



Appeal Decision

Site visit made on 3 May 2023

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2023

Appeal Ref: APP/D0840/W/22/3312555

Land at Lankelly Farm, Lankelly, Fowey PL23 1HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Chris Biggs against the decision of Cornwall Council.
- The application Ref PA22/00067, dated 20 December 2021, was refused by notice dated 15 June 2022.
- The development proposed is construction of 3 dwellings with associated amenity space.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Cornwall Council against Mr Chris Biggs. This application is the subject of a separate Decision.

Preliminary Matters

3. The proposal has been made in outline, with all matters apart from access reserved for future consideration. Plans that accompanied the application show an illustrative layout and landscaping proposals. However, as appearance, landscaping, layout, and scale are all reserved matters, I have considered these drawings solely on the basis that they have been submitted for illustrative purposes.

Main Issues

4. The main issues are:
 - a) Whether the site is suitable for the development, bearing in mind the settlement policies of the development plan; and,
 - b) The effect of the development on the rural character and appearance of the area, and the scenic beauty of the Cornwall Area of Outstanding Natural Beauty (the AONB).

Reasons

Settlement policies of the development plan

5. The spatial strategy for residential development is set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the Local Plan). It seeks to maintain the dispersed development pattern of Cornwall, providing homes and jobs based on the role and function of each place. Based on this strategy, Policy 3 defines how development will be accommodated, with

growth focussed on identified main towns. Fowey is not specified as a main town. However, Policy 3 also supports housing growth within or adjoining smaller settlements through rounding off; development of previously developed land (PDL); or infill schemes. The Policy also supports rural exception sites (in accordance with Policy 9) and the identification of sites through Neighbourhood Plans.

6. The proposal is not put forward as a rural exception site, and is not identified for development by the Fowey Parish Neighbourhood Development Plan 2019-2030 (the Neighbourhood Plan). Consequently, support for residential development in this location is dependent on the proposal constituting infill, rounding off, or development of appropriately located PDL.
7. Paragraph 1.65 of the Local Plan says that, for the purposes of Policy 3, 'infilling' is defined as the filling of a small gap in an otherwise continuously built-up frontage that does not physically extend the settlement into the open countryside. Paragraph 1.68 says that Neighbourhood Plans can provide detailed definition on which settlements are appropriate for infill, and the boundaries within which the policy will operate. There is a row of detached houses that front the road to the east. However, these lie outside the Development Boundary for Fowey that is set by the Neighbourhood Plan. Furthermore, the site lies well beyond the rear of this line of buildings, so the proposed development would not constitute infilling of this frontage.
8. Despite the location of the site, outside the Development Boundary, it is contended that the proposal constitutes rounding off, so is supported by Policy 3 of the Local Plan. Paragraph 1.68 of the Local Plan says rounding off applies to 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. In this case, there is a line of trees that separates the existing buildings and yard area from the open countryside to the west. However, the appeal site extends beyond that line and onto an open field. The western boundary of the site is not marked by any physical feature that would act as a barrier to growth. Consequently, the site is not substantially enclosed, its edge is not clearly defined, and the development would extend building into the countryside. The proposal would not, therefore, amount to rounding off under Policy 3 of the Local Plan.
9. Policy 3 supports proposals for development of PDL immediately adjoining a settlement, provided they are of an appropriate scale. Furthermore, Policy 21 gives encouragement to sustainably located proposals that use PDL and buildings provided that they are not of high environmental or historic value. The eastern part of the site is hard-surfaced, and was in use for the open storage of boats at the time of my visit. Although the only building on the site is a small potting shed, the land is closely associated with the commercial buildings on the remainder of the yard, and could reasonably be described as being within their curtilage. Consequently, this part of the site does fall within the description of PDL.
10. This part of the site is immediately adjacent to the rear curtilages of the dwellings that front the road. Whilst they are not within the Development Boundary, they are only separated from it by the narrow lane, so do appear to be part of the settlement. The site is within about 500 metres of the bus stop

on the B3415 to the east, and less than a kilometre from the Primary and Secondary Schools. Although these facilities require walking down Lankelly Lane, which does not have footpaths, it is, nevertheless, a reasonably sustainable location. The yard area is, therefore, PDL adjacent to a settlement with reasonable access to day-to-day services.

11. However, more than half of the site lies beyond the boundary trees, and is part of an undeveloped agricultural field. This part of the site is not within the curtilage of any buildings and is not PDL. The layout plan shows the dwellings to be on this part of the site, and although this is only illustrative, it would not appear possible to provide three dwellings without developing on the field. Therefore, although part of the site is PDL, the proposal is reliant on undeveloped land beyond the existing limits of built development. Consequently, it would be residential development in the countryside that does not benefit from the support of Policies 3 and 21 of the Local Plan.
12. My attention has been drawn to a planning permission that was granted for a dwelling on PDL outside the settlement boundary for Falmouth. However, I have not been provided with sufficient information to demonstrate that it is directly comparable with the appeal proposal. In particular, there is no evidence to show that it was reliant on the use of an undeveloped grass field in the open countryside.
13. Policy 7 of the Local Plan says that the development of new homes in the open countryside will only be permitted where there are special circumstances, none of which apply in this case. Policy 3 of the Neighbourhood Plan says that proposals for residential development, outside of the Fowey Development Boundary, will be considered as Rural Exception Sites in line with Policy 9 of the Local Plan. The proposal is not put forward as an affordable housing proposal. The proposal would, therefore, conflict with both of these policies.
14. For the above reasons, the proposal would not be infilling or rounding off, and does not gain support from policies that encourage the use of suitably located PDL. It would constitute residential development in the countryside, outside the Development Boundary for Fowey, so would be contrary to Policies 3, 7 and 21 of the Local Plan and Policy 3 of the Neighbourhood Plan. Taken together these policies seek to focus most growth in the main towns, and to support organic growth of smaller settlements, whilst limiting residential development in the open countryside.

