



Appeal Decision

Site visit made on 10 May 2023

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 June 2023

Appeal Ref: APP/D0840/W/22/3301617

Land NE of Dean House, Trenerth Road, Leedstown TR27 5ER

- 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 Steve Edwards against the decision of Cornwall Council.
 - The application Ref PA21/12437, dated 13 December 2021, was refused by notice dated 30 May 2022.
 - The development proposed is erection of 3 No. detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 No. detached dwellings at Land NE of Dean House, Trenerth Road, Leedstown TR27 5ER in accordance with the terms of the application, Ref PA21/12437, dated 13 December 2021, subject to the conditions set out in the Schedule at the end of this Decision.

Application for costs

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

Main Issues

3. The main issues in this case are:
 - whether the site is a suitable location for the proposed development, having particular regard to development plan policies which seek to control new housing in the countryside.
 - the effect of the proposal on the character and appearance of the area.

Reasons

Location

4. Policy HT1 of the Neighbourhood Plan¹ allows housing to be built on land within the Leedstown development boundary, but the appeal site is situated outside the boundary so this policy does not apply. Although Policy HT2 does allow housing to be built on land outside the development boundary, it only applies to affordable housing. Hence, these policies are unable to justify the proposed development of three open-market houses on the site.

¹ Crowan Parish Neighbourhood Development Plan 2018-2030.

5. However, the development plan should be read as a whole and also includes the policies of the Local Plan². Of particular relevance to the current appeal is Policy 3 of the Local Plan which allows the 'rounding off' of smaller settlements. Rounding off is defined in paragraph 1.68 of the plan 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*.
6. In this case, the appeal site is an open area of land which, although historically associated with mining activity, is now mainly covered in scrub and small trees. Although the site is outside the main urban form of Leedstown, it is clearly on the edge of the built-up area. There is a byway running along the south-west boundary of the site, on the other side of which there is housing and gardens. This housing adjoins other development to make up the main urban form of Leedstown. Indeed, I note that the appeal site is on the edge of the development boundary as shown in the Neighbourhood Plan.
7. It seems to me that the site can be considered substantially enclosed in the context of paragraph 1.68 of the Local Plan. There is a public byway running along the northern boundary, with a small dwelling (The Old Meeting House) on the other side and also an open field, which is clearly separated from the road by a tall hedgerow. Similarly, the south-west boundary of the site is defined by a public byway with housing and gardens of the other side. The eastern boundary of the site is contained by a rifle club building. Hence, there are clear barriers to further growth along all edges of the site.
8. The Local Plan says that rounding off should not visually extend building into the open countryside. The effect of the proposal on the character and appearance of the area is dealt with as a separate issue later in this decision. However, with regard to Policy 3, I recognise that the pattern of development in the vicinity of the appeal site is of a lower density than central parts of Leedstown and that the prevalence of hedgerows, vegetation and undeveloped spaces provides some rural characteristics.
9. However, there is still a good deal of development in close proximity to the site. Housing is visible from the south-west and northern boundaries and the rifle club building to the east is a prominent feature. Further beyond this, there is another building with a fenced storage yard. Indeed, in whatever direction the site is approached, it is seen in the context of existing development. Therefore, in my view, the proposed development would not have the effect of visually extending building into the open countryside. Overall, the proposal would comply with the definition of 'rounding off' in the Local Plan and therefore comply with the terms of Policy 3.
10. I have been referred to a Cornwall Council advice note³ which provides further guidance on rounding off. This is not part of the statutory development plan and I have not been provided with evidence to show that it has been subject to widespread public consultation. As such, it only carries limited weight in this appeal. However, there is nothing within the document to change my view that the proposed development would comply with Policy 3.

² Cornwall Local Plan Strategic Policies 2010-2030.

³ Chief Planning Officer's Advice Note: Infilling and Rounding Off (Cornwall Council, December 2017).

11. I therefore conclude on this issue that the site is a suitable location for the proposed development. There would be no conflict with Policies 1, 2, 7, 9, and 12 of the Local Plan. Amongst other things, these policies establish a hierarchical approach to housing distribution and aim to protect the open countryside from unsustainable development. There would also be no conflict with Policies HT1 and HT2 of the Neighbourhood Plan, even though these policies do not directly support the proposed development.

Character and appearance

12. The detached houses proposed would be characteristic of other contemporary housing seen elsewhere in Leedstown, including those along the frontage of Trennerth Road, close to the site entrance. Hence, in this respect, the new houses would be in keeping with their surroundings. Whilst the development would reduce the prevalence of open space and greenery in this area, it would be in close proximity existing development and mainly viewed in this context. As such, it would not undermine the open and rural qualities of the wider rural landscape beyond Leedstown. There would be no conflict with Policy 23 of the Local Plan which seeks to protect landscape quality.

Other matters

13. The site was formerly used for mining activity and is situated within the Cornwall Mining Landscape World Heritage Site. However, the evidence presented to me in this appeal indicates that neither excavation of the site for construction, nor the visual impact of the proposed dwellings, would harm the heritage value of the area.
14. I appreciate that the introduction of new homes in this area would be likely to increase traffic movements. However, the traffic generated by a small development such as this is unlikely to be substantial and there is little evidence before me to suggest that it would harm the safety of users of the public byways close to the site. I recognise that there would be potential for noise and disturbance during the construction phase and am aware that bees are being kept on adjacent land. In order to help reduce disturbance, a condition could be imposed requiring a construction management plan to control the construction process, including vehicle movements.
15. While the new dwellings would have smaller gardens than some of the surrounding properties, they would nonetheless provide sufficient outdoor space for the size of dwellings being proposed. Although there may be noise generated from the rifle club building, I am not convinced (on the strength of the evidence provided) that this would unacceptably harm the living conditions of future occupiers of the proposed dwellings.
16. I am informed that parts of the site are unstable. A planning condition can be imposed to investigate the impact of past mining activity and, in any event, construction work would be required to take place in accordance with building regulations to ensure that it is safe.

Conclusion

17. For the reasons given above, the appeal is allowed.

Conditions

18. In the interests of clarity, standard conditions requiring the development to be carried out in accordance with the plans and within a time limit have been imposed. To help protect the living conditions of neighbouring occupiers and to maintain a safe and efficient highway network, a condition has been imposed requiring a construction management plan. For similar reasons, there is also a condition to ensure parking and turning areas are constructed before the new dwellings are inhabited. A condition has not been imposed to restrict permitted development rights as I do not have a great deal of evidence to indicate that this is necessary to make the development acceptable. However, in order to protect the privacy of surrounding occupiers, a condition has been imposed to prevent new openings in the roofs. For safety, a number of conditions have been imposed to ensure that any contamination or stability issues are addressed. Finally, in recognition of local heritage, there is a requirement for an archaeological survey.

Colin Cresswell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 003A, 004, 005.
- 3) The development hereby permitted shall not commence until a Construction Management Plan and programme of works has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Construction Management Plan.
- 4) With the exception of the window and external door openings shown on approved plans, no new openings shall be added to the elevations or roofs.
- 5) Before any of the development hereby permitted is brought into use, parking and turning areas shall be laid out and constructed in accordance with the approved plans; and the said areas shall not thereafter be obstructed or used for any other purpose.
- 6) No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Land contamination risk management (LCRM), (or equivalent British Standard and Land contamination risk management if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include a) a survey of the extent, scale and nature of contamination; b) the potential risks to: - human health; - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; - adjoining land; - ground waters and surface waters; - ecological systems; and - archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
- 8) The approved remediation scheme in condition 7 shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority before the development or relevant phase of development is occupied.

- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 10) Before the development hereby permitted is commenced, an assessment of the site to identify any ground instability shall be submitted to and approved in writing by the local planning authority. If instability is identified on the site, a scheme for on-site investigations, an assessment to identify the extent of unstable ground and the measures to be taken to avoid risk to buildings when the site is developed, shall also be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented and completed before the development hereby permitted is first occupied.
- 11) No development or the investigation of mining features shall take place until a programme of archaeological recording work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions, and:
 1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 12) No development or the investigation of mining features shall take place other than in accordance with the Written Scheme of Investigation approved under condition 11.
- 13) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 11 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 14) The archaeological recording condition will only be discharged when all elements of the WSI including on site works, analysis, report, publication (where applicable) and archive work has been completed.