



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: 31 May 2023

Appeal Ref: APP/D0840/W/22/3298324

**Land South Of Pontsmill Cottages, Pontsmill Road, Pontsmill, Cornwall
PL24 2RR**

- 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 Create Design (acting as Agent for the Appellant) against the decision of Cornwall Council.
- The application Ref PA21/12526, dated 13 December 2021, was refused by notice dated 15 March 2022.
- The development proposed is the construction of an affordable detached single dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal has been made in outline, with approval sought only for access, layout, and scale. Plans that accompanied the application include elevation drawings and landscape proposals. However, as appearance and landscaping are reserved matters, I have considered the drawings solely on the basis that these aspects of the submission have been provided for illustrative purposes only.

Main Issues

3. The main issues are:
 - a) Whether the site is suitable for a dwelling, bearing in mind the settlement policies of the development plan;
 - b) Whether the development would preserve or enhance the Outstanding Universal Value (the OUV) of the Cornwall and West Devon Mining Landscape World Heritage Site (the WHS);
 - c) The effect of the development on the character and appearance of the locally designated Area of Great Landscape Value (the AGLV);
 - d) Whether, in view of the scale of the dwelling, the proposal would meet an identified local need for housing; and,
 - e) Whether future occupants of the dwelling would be safe from flooding.

Reasons

Settlement policies of the development plan

4. The Council's settlement strategy is set out in Policies 2 and 3 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (the Local Plan). The strategy seeks

to maintain the dispersed development pattern of Cornwall, and provide housing based on the role and function of each place. Policy 3 says that, outside specific main towns, housing growth is to be delivered through rounding off of settlements; development of previously developed land (PDL) within or immediately adjoining settlements; infill schemes; rural exception sites; and the identification of sites through Neighbourhood Plans. The site is not identified for development by the Lanlivery Neighbourhood Plan (2018) (the Neighbourhood Plan), and it is not argued that the site is PDL.

5. Proposals for rounding off and infill are only supported by Policy 3 within or immediately adjoining a settlement. Whilst the site lies close to a loose collection of dwellings, the dispersed nature of the buildings means that there is no distinct form, or shape to the group. There are no clearly defined boundaries, or any sense that this is a distinct community with a shared identity. Rather, it is a low-density scatter of individual buildings in the countryside. The appeal site does not, therefore, lie within or adjacent to a settlement. Consequently, the proposal does not constitute infill or rounding off, as described by Policy 3 of the Local Plan.
6. The only remaining form of residential development that Policy 3 supports, outside specified main towns, is a rural exception site under Policy 9. This policy supports development proposals on sites outside of, but adjacent to, the existing built-up area of smaller towns, villages and hamlets, whose primary purpose is to provide affordable housing to meet local needs, where they would be well related to the physical form of the settlement, and appropriate in scale, character, and appearance. In this instance I have already found that the scatter of dwellings to the north and west of the site does not comprise a settlement. The nearest village is Tywardreath Highway, approximately 600 metres to the southeast. In view of this distance, and the intervening area of open countryside, the site could not reasonably be described as being well-related to the physical form of this settlement. The proposal would not, therefore, be supported by Policy 9.
7. As the proposal does not comprise any of the types of new housing that is supported by Policy 3 of the Local Plan, it falls to be considered as a dwelling in the countryside. Policy 7 of the Local Plan says that development of new homes in the countryside will only be permitted where there are specified special circumstances. The proposal does not fall within any of the criteria described in Policy 7, so would not meet any of the special circumstances required to justify the development of a new house in the countryside.
8. It is contended that the site is in an accessible location, with good access to sustainable transport options to obtain everyday services and facilities. However, the nearest bus stop is about 800 metres away, and most of this journey would involve travelling along an unlit road with no footpaths or cycleways. In view of the distance and the nature of the route, occupants of the dwelling would be likely to resort to the use of a private motor vehicle to travel to Tywardreath Highway, St Blazey, or St Austell to access shops, employment, education, and other public services. The accessibility of the location does not, therefore, weigh in favour of the proposal.
9. For these reasons, I conclude that the proposal would conflict with the settlement policies of the development plan. The development would therefore be contrary to Policies 2, 3, 7 and 9 of the Local Plan, and Policy LH1 of the

Neighbourhood Plan. Taken together, these policies seek to direct new housing to accessible locations within or adjoining settlements.

OUV of the WHS

10. Paragraph 184 of the National Planning Policy Framework (the Framework) says that World Heritage Sites are heritage assets of the highest significance, which are internationally recognised to be of OUV. The WHS was inscribed in 2006, and comprises ten areas across Cornwall and West Devon that were heavily influenced by copper and tin mining in the period 1700 to 1914. The Statement of OUV states that the remains of mines, engine houses, smallholdings, ports, harbours, canals, railways, tramroads, and industries allied to mining, along with new towns and villages reflect an extended period of industrial expansion and prolific innovation. It adds that the ten areas form a unified, coherent cultural landscape and share a common identity.
11. The appeal site lies within Area A8 – The Luxulyan Valley and Charlestown. This area comprises an important concentration of industrial transport infrastructure and water supply network. It contains the industrial transport network of the Luxulyan Valley, together with the principal surviving remains of a major copper mine in the east. The southwestern boundary of the appeal site is adjacent to the Par Canal and Canal Basin, which was used to transport granite, china clay and lime from the Luxulyan Valley to the industrial port at Par.
12. The site forms part of the predominantly rural setting within which these highly characteristic features of the heritage asset are experienced. It is contended that the dwelling would be modest, and would therefore cause little harm to the WHS. However, although design is a reserved matter, scale is not, and the proposal would be a substantial domestic structure. It would be located close to the canal, and would be highly visible from the carpark where people gather to experience this part of the WHS. It would, therefore, be an intrusive feature that would erode the undeveloped character of the area, and diminish the positive contribution that it makes to the setting of the historic industrial features.
13. As a result, there would be harm to the significance of this part of the WHS. In view of the localised impact of the proposal, relative to the overall extent of the WHS, this harm would be less than substantial within the meaning of paragraph 199 of the Framework. However, less than substantial harm does not mean that less than substantial weight should be afforded to this harm. Rather, as the Framework sets out, great weight should be given to the conservation of designated heritage assets.
14. Paragraph 202 of the Framework says that less than substantial harm should be weighed against any public benefits associated with the development. The dwelling would contribute towards the government's aims of significantly boosting the supply of homes, and it would provide employment during its construction. There would also be an ongoing benefit from future occupants supporting local businesses and services. However, these benefits would be modest, due to the small scale of the development.
15. Paragraph 200 of the Framework advises that any harm to a designated heritage asset requires clear and convincing justification. The public benefits of the appeal scheme are limited and, consequently, would not outweigh the harm

that I have identified to the WHS. The proposal would, therefore, conflict with Policy 24 of the Local Plan and Policy GEN2 of the Neighbourhood Plan, which seek to avoid harm to the authenticity and integrity of the OUV of the WHS.

Character and appearance of the AGLV

16. The appeal site lies within an AGLV that was designated by saved Policy 14 of the Restormel Local Plan (2001). This part of the AGLV is a wide, flat valley floor contained by tree belts along Ponts Mill Lane to the northeast and the canal to the southwest. This enclosed valley floor is bisected by broken lines of trees, but its overall scale and extent is readily appreciable. There are very few buildings, and it is an attractive swathe of open agricultural land, which makes a positive contribution to the landscape character of the AGLV.
17. The open, level nature of the terrain, and the low hedges around the site, means that the proposed dwelling would be a highly conspicuous feature in this pleasant rural landscape. It would be visible from some distance when approaching the site from the southeast along Ponts Mill Lane. It would also be very prominent at closer distance, as the road curves around to cross the bridge to the public car park. It would be a dominant feature, close to the road, and would curtail the open views along the valley floor that are currently available from this point. Furthermore, the domestication of the land around the dwelling would change its appearance, diminishing the role it plays in maintaining the landscape character of this extensive valley floor.
18. In some views, the dwelling would be seen in the context of the other scattered houses in the locality. However, from most vantage points, it would be seen in isolation, and would appear as an incongruous intrusion into the open landscape. I am mindful that appearance is a reserved matter, so the design and materials could reflect the rural location. However, scale is not reserved, and, however sensitively it was designed, I am not persuaded that such a substantial building, on such a large plot, could be successfully assimilated into this rural landscape without harm to its open character.
19. I therefore conclude that the development would harm the character and appearance of the AGLV. Consequently, the proposal would conflict with Policy 23 of the Local Plan, Policy 14 of the Restormel Local Plan, and Policies GEN2 and LLNE1 of the Neighbourhood Plan. Together, these policies seek to maintain the character and distinctive landscape qualities of AGLVs.