Character and appearance and scenic beauty of the AONB

15. The whole site lies within the AONB, however, as described above, it comprises two distinct parts, divided by a line of trees running from north to south. The part to the east is a yard that is used for open storage, and there is a range of utilitarian buildings on the surrounding land. Consequently, it does not have an attractive appearance, and it does not make a positive contribution to the scenic beauty of the AONB. However, this part of the site is well-screened from the wider countryside to the west, and has a much closer visual association with the adjacent commercial and residential buildings. Consequently, some level of development on this part of the site could be accommodated without harm to the character and appearance of the area.
16. The western part of the site, beyond the row of trees, is quite different. It is an undeveloped grass field that falls away from the yard and leads down to

woodland at the bottom of the valley, which then extends up the hillside on the opposite side. Mature trees line the northern edge of the field, adjacent to The Saints Way long-distance footpath, which is a pleasant route running along the field boundary. The field is well segregated from the urban form of the settlement to the east. Consequently, this part of the site has a much greater visual association with the attractive open countryside to the west, which comprises similar agricultural fields and a belt of woodland. It therefore makes a positive contribution to the scenic beauty of this part of the AONB.

17. Paragraph 176 of the National Planning Policy Framework (the Framework) says great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
18. At present, the tree belt is an effective visual division between the functional commercial yard and buildings to one side, and the attractive rolling countryside to the other. The wholesale removal of this landscape feature is envisaged on the illustrative plans. Whilst I am mindful that there may be other possible layouts, it would not seem conceivable to retain a tree screen and to construct three dwellings on the site. Removal of the natural screen would, in itself, be harmful to the AONB, as it would reveal views of the unattractive commercial yard when viewed from the footpath to the north and west. However, the proposed dwellings would be a stark and incongruous intrusion into the countryside at the top of an undeveloped valley slope.
19. When approaching the site from the east, via the footpath near the end of Lankelly Lane, the existing yard marks the end of the built-up part of the settlement. Passing here, the urban form is left behind, and the footpath narrows to become an unmade track, with open rough grassland to either side. The removal of the tree screen, and the construction of three dwellings would radically and harmfully alter that visual transition. From the west, when viewed from the elbow of the Saints Way footpath, where it crosses the watercourse at the bottom of the valley, the appeal site is seen as part of an attractive topographical bowl, where no buildings are present. From here, the proposed dwellings would be a very prominent and intrusive addition to an otherwise undeveloped landscape. Although not widely visible, due to the landform, there would be substantial harm to this intimate part of the AONB.
20. It is contended that the landscape character of the appeal site has already been altered by the existing development on and around it, and that its current appearance would be enhanced by the proposal. However, I saw that, whilst there is scope for visual improvement to the eastern part of the site, the western part remains largely unaffected by the buildings and paraphernalia on the other side of the tree screen. Consequently, rather than improving the appearance of this part of the site, the proposed dwellings would have a harmful impact on the undeveloped character of the AONB landscape.
21. For the above reasons, I conclude that the development would harm the rural character and appearance of the area, and the scenic beauty of the Cornwall AONB. The proposal would, therefore, be contrary to Policy 23 of the Local Plan and Policy 6 of the Neighbourhood Plan, which seek to conserve and enhance the landscape character, natural beauty, and special quality of the AONB. It would also fail to meet the aim of the Cornwall AONB Management Plan 2022-

2027, to ensure development conserves and enhances the local distinctiveness and natural beauty of the AONB, while meeting the needs of local communities.

Planning Balance

22. My attention has been drawn to the Council's recently published document entitled "Securing Homes for All: A Plan to respond to Cornwall's Housing Crisis", which seeks to ensure that a secure home for all is provided. The proposal would make a modest contribution to this aim. However, the document does not include any new planning policies and is not a part of the development plan. It therefore carries little weight in my decision.
23. Nevertheless, Paragraph 60 of the Framework seeks to significantly boost the supply of homes, and Section 11 promotes the effective use of land to provide dwellings. The development would provide three houses, which would assist with this aim, and would be a benefit of the proposal. However, as I have found that the site does not lie within the settlement, this benefit does not attract the great weight applied by paragraph 69 of the Framework.
24. There would be economic benefits associated with the construction phase of the development, and the future spend by occupants in the local area. However, due to the relatively small scale of the proposal, these benefits would be modest, so the weight I give them is limited.
25. It has been suggested that the proposed dwellings would be more compatible with the nearby residential uses than the existing outside storage. However, there is no evidence that the existing use of the site as a boat yard is causing undue harm to residential amenity. I therefore do not give this perceived benefit any weight.
26. The Framework makes it clear at paragraph 12, that the presumption in favour of sustainable development does not change the statutory status of the development plan, and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The limited benefits associated with the proposal do not outweigh the conflict that I have found with the settlement policies of the development plan, or the great weight that must be given to conserving and enhancing landscape and scenic beauty in AONBs.

Conclusion

27. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR