



Appeal Decision

Site visit made on 3 May 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/D0840/W/22/3309201

Upper garden of Cobblers Cottage, Redvale Road, St. Tudy, Bodmin, Cornwall PL30 3PX

- 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 David Hearle and Ms Sue Mendham against the decision of Cornwall Council.
 - The application Ref: PA21/12060, dated 6 December 2021, was refused by notice dated 19 May 2022.
 - The development proposed is a single low-carbon self/custom build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the banner heading above is taken from the planning application form, albeit with superfluous information not referring to an act of development removed.

Main Issues

3. The main issue is whether the appeal site is suitable for residential development, having regard to its location and the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site lies to the south of St. Tudy and forms part of the garden of Cobblers Cottage. It is located next to and has access from Redvale Road leading from the village.
5. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the CLP) sets out the locational strategy for the delivery of housing across the plan area based on the role and function of each place. The policy aims to steer the majority of new housing towards the main towns. Outside these areas, in summary, housing is to be developed through the identification of sites in Neighbourhood Plans, rural exception sites, infill schemes which fill a small gap in an otherwise continuous built frontage and do not extend the settlement into the open countryside, or rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining that settlement.
6. The Council refer to St. Tudy as a settlement and, following my site visit and having regard to its size and form, I have found no reason to disagree for the

purposes of Policy 3 of the CLP. In terms of options for available housing, the appeal site has not been advanced as a rural exception site nor identified in a neighbourhood plan. Consequently, the development would only be supported by Policy 3, if it comprised rounding off of a settlement, development of PDL within or immediately adjoining a settlement, or an infill scheme.

7. The Council has produced a Chief Planning Officer's Advice Note (CPOAN) on Infill/Rounding Off, published in December 2017. While this document does not carry the statutory weight of the CLP, it provides additional guidance. In accordance with the CPOAN, rounding off provides a symmetry or completion to a settlement boundary, it is not intended to facilitate continued incremental growth. Furthermore, proposals must be adjacent to existing development and be contained within long standing and enclosing boundary features.
8. In considering whether the site lies immediately adjoining the settlement, I have had regard to the High Court judgement on *Corbett v Cornwall Council*¹. It was held in that judgement that the words "*immediately adjoining the settlement*" had to be given sensible meaning, which included "*next to*" or "*very near*". Whether the site fell within that meaning then involved an exercise of planning judgement.
9. Although there are village and speed limit signs further to the south beyond Cobblers Cottage, they do not define the start of the built-up area as physically represented on the ground. St. Tudy has a clearly defined form and shape, and there is a clear demarcation between the edge to the built-up part of the village, just beyond the junction between Wetherham Lane and Redvale Road. At this point the housing on both sides of Redvale Road and south of the junction gives way to undeveloped countryside, including woodland and a grass paddock, with hedge banks and trees either side of the road. There is a substantial degree of separation from the built edge of the village.
10. Whilst I acknowledge the appellant's case and a supporting letter in this regard that the land to the north of the appeal site is not in agricultural use, whether or not a use of that land is lawful is not within the remit of this appeal. I note that the Council consider the land is agricultural and, in the absence of a Certificate of Lawful Use or Development, there is no substantive evidence to demonstrate that the land has an ancillary residential use. In any case, as I noticed during my site visit, the field despite the presence of some small buildings within the northwest corner, had a verdant, open and largely undeveloped appearance. Consequently, the appeal site maintains an open appearance along its northern boundary.
11. Furthermore, the appeal site, although bounded by hedgerows and trees, is largely surrounded by open fields and trees rather than by existing built development. Visually the site relates more closely to this rural setting than it does to the built form of the village. It does not, therefore, lie within the settlement and it cannot reasonably be described as next to, or very near it. As such, it is not immediately adjoining the settlement and it cannot be described as meeting the CLP definition of rounding off.
12. Similarly, although the appeal site may be PDL, it does not lie within or immediately adjoining a settlement. Accordingly, the proposal would represent

¹ [2021] EWHC 1114 (ADMIN)

residential development in the countryside which would not accord with the strategy set out in Policy 3 of the CLP.

13. Additionally, for these reasons, the development would not fill a gap in an otherwise continuous frontage. Therefore, the appeal proposal does not meet the CLP definition of infill. It is not suggested that the appeal proposal would meet the requirements of CLP Policy 7. Based on the evidence, I have no reason to find otherwise.
14. The appeal site is already a domestic garden. I noticed during my site visit that the site accommodates domestic trappings including a number of small poultry houses, enclosures and sheds. However, due to the height of the site relative to the road and the presence of some trees, the garden is not readily apparent when passing the site, other than through the vehicular access and pedestrian gate. As such, the site appears to be part of the verdant undulating countryside that provides the setting for St. Tudy. The proposed dwelling would however be visible, it would occupy a more elevated position than Cobblers Cottage and would be a somewhat intrusive feature in this rural setting set away from the settlement. It would, therefore, appear as a visual encroachment of development into the countryside that would harm its natural appearance.
15. Consequently, the proposal conflicts with Policy 23 of the CLP which, amongst other things, seeks to maintain and enhance Cornwall's distinctiveness and character of its natural environment.
16. The appellant considers that the proposal would comply with CLP Policy 21, which encourages the best use of land, including sustainably located proposals that use PDL. St. Tudy accommodates community facilities including a village shop with post office, pub, churches, and school. There is a bus stop at St. Tudy's Church, however, I do not have full details of the service. As such, there is no substantive evidence to indicate that this would be a likely alternative option to the car for most needs.
17. The lack of footway is a theme of this village and people do walk along the road. However, access to local services and facilities from the north east corner of the site would be via a stretch of steep, narrow, unlit and unpaved road, which would nevertheless be uninviting for some pedestrians or cyclists to have to navigate, particularly in the dark or during inclement weather conditions. There is no mechanism before me to secure the provision of a pavement alongside Redvale Road from the appeal site. Consequently, although the site may lie within a zone likely to benefit from superfast broadband and it presents some opportunity for alternative forms of travel, from the evidence available and my own observations, I consider it most likely that future occupiers would be likely to be largely dependent on private vehicles for access to meet their day-to-day needs. There is no certainty that future occupiers would only have access to electric vehicles. Accordingly, for these reasons, the site is not sustainably located in terms of Policy 21.
18. Moreover, the policy only encourages increased building density where appropriate taking into account the character of the surrounding area. I have found that the proposal would harm the natural character and appearance of the countryside. Consequently, for these reasons the development would also not accord with Policy 21 of the CLP.

19. My attention has been drawn to another case example granted planning permission in Kestle Mill. However, whilst the full details are not before me, in that case I note that the application site covered a gap between a cottage and a farmhouse. As such, that proposal had a different spatial context and relationship in comparison to the scheme before me. I therefore do not consider that proposal to be directly comparable to the appeal scheme and I have considered this appeal on its own merits. Accordingly, this case is a matter to which I attach limited weight.
20. For the above reasons, I conclude that the appeal site is not suitable for residential development, having regard to its location and the effect of the proposed scheme on the character and appearance of the area. I therefore find that it does not accord with CLP Policies 1, 2, 3, 7, 21 and 23. Amongst other aspects, these set out the development plan's approach to accommodating new housing and seek to maintain and enhance the distinctive character of Cornwall's natural environment.
21. There would also be conflict with the environmental aims of the National Planning Policy Framework (the Framework) insofar as it seeks accessible services to meet needs and highlights a requirement to actively manage patterns of growth to support objectives including for walking, cycling and public transport use, and contribute to and enhance the natural and local environment.

Other Matters

22. The appeal site is within the zone of influence of the River Camel Special Area of Conservation (SAC). In combination with other plans and projects, the addition of a residential unit within this area would be likely to have a significant effect on the internationally important interest features of the SAC due to the effects of eutrophication caused by excessive phosphates. In accordance with CLP Policy 23 appropriate mitigation would need to be secured for such development. However, as I am dismissing this appeal for other reasons, there is no need to consider the implications upon it because the scheme is unacceptable for other reasons, and it could not lead me to a different decision.
23. The appellants refer to developing health conditions that mean their existing house will become unsuitable. That building a new dwelling, with single floor access to most of the accommodation and potential for an internal lift, will enable them to remain within the community.
24. Planning legislation states that to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Planning Practice Guidance advises that the scope of what can constitute a material consideration is very wide but in general the courts have taken the view that planning is concerned with land use in the public interest, rather than the protection of purely private interests. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case.
25. Section 149 of the Equality Act 2010 sets out that particular medical conditions are protected characteristics for the purposes of the Act. In reaching my decision, it is necessary for me to have regard to the Public Sector Equality

Duty contained in the Act. This includes having regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.

26. There is insufficient specific evidence of the appellants' needs and, although the personal circumstances may amount to a material consideration, I am unable to draw a clear conclusion that the provision of the proposed dwelling is the only reasonable option available to meet the requirements. As such, taking all relevant matters into account, I can only give limited weight to the personal circumstances identified by the appellants. Accordingly, these considerations do not outweigh the land use considerations in relation to the planning merits of the appeal proposal.

Planning Balance

27. Paragraph 60 of the Framework seeks to significantly boost the supply of homes. The development would provide a dwelling, which would assist with this aim, and would be a benefit of the proposal. There would also be benefits to the local community and rural economy associated with the construction phase of the development, and the future spend and use of services and facilities by occupants in the local area. However, due to the small scale of the development, these benefits would be modest, so the weight I give them is limited.
28. I have taken account of the appellant's view that the proposal would be a suitable location, but I have come to my own conclusions for the reasons stated. I have also noted the appellant's view that the proposal would provide some environmental benefits in terms of biodiversity enhancement and that the proposal would enable the appellants to build their own energy efficient dwelling. However, the benefits are limited by the scale of the proposal. Accordingly, these are factors to which I attach limited weight.
29. The location of the proposal in the countryside, beyond the settlement, would undermine the Council's plan-led approach to the delivery of housing, and would harm the character and appearance of the area. The Framework makes it clear at paragraph 12 that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The relatively small scale of the benefits does not outweigh this conflict.

Conclusion

30. The proposal would conflict with the development plan as a whole and there are no material considerations identified, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR