



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: 04 April 2022

Appeal Ref: APP/D0840/W/21/3278663

Tregerles Farm, Mitchell, Cornwall TR8 4PW

- 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 Mr John Julyan against the decision of Cornwall Council.
 - The application Ref PA21/01018, dated 30 January 2021, was refused by notice dated 6 July 2021.
 - The development proposed is conversion of remainder of agricultural building into two single bedroom houses.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the building is suitable for conversion to residential use, with regard to development plan policies and the effect on Habitats sites.

Reasons

3. The site is situated in the countryside, separate from the closest settlement of Mitchell. Policy 7 of the Cornwall Local Plan 2016 (LP) sets out limited circumstances where new housing in the countryside is permitted. This includes the reuse of suitably constructed redundant, disused or historic buildings that are considered appropriate to retain and would lead to an enhancement to the immediate setting.
4. The appeal building is situated amongst a group of other modern agricultural-style buildings. The range of buildings has been considerably expanded in recent years. Most agricultural and other business activity has moved away from the older buildings, of which the appeal building is one, into the new ones.
5. The Council contends that the building is not redundant or disused as photographs from a 2020 structural report show hay and straw stored within it. There was no such storage activity at the time of my site visit and, while it may still be capable of use, there is no substantive evidence that it is, or ever will be again, particularly given the extensive newer buildings at the site.
6. LP Policy 7 does not specify criteria for suitability of a building and the only guidance appears to be in the supporting text. This indicates that appropriateness for conversion will depend upon a building's scale, structural soundness and ability to convert without the necessity of substantial demolition or rebuilding. The only substantive evidence suggests that the proposal is acceptable in these respects.

7. The supporting text also sets out that traditional buildings are important to local landscape character and that the conversion of large portal framed buildings will rarely be appropriate. That does not amount to an embargo on the conversion of portal framed buildings and, as noted above, it appears possible to convert this building within the Policy's guidelines.
8. In this case, the building sits amongst other utilitarian buildings that, while an established part of many agricultural landscapes, do not make a positive contribution to the general character of this part of Cornwall. Within the older buildings, 5 dwellings have been formed through conversions under permitted development rights. There are outstanding permissions for 7 more, including one in part of the appeal building.
9. Different considerations apply to prior approvals for permitted development, so they do not set any form of precedent for my consideration of this appeal, which relates to a full planning application. However, the permitted development schemes have established a residential character to this part of the site that will only intensify when the outstanding ones are implemented. Moreover, the garden and parking areas of the appeal scheme would be contained within the building complex rather than extending into the countryside. In this context, the intensification of residential use from these two dwellings would be almost imperceptible, whether or not the extant permissions are implemented.
10. While the Council may have had little control over the design of those existing dwellings formed under permitted development rights, the conversions are similarly utilitarian, reflecting the buildings' established character. The proposal would follow this pattern, respecting the existing building and its context, as required by the Cornwall Design Guide 2021.
11. The removal of a large protruding front lean-to which currently unbalances the building, together with the refacing of the elevations would result in some enhancement to the immediate setting. The resulting dwellings would respect the evolving character of the site without detriment to the intrinsic character of the countryside.
12. In this context I, therefore, find that this particular building is appropriate to retain and there would be no conflict with the aims of LP Policy 7. There would also be no conflict with those aims of LP Policy 2, 12, or 23 that seek to protect local distinctiveness and preserve the character and appearance of the area.

Habitats sites

13. The site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC) and the Penhale Dunes SAC (the Habitats sites). The Penhale Dunes SAC is designated for its shifting dunes, salicornia, arenariae, humid dune stacks, fixed dunes, shore dock, early gentian and petalwort. The Fal and Helford SAC is designated for its saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries and reefs.
14. The Cornwall European Sites Mitigation Supplementary Planning Document (the SPD) 2021 sets out that increases in population are placing greater pressure from recreational activity on the features of interest for which the Habitats sites are designated. It sets out mitigation strategies through strategic access management and monitoring (SAMM). SAMM is to be funded by contributions

from new residential development and such is said to allow adverse impacts on the integrity of the sites to be avoided.

15. The SPD has been adopted since the Council considered the application and the Council has suggested that a condition is used to secure appropriate mitigation. While the appellant has not had to pay contributions in respect of the other developments at this site, he would be happy with this approach if required.
16. The Council has confirmed that the most practical route to comply with any condition would be via a planning obligation or making direct payment prior to the grant of permission. The Planning Practice Guidance advises that positively worded conditions cannot be used to secure payment of money and that negatively worded conditions to require a planning obligation should only be used in exceptional circumstances. This may be where there is clear evidence that the delivery of the development would otherwise be at serious risk, such as in particularly complex development schemes. There is no such clear evidence before me, nor does the proposal appear to be particularly complex.
17. Moreover, in deferring the detail of any planning obligation, as Competent Authority under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), I could not be certain of the detail of any mitigation proposed and whether it would effectively avoid adverse impacts. Accordingly, under those Regulations, I cannot agree to the project at this time.
18. I understand that the appellant would be agreeable to any mechanism that I deemed necessary. However, I must consider the appeal on the basis of the documents submitted to me. While, in the interests of fairness, I have made the appellant aware of the potential issue surrounding habitats sites and the need to consider Government guidance in respect of conditions, I am unable to request specific evidence or obligations as part of the appeal process.

Planning balance

19. While the Council indicates that it has a sufficient supply of homes against its 5-year target, I have also been provided with extracts of press coverage relating to what has been termed a housing crisis. Regardless of the supply situation, many benefits could flow from the delivery of housing and I have identified no demonstrable harm that would arise in respect of those development plan policies relating to the conversion of buildings. Nevertheless, the requirements of the Habitats Regulations are such that the second main issue must be determinative.

Conclusion

20. For the reasons given, the appeal is dismissed.

M Bale

INSPECTOR