



Appeal Decision

Site visit made on 20 February 2023

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/D0840/W/22/3298986

Land at Buller Hill, Buller Downs, Redruth, Cornwall, TR1 6SS.

- 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 Andy Page against the decision of Cornwall Council (the LPA).
- The application ref. PA21/09927, dated 3/10/19, was refused by notice dated 17/11/21.
- The development proposed is described as *"... a single storey detached bungalow + would retain the existing access boundary hedges + trees. The dwelling would be constructed utilising the latest sustainable methods + use renewable energy for heat + re-cycle water. It will be architecturally designed to have little visual impact."*

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On behalf of the appellant, a Unilateral Undertaking (UU) has been submitted under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). This includes a financial contribution (£352) towards the cost of strategic access management and monitoring mitigation within the Fal and Helford Special Area of Conservation (SAC). I shall address this matter below.

Main Issues

3. The two main issues are: firstly, whether the proposal accords with national¹ and local² planning policies and advice³ for new residential development within rural areas and; secondly, the likely effects upon the SAC and the West Cornwall Bryophytes Site of Special Scientific Interest (SSSI) and whether any adverse effects could be addressed by way of the UU.

Reasons

First Main Issue

4. This 0.22 ha site lies amongst a loose scatter of dwellings within the countryside to the south of Redruth and to the west of Lanner. Much of the site is overgrown and there is a small quantity of rubble/material stored towards the eastern end of the site. The appellant has informed me that the site comprises a field used for storage connected to a business and hardstanding. Access is off a track that runs along the southern boundary. The B3297 (Buller Hill) abuts the western boundary of the site with the gardens of 'Ashcroft' to the north and 'Darrochmore' to the east.

¹ The National Planning Policy Framework (the Framework).

² The Cornwall Local Plan Strategic Policies 2010-2030 (LP), which forms part of the development plan.

³ The LPA's Chief Planning Officer's Advice Note (AN) on 'Infill/Rounding Off', which carries limited weight.

5. In essence, established national and local planning policies aim to restrict new housing within the countryside in order to safeguard the character and appearance of such areas and to secure sustainable development. Such development may be permitted where there is an essential or identified local need, or where it would enhance or maintain the vitality of rural communities by allowing settlements to grow.
6. Amongst other things, LP policy 3 permits the rounding off of settlements and development of previously developed land within or immediately adjoining a settlement of a scale appropriate to its size and role. The supporting text to this policy states that the settlement should have a form and shape and clearly definable boundaries, not just a low density straggle of dwellings. It also defines rounding off 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.
7. I note the appellant's arguments that the properties at Buller Hill are sufficient to constitute a settlement and that the appeal site is surrounded on all four sides by other dwellings. However, having seen the site and surroundings from the public realm, I concur with the LPA's assessment that whilst there are a number of dwellings around the appeal site they are dispersed and do not form a cohesive collection or grouping.
8. This loose scatter of dwellings does not exhibit a form and shape that renders it reasonably identifiable or recognisable as a settlement. There is no cogent evidence of any clearly definable settlement boundaries or any distinct sense of enclosure. This type of sporadic development is commonplace within the Cornish countryside. Furthermore, the open and largely unspoilt qualities of the appeal site have more in common with the character of the countryside than any settlement.
9. The proposed development would not comprise the rounding off of a settlement or satisfy any of the other provisions of LP policy 3. It would also conflict with the AN and not meet any of the exceptions provided for under LP policy 7. Moreover, there is nothing of substance to demonstrate the proposal would enhance or maintain the vitality of the local rural community. Notwithstanding the intended use of sustainable construction methods, renewable energy technologies, water recycling and the availability of a local bus service, the proposed dwelling, by virtue of its location, would intrude into the countryside and detract from the character and appearance of the local area.
10. The appellant has drawn attention to an appeal decision⁴ on a site at Green Bottom. Each site/case must be assessed/determined on its own merits. Unlike the appeal before me, the Inspector at Green Bottom found that site was not visible from the public realm and had a distinct sense of enclosure. In that instance, a new dwelling had also recently been permitted alongside. There are material differences between that appeal and the case before me.
11. I conclude on the first main issue that the proposal would conflict with national and local planning policies and advice for new residential development within rural areas.

⁴ APP/D0840/W/18/3196251.

Second Main Issue

12. In determining this appeal, I have also taken into account the provisions of the Framework⁵ and the development plan⁶ that relate to nature conservation interests, as well as the LPA's European Sites Mitigation Strategy Supplementary Planning Document (SPD), which was adopted in 2021.
13. The appeal site lies within the Zone of Influence for the SAC and the Impact Risk Zone for the SSSI. As noted within the LPA officer's report, the proposed development would be likely to increase recreational pressures within the SAC. There could also be some indirect pressure upon the SSSI. In combination with other developments and plans permitted elsewhere within this part of Cornwall, the proposal could have a significant adverse effect upon natural habitats and species of wild fauna and flora (such as sandbanks, mudflats, reefs and salt meadows) within these protected sites.
14. The proposal would not be directly connected with or necessary for the management of the SAC. However, I note that Natural England, as the relevant nature conservation body, was involved in the preparation of the SPD and has agreed that financial contributions, towards the cost of strategic mitigation within the SAC, could be sought from residential developments proposed within the Zone of Influence. I concur with both main parties that in this instance, mitigation would be required to address the 'in combination' effects of the proposal. Both the development plan and the SPD recognise that this could comprise a financial contribution secured by a UU.
15. The submitted UU includes an adequate contribution (and a mechanism for delivery, linked to any subsequent Technical Details Consent approval) to mitigate the likely 'in combination' effects of the proposed development upon the SAC. As a consequence, I find that there would be no harm to the integrity of the SAC or SSSI. The UU meets the tests for planning obligations set out in paragraph 57 of the Framework and I have taken it into account.
16. I note the provisions of Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) and the findings of Inspectors in previous appeal decisions⁷ that have been drawn to my attention. In this instance, it would serve no useful planning purpose to attempt to withhold permission in principle on nature conservation grounds. I also note that the LPA appears to have adopted a similar approach in respect of some other applications for housing elsewhere within the Zone of Influence.
17. I conclude on the second main issue that the likely adverse effects upon the SAC and the SSSI could be addressed by way of the UU. The proposal accords with the relevant provisions of the Framework, LP policy 22 and the SPD.

Other Matters

18. The proposal would add to the choice and supply of housing within this part of Cornwall. Given the scale of the development, I afford this limited weight.
19. The site is in close proximity to the boundary of the Cornwall and West Devon Mining Landscape World Heritage Site. However, there is nothing before me to

⁵ In particular, paragraphs 179-182.

⁶ LP policy 22.

⁷ APP/D0840/W/20/3248651 & APP/J3530/W/18/3219452.

indicate that it makes a positive contribution to the significance of this designated heritage asset or that the proposal would fail to preserve its setting.

Conclusion

20. My findings in respect of the second main issue and the 'other matters' above do not overcome or outweigh the harm that I have identified in respect of the first main issue. I therefore conclude, on balance, that the appeal should not succeed.

Neil Pope

Inspector