



Appeal Decision

Site Visit made on 19 October 2021

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2021

Appeal Ref: APP/D0840/W/21/3277748

Land to the rear of Linton Rise, Summercourt, Newquay, Cornwall TR8 5AE

- 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 Kingsley Developments (SW) Limited against the decision of Cornwall Council.
 - The application Ref PA21/02344, dated 3 March 2021, was refused by notice dated 26 April 2021.
 - The development proposed is for construction of up to one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first ('permission in principle') stage establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these stages.
3. The scope of the considerations for permission in principle is 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. I have determined the appeal on this basis.
4. In July 2021, after the Council issued its Decision Notice, the St Enoder Parish Neighbourhood Plan: 2018–2030 (PNP) passed referendum stage and the submitted evidence indicates that it has therefore become part of the development plan for the area. A revised version of the National Planning Policy Framework (the Framework) was also published in July. However, the main parties submitted appeal documents after this and therefore had the opportunity to comment on the relevance of the PNP and revised Framework to the appeal proposal. Consequently, no parties will have been prejudiced by my having regard to them in reaching my decision.
5. During the appeal, the appellant submitted a signed and dated Unilateral Undertaking (UU) made as a Deed pursuant to section 106 of the 1990 Act and imposing planning obligations on the site in relation to the second reason for refusal on the Decision Notice. I will return to this matter later.

Main Issue

6. The main issue is whether the appeal site is suitable for residential development, having regard to its location.

Reasons

7. Although the appeal site is immediately to the south of an existing dwelling and Carvynick holiday park is a short distance away, it is situated in a rural, relatively undeveloped setting where fields predominate. The surrounding area therefore reads as sporadically developed countryside with an open, rural character and a verdant appearance. Located outside of the defined settlement boundary of Summercourt, the site is deemed by the PNP to be situated in the countryside. Considering the setting of the site and the distance to Summercourt, it also meets the definition¹ in the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP) of open countryside.
8. Although the site is close to Linton Rise and, as I observed on my site visit, currently includes an area of hardstanding and a small outbuilding, the main parties disagree as to whether the site constitutes previously developed land. However, while the appellant has submitted various evidence to support the categorisation of the site as being previously developed land, within the context of an appeal under section 78 of the Town and Country Planning Act 1990, it is not within my remit to formally determine the lawful use of land. Despite it being an optional procedure, if a person does wish to ascertain whether an existing use is or would be lawful, the correct approach is for an application to be made under section 191 or 192 of the Act for a certificate of lawful use.
9. In any event, the distance to Summercourt and the limited development in the vicinity of the site means that it cannot be described as being within or immediately adjacent to a settlement. Accordingly, even if I were to accept the appellant's assertion that the site represents previously developed land, the proposed development would not accord with the second bullet point of part 3 of CLP Policy 3. It is also not alleged that the appeal proposal would meet any of the other elements of that policy or CLP Policy 7 and PNP Housing Policies 3 and 4. Based on the submitted evidence, I concur.
10. Irrespective of how it might be designed at technical details consent stage, the erection of a dwelling on the site would lead to additional built form in the open countryside. This would read as an intrusion of development in the rural landscape that would have a suburbanising presence and erode the character and appearance of the locality. In coming to this view, I have taken account of topography, the presence of Linton Rise, Kimberley Farm and the other properties on the other side of the A3058, the lawful development certificate for the caravan and that the appeal site is neither within a designated area nor contains any designated or protected features. Even if the site were to be classed as previously developed land, it seems to me that the appeal proposal would lead to significantly more development of a greater scale and more visible in public views – such as from the public right of way – than the present situation. The status of the site does not therefore lead me to a different conclusion.

¹ 'The area outside of the physical boundaries of existing settlements (where they have a clear form and shape).'

11. At just over 600 metres, the distance to Summercourt is not particularly significant. Future occupiers of the development could therefore theoretically walk or cycle to its various services and facilities. However, doing so would involve either negotiating a reasonably long section of unlit verge along the relatively busy highway with no dedicated separation from vehicular traffic until reaching the new footway or using the short but unmade and unlit public right of way that runs past the site to Carvynick and then continuing from there. Accessing local services and facilities on foot or by bicycle from the site would thus neither be particularly safe nor appealing. In coming to this view, I have taken into account that the public right of way is said to be firm and lightly used and would therefore be unlikely to become muddy in winter for example, and that modern pushchairs and wheelchairs could cope with the path's grass surface. In coming to this view, I have taken into account the proximity of the site to Carvynick, which a recent appeal decision found was situated in an accessible location in relation to local facilities and services, the recently approved planning application for an additional dwelling there, and that both that scheme and parts of Carvynick are said to be further from Summercourt than the site.
12. I accept that this may be the case for rural areas in general. Amongst other aspects, the Framework also recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. However, in this instance, the lack of suitable alternative transport options mean that future occupiers of the development would be likely to be highly reliant on one mode of transport – the private vehicle – for a significant majority of their journeys and to serve their daily needs. This indicates that the appeal proposal cannot reasonably be considered as being, in the words of CLP Policy 21, sustainably located. Location is also one of the attributes listed in CLP Policy 1 in relation to considering whether a development proposal is sustainable or not. As such, and even if the site were to be classed as previously developed or despoiled/degraded land, the appeal proposal is neither supported by CLP Policies 1 and 21 nor could it be described as making best use of land or appropriately increasing building density.
13. For the above reasons, I conclude that the appeal site is not suitable for residential development, having regard to its location. I therefore find that it does not accord with nor gain support from CLP Policies 1, 2, 3, 7, 12, 21 and 23 and PNP Housing Policies 2, 3 and 4. Amongst other aspects, these: set out the Council's approach to decision taking and its spatial strategy, and the development plan's approach to accommodating new housing in the area; seek development that ensures an efficient use of land taking into account the character of the surrounding area and access to services and facilities; and require development to maintain the dispersed development pattern of Cornwall and sustain local distinctiveness and character. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving sustainable development and conserving and enhancing the historic environment.

Other matters

14. The appeal site is within the zone of influence of the Penhale Dunes Special Area of Conservation (SAC) and the Fal and Helford SAC. In combination with other plans and projects, the addition of a residential unit within this area would be likely to have a significant effect on the internationally important

interest features of these SACs due to increased recreational disturbance. In accordance with CLP Policy 22, appropriate mitigation will need to be secured for such development, and the UU has been submitted in relation to this. However, although the UU would secure the necessary mitigation through the provision of financial contributions, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.

Planning Balance

15. I have found that the appeal site is not suitable for residential development, having regard to its location. Although the permissive wording of some of the relevant development plan policies means that the appeal proposal would not necessarily conflict with them, I have found that it would neither accord with nor gain support from CLP Policies 1, 2, 3, 7, 12, 21 and 23 and PNP Housing Policies 2, 3 and 4. Taking all of this into account, and although PNP Housing Policy 1 supports the delivery of approximately 150 new homes in St Enoder Parish between 2018 and 2030, I find that the appeal proposal would be contrary to the development plan as a whole.
16. It has been put to me that the appeal proposal would not harm the residential amenity of the neighbouring dwelling and would not require any alteration to the current access and parking. The planning application was supported by several local residents and there were no objections from consultees. There would also be some benefits associated with the proposed development, including the provision of an additional dwelling, some construction-related employment and future occupiers utilising local services and facilities, and this would support Cornwall's recovery from Covid-19.
17. However, given the scale of the development, the benefits would be relatively limited. In addition, the provision of one additional dwelling would only have a limited effect on the supply of housing in the area, while the submitted evidence indicates that the CLP housing target for the area has been met and that the windfall development is not needed in relation to ensuring a sufficient supply of housing land in the district. Consequently, I find that the above matters neither outweigh the harm I have identified nor the conflict with the development plan. The harm I have identified also means that the appeal proposal cannot reasonably be described as making effective use of land.

Conclusion

18. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR