



Appeal Decision

Site Visit made on 8 October 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2021

Appeal Ref: APP/D0840/W/21/3278242

1 Ottervale, Church Town Road, Otterham, Camelford PL32 9TA

- 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 Mrs S Northcott against the decision of Cornwall Council.
 - The application Ref PA21/02524, dated 9 March 2021, was refused by notice dated 11 May 2021.
 - The development proposed is the sub-division of existing dwelling into two dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for the sub-division of existing dwelling into two dwellings at 1 Ottervale, Church Town Road, Otterham, PL32 9TA in accordance with the terms of the application, Ref PA21/02524, dated 9 March 2021, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 1442 [S-]01, 1919 [PL-]01 and 1919 [PL-]02.
 - 3) Before the additional dwelling hereby permitted is brought into use, parking and turning areas shall be provided for both the proposed dwelling and the host dwelling in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Local Planning Authority. The parking and turning areas shall not thereafter be obstructed or used for any other purpose.
 - 4) Before the additional dwelling hereby permitted is brought into use, details of the proposed height, siting, appearance and construction of all boundary treatments (means of enclosure) shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment (means of enclosure) shall be completed in accordance with the approved details prior to the first occupation of the additional dwelling and thereafter retained.

Main Issue

2. The main issue is whether or not the development plan would support the proposal in this location having regard to the accessibility to local services and facilities.

Reasons

3. 1 Ottervale is a semi-detached dwelling located amongst a scattering of dwellings and other buildings. Most of the buildings are generally dotted around sinuous, fairly narrow rural roads and some are separated by generous green spaces. The collection of buildings do not have a form and shape with clearly defined boundaries and the area generally merges with the rural surroundings. In terms of the approach in Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) the collection of buildings in the vicinity of the appeal site does not have the characteristic form and appearance of a settlement. Consequently, Policy 3 would not apply and the appeal site is located in an area which should be considered as open countryside for planning purposes.
4. The approach to the provision of new residential accommodation in the countryside is set out in Policy 7 of the Local Plan. The policy explains that new homes in the open countryside will only be permitted where there are special circumstances and lists five types of scheme which new dwellings will be restricted to. Relevant to this appeal is that new dwellings in the countryside may be acceptable where the proposal concerns the subdivision of existing residential dwellings.
5. This is in conformity with the policy approach in the National Planning Policy Framework (the Framework). Paragraph 80 explains that decisions should avoid the development of isolated homes in the countryside unless, amongst other circumstances, it would involve the subdivision of an existing residential building.
6. Neither the Local Plan or Framework policies introduce any additional policy test or criterion to be applied when considering the acceptability of the subdivision of a dwelling in the countryside which would create an additional dwelling.
7. However, attention has been drawn to paragraph 2.36 of the Local Plan which explains for the purposes of Policy 7, for both subdivision and conversion, buildings should have been erected and used for the purpose for which they had a lawful use for at least ten years before they will be considered for conversion. It is explained that this is to avoid deliberate circumvention of the policies designed to limit new housing in the countryside.
8. The ten year criterion is included in the wording of Policy 7 in relation to conversions but it is not specified in the criterion that concerns the subdivision of dwellings. This appears to be an important difference in the application of this requirement.
9. In this case, the original house appears to have been permitted in the 1950s and consequently has been lawfully in residential use for more than ten years. The Council raise concern that the extension, which was permitted in 2016, has not been in place for a 10 year period. The extension is large relative to the house and a new 3 bedroom dwelling would be formed solely from the extension.
10. The supporting text forms part of the Local Plan and the Local Plan needs to be read as a whole. I appreciate the concern that the extension has not been in place for ten years and also that a separate new build dwelling was sought and

refused in the same position in 2017, before the extension was built. However, despite its large size relative to the original dwelling, the extension has been added following permission granted by the Council and forms part of the overall lawful use of the site as a single dwelling. At the present time there is one lawful dwelling on the site and that single dwelling use has been in place for some decades. The paragraph does not provide clear guidance on the type of situation in this appeal where the principal building has been in place for more than ten years but an extension is more recent. My view is that the subdivision of a long standing dwelling that has been extended, albeit recently and substantially, appears to be broadly in line with the intentions set out in paragraph 2.36 of the Local Plan which seems to me to be aimed at ensuring new buildings in their entirety are not subdivided soon after construction.

11. Even if I am wrong on the interpretation of the supporting text, in terms of the wording of Policy 7 itself, the proposal would meet the policy test for a subdivision and, therefore, if determined in accordance with this adopted policy alone the proposal is policy compliant. Taking all these matters together, and in particular giving greatest weight to the wording of Policy 7 itself, I consider that the subdivision of the appeal dwelling would accord with Policy 7 and also the broad intentions of the supporting text concerning the allowance for the subdivision of dwellings in the countryside.
12. Additionally, I give significant weight to the compliance of the scheme with the Framework policy in paragraph 80 which allows the subdivision of dwellings in the countryside.
13. As the extension has been permitted by the Council and therefore, it is assumed, the size of the addition was judged acceptable, I am satisfied that the subdivision of the resulting building, in a policy compliant way, would not circumvent the policies designed to limit new housing in the countryside.
14. It is also important to consider the strategy for the delivery of housing across the Local Plan area. The policies focus development to the main towns, then smaller settlements and hamlets, and also includes the provision of dwellings in the countryside as allowed for in accordance with Policy 7 of the Local Plan. As the scheme is compliant with Policy 7 of the Local Plan, it follows that it is compatible with the policy approach for the distribution of housing.
15. The additional dwelling would be formed in a location where services and facilities would be likely to be predominantly accessible for most occupants only by the private vehicle. However, this would be a probable situation for much of the new housing in a countryside location. Nevertheless, such housing is allowed in strict policy circumstances and I consider that this likely dependence on the private vehicle for the likely limited number of new housing units in the countryside has already been factored into the strategy for the provision of new housing in rural areas.
16. The site is reasonably close by car to Tresparrett and Marshgate which include a primary school, shop with post office and public house. The occupants of the additional dwelling would, therefore, not be entirely remote from all services and facilities and this situation appears fairly typical of other areas of Cornwall with its often dispersed and rural population.
17. For these reasons, I am satisfied that the inability to sustainably access all local services and facilities other than by the private vehicle is not a matter that

should weigh against the scheme for a single additional dwelling. In support of this conclusion is that the Framework also includes circumstances, in paragraph 80, for the provision of new dwellings by subdivision in the countryside without any sustainability requirement. Another section of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Furthermore, given that the proposed additional dwelling is acceptable in locational terms, I consider there would be no material conflict with the documents Connecting Cornwall 2030 and the Cornwall Design Guide.

18. Policy 21 of the Local Plan is referenced in the reason for refusal and this policy concerns making the best use of land and existing buildings. The policy enables and encourages development to be approved in sustainable locations but it would not preclude development elsewhere if it is policy compliant for other reasons, such as in this case. Consequently, I am satisfied that the proposal would not result in a material conflict with Policy 21 of the Local Plan.
19. In the light of the above analysis, I conclude that the proposed subdivision of the existing dwelling would be supported by the development plan even having regard to the limited access to local services and facilities other than by the private vehicle. In particular, the scheme would comply with Policies 1, 2 and 7 of the Local Plan and the Framework which concern, amongst other things, the policy approach for the distribution of housing including the provision for new housing in the countryside.

Conditions

20. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended some conditions in the interests of clarity and reasonableness. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty. A condition requiring the parking and turning areas for each dwelling to be provided prior to the additional dwelling being brought into use is necessary in the interests of highway safety and the amenities of the occupants of adjoining properties.
21. A condition requiring the means of enclosure to be approved and then implemented in accordance with the details is necessary in the interests of the visual amenities of the area and the amenities of the occupants of the properties. This does not need to be a pre-commencement condition and it is not reasonable or necessary for the local planning authority to be notified that the means of enclosure has been erected. I have revised the suggested condition accordingly and also incorporated the retention requirement into this condition.

Conclusion

22. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Consequently, and taking all other matters into account, I conclude that, subject to the specified conditions, the appeal should be allowed.

David Wyborn INSPECTOR