



Appeal Decision

Site visit made on 24 September 2021

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 October 2021

Appeal Ref: APP/D0840/W/21/3275724

The Cottage, Harris Mill, Illogan, Redruth TR16 4JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr & Mrs Treve and Sarah Dunstan against the decision of Cornwall Council.
 - The application Ref PA21/00337, dated 7 January 2020, was refused by notice dated 6 April 2021.
 - The development proposed is construction of dwelling.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a maximum of 1 dwelling at The Cottage, Harris Mill, Illogan, Redruth TR16 4JF in accordance with the terms of the application, Reference PA21/00337, dated 7 January 2020.

Application for costs

2. An application for costs was made by Mr & Mrs Treve and Sarah Dunstan against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters and Main Issue

3. The proposal is for permission in principle. This is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (permission in principle stage) establishes whether a site is suitable in-principle and the second stage (technical details consent) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
4. The scope of the considerations for permission in principle are limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted.
5. The main issue is therefore whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

6. The Cottage is a detached house which is accessed by a narrow road. It is the only property on the eastern side of the road for some distance, with much of that street frontage comprising hedgerows and open agricultural fields.

However, planning permission¹ has been granted for three properties directly opposite The Cottage on the west side of the road. I saw on my site visit that these are under construction and, as such, the street scene in the vicinity of The Cottage has a relatively urbanised appearance. These new dwellings form part of a larger cluster of development which extends to the west and includes both Trehidy Holiday Park as well as a number of private residences.

7. Policy 3 of the Local Plan² aims to steer the majority of new housing towards the main towns. However, the policy does enable a limited amount of new development to take place outside the main towns in circumstances which are listed under bullet points in part 3 of the policy. Of particular relevance is the second bullet point, which permits housing through *rounding off of settlements and development of previously developed land within or immediately adjoining that settlement of a scale appropriate to its size and role*.
8. The Council has produced an Advice Note³ to guide interpretation of Policy 3. While this document does not carry the statutory weight of the Local Plan, it nonetheless recognises that there is no clear definition of a settlement. Reference is made to paragraph 1.68 of the Local Plan which says that *in smaller villages and hamlets in which infill sites of one-two housing units are allowed, the settlement should have a form and shape and clearly definable boundaries, not just a low-density straggle of dwellings*.
9. Although the definition provided in paragraph 1.68 refers to infill development, it seems to me that that the same definition could be applied to sites which are under consideration for other forms of development permitted by Policy 3, including rounding off or the development of previously developed land. In my view, the cluster of development to the west of The Cottage has a definable form and shape which meets this loose description of a settlement. The northern and eastern boundaries are contained by roads and the southern and western boundaries are defined by existing development.
10. The proposed dwelling would be situated in the garden of The Cottage. As this is directly opposite the three dwellings currently under construction, the site can be said to 'immediately adjoin' the settlement for the purposes of Policy 3. While The Cottage is separated from the new homes by a road, this is a narrow lane and it is a very short distance to the development site on the opposite side. I note the appellant's reference to a Judgement⁴ which considers a similar point with regard to another site.
11. Having established that the site is on the edge of a settlement for the purposes of Policy 3, I now turn to whether the proposal would comprise rounding off or development of previously developed land. Rounding off is defined in paragraph 1.68 of the Local Plan as *development on land that is substantially enclosed but outside of the urban form of a settlement and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). It should not visually extend building into the open countryside*.
12. Whether the proposal would 'visually extend building into the open countryside' is difficult to anticipate as this is an appeal for permission in principle and,

¹ Council Ref: PA18/05990.

² Cornwall Local Plan Strategic Policies 2010-2030.

³ Chief Planning Officer's Advice Note: Infilling and Rounding Off (Cornwall Council, December 2017).

⁴ Corbett v Cornwall Council and Wilson [2021] EWHC 1114 (Admin)

- consequently, there are no details of what form the dwelling might take and what effect it would have on the character and appearance of the area.
13. In terms of whether the land is 'substantially enclosed' I note that the garden is contained by The Cottage to the south and the road to the west. However, the northern boundary is only contained by a hedgerow (the other side of which there is an open field) and the eastern boundary is separated from an open field by a post and wire fence. In my view, the site is not substantially enclosed in the manner anticipated by paragraph 1.68 and nor would there be a clear barrier to further growth, given the adjacent open fields. As such, the proposal does not meet the Local Plan definition of rounding off. Nor would the development constitute infill, as the proposal would not fill a small gap in an otherwise continuous built frontage.
14. However, Policy 3 also permits the development of previously developed land within or immediately adjoining a settlement. The definition of previously developed land in the glossary of the Framework⁵ excludes land in built-up areas such as residential gardens. However, my attention has been drawn to a Judgement⁶ which found this definition does not extend to private residential gardens that are not located in built up areas (for example in the open countryside). It would appear from the Council's Advice Note on Policy 3 that it is aware of the case and accepts that position.
15. Given that the appeal site is currently situated outside the settlement, I would agree with the Council that it is within the countryside for the purposes of planning policy. Hence, according to case law and the Council's Advice Note, the appeal site can be considered to be 'previously developed land' in the context of Policy 3 even though it has never been developed. I am aware of a previous appeal decision⁷ where an Inspector found that a garden on the edge of a hamlet would not comply with Policy 21 of the Local Plan, which promotes the use of previously developed land in sustainable locations. However, in that particular case, Policy 3 did not apply as it was found that the settlement in question did not have a clearly definable boundary.
16. This leads me to determine that the proposal would represent the development of previously developed land on the edge of a settlement. It would therefore comply with Policy 3 of the Local Plan.
17. The Council express concern that the development would harm the character and appearance of the countryside. However, there are no details of the proposed dwelling and so evidence of harm in this respect is somewhat limited. Hence, I am unable to determine that the proposal would be in conflict with Policy 23, which seeks to protect the characteristics of the countryside. This would be a matter for consideration at the second stage of the permission in principle process (technical details consent).
18. However, I would agree that future occupiers of the dwelling are likely to be reliant on private vehicles to access local shops and services. The road outside is unlit and has no pavement and so does not provide a particularly safe or convenient pedestrian route. There is also little before me to indicate the

⁵ National Planning Policy Framework, Ministry of Housing Communities and Local Government, 20 July 2021.

⁶ Dartford BC v SSCLG [2016] EWHC 365 (Admin).

⁷ Appeal Decision: APP/D0840/W/17/3187996.

availability of public transport, or the distance to local services. This is not an optimal location to minimise private vehicle use.

19. Nonetheless, Policy 3 of the Local Plan establishes a mechanism to provide a proportionate amount of housing in smaller settlements in order to support the development of rural communities. Despite being in a relatively inaccessible location, the proposal would comply with this policy and would hence be compatible with the settlement strategy and approach to sustainable development as adopted by Policies 1 and 2 of the Local Plan.

Conclusion

20. For the above reasons, I conclude that the site is suitable for residential development. The appeal is therefore allowed.

C Cresswell

INSPECTOR