Identified local need for housing

20. The proposal is described as an affordable dwelling. Notwithstanding that I have already found that the location makes it unsuitable as an exception site, Policy 9 of the Local Plan says that the type, size, and tenure of affordable dwellings should reflect identified local needs, as evidenced through the Cornwall Housing Register or any specific local surveys completed using an approved methodology. Similar wording is included in Policy LH1 of the Neighbourhood Plan.
21. At the time of the application, the registered local housing need in the parish of Lanlivery was nine households seeking affordable accommodation. Of these, five were seeking 1-bedroomed accommodation, three were seeking 2-beds and one required 3-beds. The proposal for a substantial 5-bedroomed dwelling would not, therefore meet this identified local need.

22. Evidence has been submitted stating that the appellants are a couple with four children, who are in need of accommodation, as they are being evicted from the land that they have been living on. I am advised that they are in a position to build a property, but not to buy one. However, I have little evidence regarding their connection with this locality, or their reasons for requiring housing in the parish, other than that they have owned the appeal site for some time, and a great grandfather worked at Pons Mill for many years. The evidence indicates that they are not currently on the Cornwall Housing Register, and I have no information regarding their eligibility for affordable housing, either in this location, or elsewhere in Cornwall.
23. In view of the size of the property, a significant discount would be likely to be necessary on any future re-sale to ensure that it remained affordable in perpetuity. No planning obligation has been submitted to demonstrate how this would be achieved. In the absence of a planning obligation, there is no mechanism to secure the affordability of the dwelling in the short or long-term, or to set out the eligibility criteria for initial and subsequent occupiers.
24. In view of all these factors, I am unable to safely conclude that the dwelling would meet an identified local need. The proposal would, therefore, conflict with Policy 9 of the Local Plan and Policy LH1 of the Neighbourhood Plan.

Flooding

25. Paragraph 161 of the Framework states that development which falls within areas at risk of flooding should be subject to a Sequential Test to identify whether such development could be carried out in an area at lower risk of flooding. This approach aims to ensure that decisions on where development is located are taken with a view to directing development away from areas of flood risk. It is not disputed that the southern part of the appeal site falls partially within Flood Zones 2, 3 and 3b, and in an area susceptible to groundwater and surface water flood risk, primarily due to its relationship with the Treffry Canal, Par Canal and Canal Basin running parallel with the southwest boundary. Despite this, the application was not accompanied by a Flood Risk Assessment (FRA), and no Sequential Test has been carried out.
26. Whilst it is contended that the dwelling itself would be outside the defined Flood Risk areas, the appellant's own evidence includes the Environment Agency's Flood Risk Map, which shows a significant part of the site shaded as Flood Zones 2 and 3. As flood risk mapping is not an exact science, it may be that the extent of flood risk is greater than that shown. I saw that the site is relatively flat, so only a minor increase in flood levels would be necessary to result in far more extensive areas of the overall site being at risk. As the overall site is at greater risk than a site that is entirely within Flood Zone 1, the Sequential Test should still be applied. The most suitable location for a dwelling on the site could then be addressed through a site-specific FRA and an Exception Test, but only if the Sequential Test could be satisfied.
27. In the absence of a Sequential Test, I cannot safely conclude that there are no other sites for the development which are at lower risk of flooding. Furthermore, without a site-specific FRA it has not been demonstrated that future occupants of the dwelling would be safe from flooding. I therefore conclude that the proposal would be contrary to Policy 26 of the Local Plan, which seeks to ensure that development minimises, or reduces and where possible eliminates flood risk on site. The proposal would also be contrary to

the sequential risk-based approach to development set out in Section 14 of the Framework.

Planning Balance

28. I have concluded that the development would comprise residential development in the countryside that would conflict with the settlement strategy of the Local Plan. I have also found that there would be harm to the OUV of the WHS, and to the landscape character of the AGLV. Furthermore, it has not been demonstrated that occupants of the dwelling would be safe from flooding. There would, therefore, be conflict with a number of policies of the Local Plan and the Neighbourhood Plan. This harm must be balanced against the benefits of the proposal.
29. Paragraph 78 of the Framework supports housing developments in rural areas that reflect local needs, and encourages rural exception sites that will provide affordable housing. In this case, however, the site is not well-related to a settlement, so it would not be suitable for a rural exception site. Furthermore, whilst the proposal is described as an affordable dwelling, no mechanism has been provided to secure it as such, and its scale means that it would not meet the locally identified need. The weight that I can give to the social benefits of the proposal are therefore very limited.
30. There would be economic benefits deriving from the construction phase of the development, and from the ongoing spend by residents in the local area. However, the benefits from a single dwelling would be limited.
31. Paragraph 12 of the Framework says that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Consequently, in the overall planning balance, I conclude that the benefits do not outweigh the proposal's conflict with the development plan.

Conclusion

32. 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