



Appeal Decision

Site Visit made on 21 June 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/D0840/W/21/3270750

Land opposite Tredavas, Penpont, St Beward PL30 4QN

- 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 Russell against the decision of Cornwall Council.
 - The application Ref PA20/07475, dated 1 September 2020, was refused by notice dated 7 December 2020.
 - The development proposed is a new dwelling and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been made with all matters reserved for future consideration. I have had regard to the layout plan and point of access as indicative of what the appellant has in mind for these matters.
3. Since the refusal of planning permission, Natural England has written to the Council to explain that there are concerns regarding development which could affect the nutrient status of the River Camel Special Area of Conservation (River Camel SAC). I appreciate the appellant's frustration that this matter has only become an issue in this area during the appeal stage. However, it is an important planning matter that requires consideration at the appeal.
4. The appellant had the opportunity to comment on this issue at the final comments stage and set out an approach which it is argued addresses this matter. I consulted Natural England and it responded with advice. The appellant and the Council were given the opportunity to make further comments in the light of Natural England's response to this appeal. I have taken all the comments into account, in particular the detailed comments of the appellant. Consequently, I am satisfied that there would be no prejudice to any party as, given the importance of this issue, I need to consider this matter as another main issue.
5. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to make any comments on the implications of the revised Framework to this appeal and I have taken the comments into account in my considerations.

Main Issues

6. The main issues are:
 - the effect of the proposal on the River Camel SAC,

- whether the development plan would support the proposal in this location, and
- the effect of the proposal on the character and appearance of the area, having regard to the location within the Camel and Allen Valleys Area of Great Landscape Value (AGLV).

Reasons

The effect of the proposal on the River Camel SAC

7. Natural England advise that it considers the interest features of the River Camel SAC to be unfavourable, or at risk, from the effects of eutrophication caused by excessive phosphates entering the water courses. Although improvements have been made to some sewage treatment works, together with Catchment Sensitive Farming advice, the information is that these actions will not reduce phosphate level sufficiently to restore the condition of the SAC features. Consequently, Natural England advise that the scope for permitting further development that would add additional phosphate either directly or indirectly into the River Camel SAC, and thus erode the improvements secured, is necessarily limited unless mitigation measures form part of the development proposal.
8. Natural England therefore advised that Cornwall Council, as the competent authority for the planning application under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations), should consider the implications of these matters on the River Camel SAC. As a consequence of this advice, the Council has explained that it has since placed a pause on decision making for certain types of development, including residential development within this catchment.
9. The evidence indicates that the proposed dwelling would fall within the catchment of the River Camel. In terms of this appeal, I am the competent authority under the Habitats Regulations and I need to consider the implications of the Natural England advice.
10. The requirement for the development to meet nutrient neutrality is not a unique situation. There are a number of instances in other parts of the country where mitigation schemes have been worked up to ensure that development can proceed subject to meeting detailed specifications. The appellant has referred to the Interim Delivery Plan (IDP) for the River Avon SAC which incorporates measures to help secure phosphate neutral development. Based on the advice in the IDP the appellant considers that a package treatment plant linked to a swale/reed bed would deliver an acceptable result which would not add to phosphates into the River Camel catchment. The appellant therefore considers that planning permission could be appropriately granted subject to a condition with this requirement which could be subject to the technical specification being approved by the Council following consultation with Natural England.
11. At the present time there is no detailed plan or agreed mitigation strategy to address the nutrient issues which have been identified for the River Camel SAC. It seems to me that with any strategy that is consulted on and then implemented there could be some similarities with other strategies for other catchments. However, it is likely that there would also be differences for each European habitat site in the way that any strategy would need to address, for

instance, pathways and nutrient issues. While the appellant's proposal to address this matter may be effective elsewhere I cannot be assured it would address the issues in this catchment. This scheme would be unlikely to be the only planning proposal for residential development in this catchment and it is necessary under the Habitats Regulations to consider projects alone and in combination.

12. Natural England has commented on the appellant's proposal to address the nutrient output that would result from an additional dwelling on the site, although the analysis is not detailed. However, their concluding advice is that there is insufficient information on the phosphate loading from the development and the likely final discharge from any mitigating mechanism to be certain through an appropriate assessment that the scheme, alone or in combination, would not have an adverse effect on the integrity of the River Camel SAC.
13. I have taken into account all the comments of the appellant in response to this advice. However, while a packaged treatment plant and swale could assist with addressing the phosphate discharges I do not have certainty on this matter. It may be that other schemes or processes would be necessary. Given the lack of clarity as to what may be required and uncertainty on the time it may take to have a strategy with practical solutions in place to resolve this matter, I am not satisfied that a Grampian condition would be appropriate.
14. It follows that I am unable to conclude that the proposal, either alone or in combination with other schemes, would not have a significant and adverse effect on the integrity of the River Camel SAC. I am not aware of any overriding public interest which would justify permitting the proposal or that there are any alternative solutions which would have no or a lesser effect on the integrity of the protected site. Consequently, in accordance with the Habitats Regulations, I conclude that planning permission cannot be granted.

Whether the development plan would support the proposal in this location

15. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) sets out the locational strategy for the delivery of housing across the plan area based on the role and function of each place. Most development is to be directed to the main towns. Outside these areas, in summary, housing is to be delivered through rounding off of settlements and development of previously developed land within or immediately adjoining that settlement, infill schemes which fill a small gap in an otherwise continuous built frontage and do not extend the settlement into the open countryside, rural exception sites, and the identification of sites through neighbourhood plans.
16. The Council consider that Penpont is of sufficient size and form to be considered a settlement for the purposes of Policy 3 of the Local Plan and following my site visit I have found no reason to disagree. In terms of options available for housing, the appeal site has not been advanced as a rural exception site nor identified in a neighbourhood plan. There is no clear evidence that the site as a whole should be considered as previously developed land. The proposed dwelling would not fill a small gap in an otherwise continuous frontage and therefore cannot be considered to be an in-fill development compliant with Policy 3 in that respect.

17. This leaves consideration as to whether the scheme would be policy compliant because it would be judged to be rounding off. In terms of this consideration the Chief Planning Officer's Advice Note: Infill/Rounding Off (December 2017) (the Advice Note) provides additional advice on the interpretation of Policy 3 of the Local Plan.
18. The appeal site is a reasonably level section of the corner of a field. It is bounded by a road side hedgebank to the north and by a treed boundary to the west. Beyond those trees is a narrow strip of land and then the road and other buildings of the hamlet.
19. On the opposite side of the road there are two bungalows and their plots extend up towards the bend. When approaching the hamlet from the bend there are views of the appeal site and the proposed dwelling would be seen centrally in the context of the bungalows to one side and the rear of the Penpont Studio on the other. The large rooflights to the rear roof slope of the Penpont Studio give it a more domestic feel and the impression that it forms part of the built form to the hamlet.
20. If the proposed dwelling was located in the corner of the field, and did not extend beyond a line drawn from the corner of Tredavas across to the corner of Penpont Studio, it would appear in the context of the surrounding buildings of the hamlet rather than appearing as part of the adjoining open countryside. Consequently, the dwelling could be sited so as to appear as being associated with and within the physical boundaries of the settlement. The development would not then visually extend development into the open countryside.
21. The scheme would not create a further site for rounding off as the other sections of the field do not have the same character and close association with the built form of the hamlet as the appeal site. The proposed plot is adjacent existing development, contained on two sides by established boundaries and the open sides of the plot could be enclosed by a suitable boundary feature. The proposed development, subject to suitable details at the reserved matters stage, would complete the settlement in this location.
22. In the light of the above analysis, I conclude that the scheme would meet with the requirements for rounding off and thereby comply with Policy 3 of the Local Plan and the Advice Note. Accordingly, the proposal would not be sporadic or unsustainable development in open countryside because it would accord with the development plan policies for the location of new residential development. In particular, the scheme would meet with the requirements of Policies 1, 2 and 3 of the Local Plan which sets out the approach to delivering new residential development across the plan area. In these circumstances, the policy tests in Policy 7 of the Local Plan, regarding residential development in the open countryside, would not need to be applied.

Character and appearance

23. The site lies within the AGLV and is identified as Character Area 32 Bodmin Moor (CA32) in the Cornwall and Isles of Scilly Landscape Character Study. The site is located in an area broadly west of Bodmin Moor and is characterised by rolling countryside, with medium sized fields bounded by hedges and trees, and with areas of woodland, small hamlets and farmsteads. Penpont is a small hamlet positioned in a reasonably elevated location. Fields adjoin the edges of

the settlement area and the group of buildings which make up the hamlet are fairly contained.

24. The appeal site forms a corner of a field at the edge of the hamlet. The site has a greater affinity with the built form than the surrounding open countryside. With suitable details at the reserved matters stage, in particular a height and scale of building which would sit comfortably with the adjoining bungalows and Penpont Studio, a dwelling could be accommodated on the site without harming the character of the surroundings.
25. The proposal, with suitable details and boundary treatments agreed at the reserved matters stage, would form an appropriate addition to the settlement without eroding its rural character or harming the transition from settlement to countryside. Accordingly, the grouping of the proposed dwelling with the existing built form would not harm the AGLV or the identified qualities of CA32.
26. As a consequence, I conclude that the proposal, with suitable details at the reserved matters stage, would preserve the character and appearance of the area, having particular regard to the location within the AGLV. It follows that the scheme would comply with Policies 1, 2 and 23 of the Local Plan and saved Policy ENV1 of the North Cornwall Local Plan 1999 which seek, amongst other things, that development proposals need to sustain local distinctiveness and character and protect and where possible enhance Cornwall's natural environment.

Planning Balance and Conclusion

27. The proposal would provide a small boost to the supply of housing. The details show that the scheme is advanced as a custom and self-build property. This would add to the stock of such houses, would assist with meeting the local need for these units and would help with the wider related supply requirements. The dwelling would be delivered on a windfall site and comply with the strategy for the delivery of housing across the plan area. With appropriate details at the reserved matters stage, the scheme would not harm the character and appearance of the area. There would be social and economic benefits to the area during construction and in subsequent occupation. Furthermore, the proposal would assist the appellants being able to stay within their community in purpose designed housing. There is support for the proposal from some local residents and the Parish Council.
28. These are all benefits and positive attributes of the scheme. However, I have been unable to conclude that the proposal, either alone or in combination with other schemes, would not have a significant and adverse effect on the integrity of the River Camel SAC. The scheme would therefore not comply with the requirements of the Habitats Regulations. This is a legislative matter which means that I am unable to conclude that the scheme would be acceptable and this harm is of such significance that it would outweigh the benefits even if I was to attribute them significant weight.
29. In coming to this judgement on the proposal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 and to the evidence regarding the appellant's personal circumstances and how the appeal development might assist in this regard. Notwithstanding these important considerations, it does not follow from the PSED that the appeal should succeed. Dismissing the appeal would mean that the appellant may

have to consider other options for meeting their requirements. Additionally, there is no clear evidence before me to demonstrate the appeal development is the only means by which such needs may be met. Accordingly, dismissing the appeal would be a proportionate response given the identified harm.

30. For the reasons given above, I conclude the appeal should be dismissed.

David Wyborn

INSPECTOR