') set out the circumstances in which planning obligations may legitimately be sought, as reflected in section 3 of the UU.
58. The UU contains various obligations in respect of affordable housing along with contributions in respect of on and off site public open space, towards education and transport infrastructure provision. Neither the appellant, nor the Council, dispute the necessity or appropriateness of UU provisions related to affordable housing provision or in respect of on and off site public open space. Having had regard to the representations of different officers in respect of application Ref PA19/02687, and the documentation they reference, there is nothing to lead me to a different finding than that those obligations would accord with the statutory and policy context set out in paragraph 57 above.

Education

59. The appellant contends, however, that the Council has failed to suitably justify the contributions 'sought' in respect of education or transport. The obligation in the UU in respect of education relates to correspondence of 7 May 2019 on behalf of Cornwall Council's Education and Early Years' Service. That correspondence set out, based on an education infrastructure needs assessment ('EINA'), that capacity at nearby Penponds School stands at 101%. By consequence the Council sought a contribution towards additional primary school places amounting to £2,736 per dwelling.
60. I accept that the EINA is drawn from May 2018 census data and considers only Penponds School (in respect of primary capacity). Nevertheless there is no indication that it was not accurate as at 7 May 2019. There is no update to the EINA before me, nor any contrasting studies which point to different levels of provision in terms of primary school capacity. Moreover, given population projections, housing requirements and housing delivery in Cornwall and CPIR, there is no countervailing evidence to indicate that educational demand has eased; SADPD paragraph 5.35 indicates that by 2030 there will be a deficit of approximately 640 places in primary school provision in CPIR, attesting to the need for additional provision. Therefore, in my view, the education contribution in the UU is necessary and directly related to the development.
61. LPSP policy 28 refers to contributions towards 'social infrastructure' which encompasses education provision. The figure of £2,736 per dwelling has been

calibrated with reference to the specific impact on nearby primary school demand likely to arise from the scheme. It is therefore fairly and reasonably related in scale and kind to the development proposed; the appellant neither challenges the principle of the Council seeking appropriate contributions, nor contends that any set out in the UU would compromise the viability of the proposal. Consequently, the education contribution accords with the provisions of NPPF paragraph 56 and Regulation 122 of the CIL Regulations.

Transport

62. The UU includes an obligation to provide a transport contribution of £57,545 towards 'transport facilities'. 'Transport facilities' are defined as 'improvements to pedestrian links to the east of the land to schools located within the Town and to the Town centre...' (albeit that diverges somewhat from the ordinary definition of 'transport'). LPSP policy 28 sets out how developer contributions will be sought in respect of necessary infrastructure, including physical infrastructure (which fairly encompasses pedestrian route improvements).
63. Appropriate connectivity contributes towards strategic environmental and wellbeing objectives in the LPSP and also in the Local Transport Plan, Connecting Cornwall 2030 ('LTP'). LTP paragraph 2.7.3 notes that there is 'an emerging pattern of congestion' across Cornwall, with policy 5 setting out how development control processes will be used to 'ensure that development is planned, delivered and managed to reduce the need to travel', including via provision of a comprehensive walking and cycling network.
64. Similarly SADPD paragraph 5.34 explains how 'it is vital that new development is supported by appropriate infrastructure.' More broadly the Clean Air for Cornwall Strategy 2020-2025 sets out the Council's commitment to investing in walking and cycling networks through 'safer and well-designed infrastructure'. In that context an appropriate contribution towards transport improvements would, in my view and the context above, be necessary.
65. Whilst pedestrian links in the area could be used by anyone, they would inevitably be used by future occupants of the proposed dwellings. It is therefore not unreasonable to consider their improvement as directly relevant to the development. That is with the caveat that any improvements would be proportionate to the scheme (as opposed to paying for more than a fair share).
66. As in respect of contributions towards education provision, the appellant does not challenge the principle of seeking appropriate transport contributions. Insofar as the viability of the proposal is concerned, there is also no challenge to a sum of £57,545. However that does not justify the scale or detail of the contribution in that respect. Indeed, during the hearing, the Council were unable to explain the details of the 'transport facilities' set out in the UU, or how the above figure was calculated.
67. To be fair there is correspondence before me from the Council to representatives of the appellant dated 12 June 2020 which sets out that the transport contribution would be 'in line with the discussions with the Transport Strategy Team'. There has evidently been some dialogue between the main parties that is not before me. It is regrettable it falls to an appeal to consider the UU in this way, given the encouragement in the PPG and NPPF to early

engagement and clarity in this respect. Nevertheless, given the above, and within the terms of NPPF paragraph 56. c), I am not able to establish that the transport facilities obligation would be fairly and reasonably related to the proposal.

68. By contrast, I have set out above that a proportionate contribution towards transport improvements would be necessary, and also directly related to the development, with reference to NPPF paragraphs 56. a) and b). To leave my reasoning there, given the provisions of section 3 of the UU, would be insufficient.²⁰
69. With regard to the tests in NPPF paragraph 55 for the appropriate use of conditions, the PPG guides against positively-worded conditions expressly requiring that a planning obligation be entered into. The PPG also sets out that negatively-worded conditions should be used sparingly and with caution.²¹
70. However the provisions of section 70(1)(a) of the Town and Country Planning Act 1990 as amended, which enable the imposition of conditions, are broad. Given the policy context above, the appellant's acceptance of the principle of providing appropriate contributions, and his clarification that such would not inherently undermine the viability of the scheme, there is every prospect that an appropriate contribution towards transport facilities could be secured.
71. Moreover the essence of such a contribution, along with the mechanics of how it could operate in Schedule 2, part 7 of the UU, demonstrate that the main parties are both aware of how such a contribution could operate practically. Those, in my view, amount to unusually favourable, or exceptional, circumstances. As such, subject to a suitable negatively-worded condition, the proposal would make appropriate provision towards transport facilities.

Conclusion

72. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below and, subject to my reasoning in paragraphs 56 to 71 above, the obligations contained in the UU.

Conditions

73. In addition to requiring commencement within the relevant statutory period, I have imposed conditions specifying compliance with the supporting plans for clarity and in order to ensure that the proposal is implemented as assessed above, including in line with my reasoning in paragraphs 44 and 45 above.
74. As there is some evidence of mining heritage within the site and historic land reorganisation, reflecting the character of the wider landscape, in line with NPPF paragraph 199, I have imposed condition 3 specifying that a programme of archaeological investigation and recording is undertaken. To secure compliance with LPSP policy 26 and NPPF paragraphs 163 and 165, recognising the site's location with a CDA, condition 4 requires the implementation and maintenance of an agreed drainage scheme.

²⁰ Leaving delivery at serious risk with reference to PPG Reference ID: 21a-010-20190723.

²¹ Including at PPG Reference ID: 21a-005-20190723 and 21a-010-20190723.

75. To ensure that the proposal integrates sensitively with its surroundings in respect of character and environmental impacts, I have also imposed condition 5 (which requires compliance with an agreed Landscape and Ecology Management Plan). For similar reasons, and with reference to LPSP policy 12 and NPPF paragraph 127, it is necessary to require that tree protection measures and landscaping is implemented (condition 6).
76. To minimise disruption to nearby residents and to the surrounding highway network, noting that the development of the site may coincide with undertaking the neighbouring scheme, condition 7 requiring adherence to a construction and environmental management plan is necessary. Likewise to avoid adverse effects to the highway network with reference to LPSP policy 27 in particular, condition 8 requires that vehicular manoeuvring and parking areas are implemented before occupation. Condition 9 specifies adherence to a travel plan in line with LPSP policy 27.
77. As set out above the Geophysical Survey indicates the presence of some historic mine workings, and the Heritage Impact Assessment indicates a complex overlay of historic land arrangements and uses at the site. Whilst, as set out in paragraph 49, risks associated with contamination are likely to be minimal, nevertheless as a precautionary approach it is reasonable to impose conditions 10, 11 and 12 which make arrangements for investigating and remediating any potential contamination encountered.
78. Referring back to paragraphs 62 to 71 of this decision, I have further imposed condition 13 requiring that an appropriate contribution is made towards improving nearby pedestrian links (drawing in part from the formulation of the transport facilities obligation set out in the UU).
79. Conditions 3, 4, 5, 6 and 7 must necessarily apply before any development is undertaken. Any works implementing the dwellings hereby permitted may affect archaeology, the site's drainage characteristics, trees or hedgerows, and have the potential to affect individuals nearby. Pre-commencement conditions in those respects would minimise or avoid adverse effects from arising, and I note that the appellant agrees to the terms of those conditions.
80. In imposing conditions I have had regard to the test in the NPPF, the PPG, and relevant statute, to ensure that all, including condition 13, are necessary, relevant to planning and to the development to be permitted, enforceable, precise and otherwise reasonable. With that in mind I have amended the wording of certain conditions proposed by the Council to ensure that they are appropriate, without altering their fundamental aims.

Thomas Bristow
INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, other than in respect of the pedestrian link in the north-east of the site by Tregenna Fields: 136/PA/03G, 0658-PH2-104 REV D, 0658-PH2-106 REV C, 0658-PH2 HTB, 0658-PH2-102 C, 0658-PH2-110, 0658-PH2-320 C, 0658-PH2-107 C, 0658-PH2-105 B, 0658-PH2-108 B, 0658-PH2-302, 0658-PH2-309 B, 0658-PH2-101, 0658-PH2, TPP V2, 0658-PH2-103, 0658-PH2-109.
- 3) No development hereby permitted shall be undertaken until a programme of archaeological work, including a written scheme of investigation, has been submitted to and agreed in writing by the local planning authority. The programme shall include details of the following:
 - (i) an assessment of significance and research questions,
 - (ii) the programme and methodology of site investigation and recording,
 - (iii) the programme for post investigation assessment,
 - (iv) provision to be made for analysis of the site investigation and its recording,
 - (v) provision to be made for publication and dissemination of the analysis and records of the site investigation,
 - (vi) provision to be made for archive deposition of the analysis and records of the site investigation,
 - (vii) nomination of a competent person, persons or organisation to undertake the works set out within the written scheme of investigation,The development hereby permitted shall be undertaken in accordance with the programme of archaeological work thus agreed.
- 4) Notwithstanding condition 2, no development hereby permitted shall be undertaken until a drainage scheme has been submitted to and agreed in writing by the local planning authority, in line with the supporting Critical Drainage Mining Risk Assessment (Ref BP/GM/133763.CDMRA), Critical Drainage Area Flood Risk Assessment (J-789-Rev.01), and Percolation Test Report (BP/BH/153649.Perc) The drainage scheme shall include details of the following:
 - (i) a description of the foul and surface water drainage systems' operation,
 - (ii) details of the final drainage schemes including calculations and layout,
 - (iii) confirmation from South West Water Ltd., that there is sufficient capacity within surrounding sewer infrastructure to accommodate output from the development hereby permitted,
 - (iv) a construction surface water management plan,
 - (v) a construction quality control plan,
 - (vi) a plan indicating provision for exceedance pathways, overland flow routes and proposed detention
 - (vii) arrangements and responsibilities for the future maintenance of drainage systems, and a plan for the future maintenance and management thereof,
 - (viii) how surface water will be managed such that any flows from the site will be no greater than the predeveloped greenfield runoff rate of the site (taking account of a 1 in 100 year peak rainfall event plus 40% climate

change allowance or freeboard). The development hereby permitted shall be undertaken in accordance with the agreed drainage scheme, which shall thereafter be managed and maintained as agreed.

- 5) No development hereby permitted shall be undertaken until a Landscape and Ecology Management Plan ('LEMP') has been submitted to and approved in writing by the local planning authority. The LEMP shall include details of the following:
- (i) Implementation, improvement and mitigation of ecology and biodiversity measures in accordance with the supporting Design and Access Statement (Ref '0658 Tregenna Lane, Camborne') and Preliminary Ecological Appraisal (Ref TE 680/19/01),
 - (ii) appointment of an ecological clerk of works,
 - (iii) measures for the physical protection of retained hedgerows and trees through tree protection measures applying throughout the construction period,
 - (iv) measures to reduce artificial light spill towards the boundaries of the site during construction and occupation,
 - (v) avoidance of construction during the bird nesting season,
 - (vi) the incorporation of native species in landscaping and hedgerow enhancement,
 - (vii) management of existing and proposed trees and hedges and ecological enhancements for the lifetime of the development, with the nature and frequency of maintenance and management operations set out in detail for the first five years and with a mechanism set out for annual meetings with stakeholders during that period (site manager, site ecologist, Cornwall Council and local wildlife groups).
 - (viii) details of all planting, seeding or turfing (including a timetable thereof).

The development hereby permitted shall be undertaken and maintained in accordance with the LEMP thus agreed.

- 6) No development hereby permitted shall be undertaken until the tree and hedgerow protection measures agreed pursuant to condition 5 have been implemented. All planting, seeding or turfing agreed pursuant to condition 5 shall be carried out in accordance with a timetable submitted to and agreed in writing by the local planning authority. The development hereby permitted shall be undertaken in accordance with the programme thus agreed; any trees or plants which, with a period of five years from implementation, 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.
- 7) No development hereby permitted shall be undertaken until a Construction and Environmental Management Plan ('CEMP') has been submitted to and agreed in writing by the local planning authority. The CEMP shall include details of the following measures during construction:
- (i) dust mitigation measures,
 - (ii) hours of work,
 - (iii) details of site operatives roles, responsibilities and training,
 - (iv) monitoring and reporting arrangements
 - (v) emergency response protocols,
 - (vi) community and stakeholder relations

- (vii) a construction traffic management plan
- (viii) details of all permits, contingency plans and mitigation measure that shall be put in place to control the risk of pollution to air, soil or water, protect biodiversity and avoid, minimise and manage waste.

The development hereby permitted shall be undertaken and maintained in accordance with the CEMP thus agreed.

- 8) No dwelling hereby permitted shall be first occupied until site access along with all vehicular turning and parking areas, have been laid out and constructed in line with the approved plans. Once implemented those areas shall not thereafter be obstructed or used for other purposes.
- 9) No dwelling hereby permitted shall be first occupied until a Travel Plan has been submitted to and agreed in writing by the local planning authority, in line with 'Travel Plans: Advice for developers in Cornwall', or successor document, which shall include a programme of implementation. The Travel Plan shall be implemented as agreed.
- 10) No development hereby permitted, other than demolition of buildings, structures, site laying out or protection measures agreed pursuant to condition 5, shall be undertaken until an assessment of the risks posed by any contamination shall have been submitted to and agreed in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or successor documents), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include a survey of the extent, scale and nature of any contamination, and identification of any potential risks to human health, property (existing or proposed), buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems and archaeological remains.
- 11) In the eventuality that contamination is identified and assessed in line with condition 10, no development shall take place where land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and agreed in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that, upon completion, the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The agreed remediation scheme shall be carried out by a suitably qualified contaminated land practitioner. Upon completion a verification report shall be submitted to and agreed in writing by the local planning authority demonstrating the effectiveness of the remediation. No dwelling hereby permitted shall be occupied until that report is agreed.

- 12) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and agreed in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and agreed in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 13) No more than 14 dwellings hereby permitted shall be occupied until an appropriate contribution, as agreed in writing by the local planning authority, has been made towards improving nearby pedestrian/ transport links.

APPEARANCES

FOR THE APPELLANTS:

Des Dunlop BA(Hons) MRTPI
Jason Mitchell
Henry Willis

Managing Director, D2 Planning Ltd.
Managing Director, Robertson Developments

FOR THE LOCAL PLANNING AUTHORITY

Peter Blackshaw BA(Hons) MRTPI Cornwall Council

INTERESTED PERSONS

Richard Colson BA(Hons) BTP
MRTPI
Ms R. Maher

On behalf of the Tregenna Action
Group
Local resident