
Appeal Decision

Site visit made on 7 January 2022

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2022

Appeal Ref: APP/D0840/W/21/3276070

Land West of Field of Birds, School Lane, Gulval, Cornwall TR18 3BG

- 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 Ms Nicola Osborne against the decision of Cornwall Council.
 - The application Ref PA20/06529, dated 4 August 2020, was refused by notice dated 18 November 2020.
 - The development proposed is 'erection of house and garage and associated access works'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. A new version of the National Planning Policy Framework (the Framework) came into effect in July 2021. I have not considered it necessary to seek views from the appeal parties on this change, as the Framework's policy content insofar as it relates to the main issue, is largely unchanged. However, I have referred to the current Framework paragraph numbering.
3. On 14 January 2022, the Government published the 2021 Housing Delivery Test (HDT) results. As the HDT results for Cornwall Council (the Council) do not result in any policy change consequences, I have not considered it necessary to consult the parties on the latest publication.

Main issues

4. The main issues are:
 - Whether the proposal is in a suitable location for a new dwelling.
 - The effect of the proposal on the character and appearance of the area.

Reasons

Location

5. The statutory development plan comprises the Cornwall Local Plan Strategic Policies 2010–2030¹ (the CLP) and the Cornwall Sites Allocations Development Plan Document² (the DPD).

¹ Adopted in November 2016

² Adopted in November 2019

6. CLP policies 1 and 2 set out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place.
7. CLP policy 3 sets out a hierarchical strategy for the delivery of new housing. Under 3(1), growth is centred on the named larger settlements within the county, which includes 'Penzance with Newlyn, Heamoor, Gulval and Longrock' and the policy sets out that the delivery of housing will be managed through the DPD and neighbourhood plans (NP). Policy 3(3) provides that, outside the larger named settlements, housing growth is to be delivered through the identification of sites through NPs; rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining settlements; infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside; and rural exception sites (for the provision of affordable housing).
8. CLP policy 7 sets out that new homes in the open countryside will only be permitted where there are special circumstances, including the replacement of dwellings, subdivision of existing dwellings, rural workers dwellings and the reuse of suitably constructed redundant, disused or historical buildings.
9. Whilst there is no made NP in place for Gulval, the DPD is adopted. It does not include any allocation covering the appeal site, but DPD policy 1 addresses windfall developments and is complementary to, and consistent with, CLP policy 3. It allows for infill development that does not physically extend into the open countryside; small scale rounding off that is appropriate to the size and role of the settlement and does not physically extend development into the open countryside; and development of PDL within or adjoining the named settlements.
10. My attention has also been drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (The CPOAN). The CPOAN does not form part of the statutory development plan and is to be regarded as informal guidance. However, it does provide some clarity on the locally adopted approach in relation to matters such as infill, rounding off of settlements and PDL, and as such I have had regard to it in the determination of this appeal.
11. The appeal site comprises a substantial rectangular shaped plot of land said to extend to an area of 0.36 hectares³. It is situated to the north side of School Lane, which connects the settlement of Trevarrack (a short distance to the west) with the smaller Gulval village settlement centred around its historic church (to the east). The site is enclosed by hedgerows on its 4 sides and slopes up from the road, such that the northernmost part is several metres higher. There is a gated field access off School Lane, which looked to be of relatively recent construction. The site is mostly laid to pasture and has the appearance of a small agricultural field or paddock and there was a horse box present when I visited. However, a limited northernmost section is separated by a post and wire fence and includes a small timber shed and some signs of past horticultural/allotment type usage.
12. To the east of the site, is a large detached house, known as Field of Birds, which is sited well back from the road on its large plot, with several similarly

³ Planning application form section 4

sited dwellings beyond it further east. To the south of the site, and on the opposite side of School Lane, is a group of dwellings arranged in an informal and loose cluster. Immediately to the north and west of the site there are agricultural fields.

13. The main parties do not dispute that Gulval should be regarded as a 'settlement' for policy purposes. I have no reason to disagree, and observed that the village appears to fall within the parameters set out in the CPOAN, in terms of having a sufficiently substantial form, shape and definable boundaries, to constitute a settlement. I have also noted the appellant's submissions regarding a number of permissions for new houses within the village granted in recent years, which she claims confirm the status of the village as a settlement for policy purposes.
14. It also appears that it is not disputed that the proposal could not be regarded as an 'infill' scheme under CLP policy 3(3), as it would not fill a small gap in an otherwise continuous built frontage and is not land that is substantially enclosed. I have noted that the appellant's supporting statement at the application stage did make some claim⁴ to the scheme comprising 'rounding off', but I do not agree that it would, given that such development is defined in the CPOAN as providing a 'symmetry or completion to a settlement boundary'. However, the appellant's main contention is that the proposal involves the development of PDL, and that it accords with that provision under policy 3(3). The Council disputes this.
15. The appellant claims that the site has achieved a lawful use as part of the domestic curtilage of the neighbouring house, Field of Birds. Statutory declarations have been submitted referring to domestic structures and the incidental use of parts of the site for a vegetable patch, chicken house and fruit trees, that access was gained by a hole in the hedge (on the east side of the site), that it has been left to grow wild since 2015 and has not been farmed for commercial gain. The appellant submits that this supports the view that the site meets the PDL definition contained in Annex 2 of the Framework.
16. In my assessment, the evidence before me does not convince me that the appeal site could be reasonably regarded as falling within the Annex 2 definition of PDL. Whilst there is some limited evidence of some incidental use associated with the neighbouring property, this appears to relate to a relatively small part of the site, being the northern section furthest from School Lane and the settlement. For the greater part of the site, the evidence indicates nothing more than that, at some point in time, there was a hole in the hedge and pedestrian/mower access through it.
17. There is nothing further to convince me that the residential curtilage of the adjacent house had been extended to include the site for the requisite period, of 10 years continuous use, necessary to establish lawfulness. Indeed, on my site inspection I could find no evidence of a pedestrian/mower access and the eastern site boundary appeared to be intact along its entire length. Moreover, one of the statutory declarations seems to confirm otherwise, i.e. that the site had been left to grow wild since 2015 and was therefore clearly not being used for residential purposes. A submission by an interested party also disputes the PDL claim and says that the field was never part of the curtilage of Field of Birds. I further note that no Certificate of Lawfulness has been applied for, or

⁴ Page 5 of the Supporting Statement – Planning and Flood Risk Assessments 31 July 2020

granted, to corroborate the appellant's view. Whilst I agree with the appellant that there is no compunction on her to make such an application, and that the Council has not taken enforcement action, I must make my assessment on the facts and evidence before me.

18. I have noted the submissions concerning the structures on the site, and I observed that one is still standing and can be glimpsed from School Lane, but this is a relatively flimsy timber shed in poor condition that could not be regarded as a 'permanent structure' under the Annex 2 definition. Moreover, I could not see any other evidence of permanent structures and, if there were any, their remains appear to have blended into the landscape.
19. Overall, the evidence before me falls some way short of establishing that the appeal site should be regarded as PDL. Indeed, based on the evidence and my site inspection, the appeal site has the appearance of an agricultural field or paddock and does not accord with the definition of PDL set out in the Framework. As a result, the site should be regarded as part of the open countryside for policy purposes.
20. Notwithstanding the above, the appeal site is not located far away from other places, buildings or people, and, is relatively close to the Gulval and Trevarrack settlements and their services and facilities. Consequently, the proposed dwelling would not be considered to be 'isolated' in terms of the Framework. Accordingly, the provisions of paragraph 80⁵ of the Framework do not apply in this instance.
21. I have also taken into account other planning appeals and Council decisions cited by the appellant. However, each case is different and these appear to involve cases where Inspectors or the Council were satisfied that the respective proposals complied with development plan policy. I must make my assessment on the specific facts and merits of the case before me.
22. In conclusion on this main issue, my finding is that the evidence does not support the view that the site can be regarded as PDL. This means that the proposal would not meet any of the allowable forms of development under CLP policy 3 and would, specifically, not constitute rounding off of a settlement and development of PDL within or immediately adjoining a settlement. Similarly, it would conflict with DPD policy 1, as it would not meet any of its allowable windfall development types and would appear as an incursion into the open countryside. The appeal proposal would also conflict with CLP policy 7, as none of the special circumstances for allowing a new dwelling in the open countryside would apply. Accordingly, on this main issue, I conclude that the site would not be a suitable location for a new dwelling.

Character and appearance

23. The appeal site, along with the fields to the west, comprises a distinct gap on the north side of School Lane which separates the settlements of Trevarrack and Gulval. This forms an important backdrop to the settlement and it has a rural verdant character.
24. The appeal proposal would introduce a large modern house with garaging/parking and a long drive from School Lane. The proposal would

⁵ The Council's decision notice refers to paragraph 79 of the now preceded version of the National Planning Policy Framework.

constitute a notable and suburban incursion into the countryside, eroding its open and verdant character. This harm would be exacerbated by the scale, design and positioning of the building at the higher part of the site, giving it an imposing presence which would be quite discernible when viewed from School Lane and other public vantage points. Whilst I note that the design of the house is not unpleasant, and includes the use of traditional materials, this does not overcome the harm identified above.

25. On this main issue, I conclude that the proposal would be harmful to the character and appearance of the area, eroding its rural feel which gives the area its specific character. This would conflict with CLP policies 1, 2, 12 and 23 which, respectively and amongst other matters, require new developments to be sustainable, respect and enhance the quality of place, achieve high quality design, and protect the natural environment and Cornish landscapes. It also conflicts with the Framework's paragraphs 8, 130 and 174 which similarly require new development to be sustainable, achieve well designed places and enhance the natural and local environment.

Other matters

26. I have noted and taken into account the views of a number of interested parties which include submitted support, opposition and comments on the appeal proposal.

Conclusion

27. For the reasons stated above, the appeal is dismissed.

P. Staddon

INSPECTOR