



Appeal Decision

Site visit made on 15 February 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2022

Appeal Ref: APP/D0840/W/21/3278991

Land South of Moorland House, St Mawgan, Cornwall TR8 4EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant a permission in principle.
 - The appeal is made by Mr Stephen Longden against the decision of Cornwall Council.
 - The application Ref PA20/07379, dated 27 August 2020, was refused by notice dated 22 January 2021.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that 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 accordingly.
3. The Council's first reason for refusal was that permission in principle could not be granted because the development was 'Habitats Development'. A unilateral undertaking has been provided that would make a contribution towards mitigation for potential adverse effects on the Penhale Dunes Special Area of Conservation. For the purposes of my Decision, I have assumed that this adequately addresses the first reason for refusal and I would not be prevented from allowing the appeal on this basis.

Main Issue

4. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

5. The nucleated core of St Mawgan is clustered around a number of facilities at a ford across the river. Either side of the river, development extends up the steep valley sides. The appeal site is just across the ford from a school and is read as part of a tract of generally undeveloped land alongside the river, leading away from the settlement core between steep valley sides. In this regard, it is adjacent to, but not within the built part of the settlement.

6. Policy 3 of the Cornwall Local Plan 2016 (LP) would allow some development at St Mawgan where certain criteria were met. This includes if the site were considered infill or rounding off (which the appellant accepts it is not), or previously developed land (PDL) immediately adjoining the settlement of a scale appropriate to its size and role.
7. The appellant claims the site has, for some time, been used as part of the garden to Moorland House. At the time of my visit, the grass had been cut short, at variance to the land beyond the site that has a more natural appearance. A picnic table and vehicle parking were apparent. Structures, including a polytunnel, were present on the wider land parcel, alongside the appeal site.
8. A series of aerial photographs since 2001 show structures and some domestic paraphernalia on the land parcel. It may well be that this is reflective of some residential use. However, on their own, or alongside the current appearance of the site, the photographs do not clearly demonstrate that a material change of use to garden has occurred or, if it has, when that might have been.
9. It may well be that the polytunnel at the site should be considered a permanent structure that, if it were not in agricultural use, could also render the site PDL. However, the appellant's assertion that the polytunnel has always been unauthorised and so is not required to be removed by condition on a previous planning permission, is not substantiated by robust evidence.
10. On the evidence before me, and in the context of this appeal against a refusal of permission in principle, I am unable to provide a definitive finding on the lawful use of land. While formal determination, such as a certificate of lawful use, may not be a necessary prerequisite of considering land to be PDL, it has not been adequately demonstrated to me that it is. I, therefore, find that LP Policy 3 does not support the residential development of this site.
11. A Chief Planning Officer's Advice Note on infill and rounding-off suggests that permission could be granted even if a site were not strictly considered infill or rounding off under LP Policy 3. This might be, for example, if it were clearly within the form and shape of the settlement and there was no significant harm arising. Although I have found the site to be beyond the existing built form, it is encompassed within the general shape of St Mawgan considered overall. In such locations, LP Policy 21 seeks to make the best use of land, and could lend support, taking account of the character of the surrounding area.
12. St Mawgan is within an area designated as an Area of Great Landscape Value (AGLV), and the site is within a conservation area that covers development either side of the river. The site is not readily visible from the public highway that terminates at the ford, outside the school. From the ford, a privately maintained lane leads past the site, from where it can be seen, beyond low sheds. On the opposite side of the lane, development has effectively joined the two areas of development either side of the river, and obscured views along the valley corridor in that direction.
13. While the nature of the landscape may have changed over time, the current undeveloped and open landscape character, and its relationship to the settlement can be appreciated across the site. This also makes a clear contribution to the character and appearance of this part of the conservation area. In these views from the lane, the polytunnel, domestic paraphernalia,

various structures, and sheds in the foreground do not intrude into or detract significantly from the wider landscape character.

14. Just one dwelling is proposed. It would be sited away from the river, towards Moorland House. Inappropriate design or site layout could be resisted at technical details consent stage. Nevertheless, regardless of the ultimate built form, any dwelling and its garden here, would formalise a domestic appearance of the site, even if restrictions preventing development on other parts of the land could be imposed. This would be at odds with the surrounding landscape character, and would harm the character and appearance of the conservation area.
15. For the above reasons, the proposal would conflict with those aims of LP Policy 23 that requires development to sustain local distinctiveness, and Policy 14 of the Restormel Local Plan that seeks to prevent harm to the characteristics of AGLVs. There would also be conflict with the aims of LP Policy 24 that seek to maintain the character and appearance of conservation areas. With regard to these effects on the character of the area, this renders the proposal contrary to LP Policy 21.
16. Therefore, residential use in this location would be contrary to those development plan policies seeking to guide the location of development. It has not been demonstrated that material considerations would indicate otherwise that permission in principle should be granted.
17. Accordingly, the appeal is dismissed.

M Bale

INSPECTOR