

Appeal Decision

Site visit made on 17 August 2021

by Mrs H Nicholls FdA MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/D0840/W/21/3274634

Land adjacent to Great Brightor, Brighter Lane, St Kew Highway, Bodmin PL30 3DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Chapman against the decision of Cornwall Council.
 - The application Ref PA20/05662, dated 5 July 2020, was refused by notice dated 12 January 2021.
 - The development proposed is outline planning permission for construction of a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was made in outline form with all matters save for access reserved for future consideration.
3. Following refusal of the appeal application, the revised National Planning Policy Framework (the Framework) was published. Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments, no injustice has been caused. As such, I have considered the appeal on the basis of the revised Framework.
4. Following refusal of the appeal application, Natural England wrote to the Council to highlight the issue of potential effects on the River Camel Special Area of Conservation (SAC). The Appellant has been provided with an opportunity to respond on the implications of this matter and I address it further below.

Main Issue

5. The main issue is whether the location of development accords with local and national policies that seek to locate new dwellings in proximity of existing settlements so as to minimise the need to travel by private vehicle.

Reasons

6. The appeal site is formed from an overspill area of curtilage of the host dwelling, 'Great Brightor' and constitutes previously developed land (PDL) by virtue of this, or at least the part-implemented permission for a stable block on the site. The site forms the edge of a compact cluster of dwellings which appear to have evolved from a former farmstead, with a nearby dwelling also having been created from a converted and extended former farm building.

- From the evidence, the cluster of dwellings lies around the original farmstead and the historic hamlet of 'Brightor/Brighter' was first recorded in c. 1391.
7. The proposal would involve the construction of a single dwelling. The dispute between the parties is whether the location and nature of the development would be acceptable, having regard to Policy 3 of the Cornwall Local Plan (2016) and the associated 'Chief Planning Officer's Advice Note on Infill/Rounding Off' (CPOAN). Policy 3 allows for new residential development in settlements outside of the main towns through means including infilling, rounding off and development of PDL within, or immediately adjoining that settlement and where it is of a scale appropriate to its size and role. The CPOAN has no formal status as part of the development plan but is merely a document helping to define the relevant terms included within Policy 3. The appellant alleges that Great Brightor is a settlement for the purposes of Policy 3 and that the proposal would constitute 'rounding off'.
 8. In my view, the area could not be held to constitute a settlement as it is very limited in scale, with fewer than around 8 dwellings, has not a single facility or service (such as a shop or public house), and is not even identifiable as a place with its own readily identifiable name or village signage. It is located reasonably close, by road, to St Kew Highway; a fairly well sustained village, but walking or cycling thereto would be particularly unattractive given the distance, rural nature of the roads and lack of streetlighting.
 9. It is suggested that neither the CLP or the CPOAN specify a minimum number of houses for a settlement to be defined as such, but is more a matter of form and shape. In my view, there is too limited development in the vicinity of the appeal site for there to be a definable form and shape. Whilst the appeal proposal would be situated within a curtilage, there appeared to be just a limited cluster of dwellings, really no more than two farmhouses and a newly converted former farm building on the opposite side of the rural road that could not be held to constitute a settlement. Whilst the existence of these other dwellings indicates that the site is not isolated in the context of the Braintree¹ case, that is not the test under CLP Policy 3 to determine whether or not a new dwelling is considered suitably located in relation to a settlement.
 10. Even if taking the redevelopment of PDL as the main premise of the proposal, I do not consider that the site's location or nature of the proposal are acceptable in relation to the diminutive scale and role, or lack thereof, of Great Brightor.
 11. I have considered the other cases of relevance to the surrounding area which have been put to me by the appellant. In terms of the neighbouring glamping development at 'Great Brightor', I consider that the distinction between CLP Policies 3 and 5, the latter of which seeks to enable sustainable tourism facilities where they would be of an appropriate scale to their location, rather than within or directly adjoining settlements, is clear. To an extent, I regard the glamping site at Great Brightor as better related to St Kew Highway than the appeal site. But neither are *within* or *directly adjoining* a settlement for the purposes of CLP Policy 3.
 12. The case in relation to the new dwellings at Trelill does lend some support to the argument that smaller settlements can be suited to the provision of new

¹ Braintree District Council v SSLG [2017] EWHC 2743

dwelling where they would support facilities and services in a nearby settlement. On arrival at Trelill, I was immediately struck by how it appeared more of a definable settlement than Great Brightor, with a larger quantum and increased presence of dwellings along the through road and a more readily definable shape. The village name signs and advice to drivers to drive with care also contributed to the sense of arrival and departure of an actual place when compared with Great Brightor and, incidentally, I noted that there was also a commercial premises situated there too (a hairdressers).

13. I have also taken account of the Framework's promotion of sustainable development in rural areas (paragraph 80), which seeks to locate housing where it will enhance or maintain the vitality of rural communities. There is limited evidence to suggest that the small number of dwellings in the vicinity could be regarded as a 'community' in the context of the Framework's overarching purpose of supporting sustainable development in rural areas and nor do the viability or vitality of the community and services within St Kew Highway appear to be at risk.
14. In view of the above, the proposal would not accord with local or national policies that seek to locate new residential development within or adjoining settlements and to help limit the need to travel by private vehicle. It would therefore conflict with, in particular, CLP Policies 1 and 3.

Other Matters

15. I note the assertion that the proposal would not harm the character or appearance of the area. Whilst I concur in at least so far as there would be no extension of development into adjoining countryside and that the site benefits from a degree of screening, there are limited details given the outline nature of the scheme that would allow me to reach a more definitive conclusion.
16. The Parish Council's support, whilst noted, is incapable of adding more than limited weight in favour of the scheme.
17. Whilst the appellant indicates the availability of connections for fibre broadband for new dwellings and the likelihood of increased demand for such following the rise in homeworking since the COVID-19 Pandemic, this itself is not a consideration of materiality that outweighs the need to align the location of new development to the development plan. Whilst working from home is an opportunity to many more than may previously have been the case, it has not materially reduced the need for travel for education, recreation, healthcare or many shopping purposes. Similarly, whilst a dwelling in such a rural location may appeal to many homeworkers rather than those that commute to work, there can be no control over this particular aspect.

Protected Site

18. Since the appeal application was determined, an issue has been identified in relation to sites within the hydrological catchment of the River Camel SAC (the protected site, designated under the Habitats Regs²). Excessive phosphates in the river system, from increased nitrates, can cause eutrophication and put the designated interest features of the SAC at risk. The increase of phosphates can arise from additional sewerage being processed through sewage treatment

² The Conservation of Habitats and Species Regulations 2017, as amended

works that discharge to the River Camel. Consequently, any development that would add additional phosphates, either directly or indirectly, should be the subject of an Appropriate Assessment (AA), the outcome of which should be certainty that the proposal, considered alone or in combination, would not adversely affect the integrity of the SAC.

19. Though the proposal is in outline form, a new residential dwelling is of a development type that could give rise to adverse effects. Whilst the appellant indicates that the outline nature of the scheme prevents a detailed analysis of this aspect and to attempt to do so would be 'premature', the Habitats Regs indicates that outline planning permission must not be granted unless the relevant competent authority is satisfied that the development would not be likely to adversely affect the integrity of a protected site.
20. Whilst I am mindful that the proposal would be likely to be served by a non-mains foul drainage solution, rather than add to flows through the nearest available sewage treatment works, the means of foul drainage is not sufficiently detailed to enable me to conclude that there would be no increase in phosphates and thus no adverse impacts. However, as the appeal is failing in relation to the main issue, I do not need to consider this matter further.

Planning Balance and Conclusion

21. In respect of its location, the proposal conflicts with the locational strategy outlined in the development plan, notwithstanding its support for growth of a more organic nature across the dispersed settlement pattern within the county. The conflict with the development plan is clear when the Plan is read as a whole and I do not find that an inconsistency of approach can be drawn from the other cases raised by the appellant, given the individual identity, form and features of each settlement and merits of each particular case.
22. In terms of the benefits of the proposal, there would be social benefits from the addition of a dwelling to the local housing stock and increased access to housing opportunities. There would also be short-term economic benefits from the construction of the dwelling, with longer-term economic support to St Kew Highway and other services located in the wider surroundings by future residents. A minor environmental benefit would also result from the proposal through the reuse of PDL, minimising reliance on greenfield sites.
23. However, these limited benefits, restrained by the minor scale of the scheme, are insufficient to outweigh the conflict with the development plan and there are no considerations of sufficient materiality, including the Framework, that indicate that the decision should be taken other than in accordance therewith.
24. For the reasons above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR