



# Appeal Decision

Site visit made on 7 August 2023

**by Nick Davies BSc(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 14 August 2023**

**Appeal Ref: APP/D0840/W/23/3315909**

**Land North-East of Lurley, Penhallick, Carn Brea, Redruth, Cornwall  
TR15 3YR**

- 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 & Mr Jonathan & Thomas Powell against the decision of Cornwall Council.
- The application Ref PA22/04498, dated 12 May 2022, was refused by notice dated 11 August 2022.
- The development proposed is construction of up to six dwellings.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (the PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second (technical details consent) stage, is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted<sup>1</sup>. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of dwellings as part of the application. In this instance, permission has been sought for a minimum of four, and a maximum of six dwellings.

## Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

## Reasons

6. The appeal site comprises a roughly triangular area of undeveloped land that is overgrown with rough vegetation. It lies close to the southern edge of Pool, but

<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

is divided from the main part of the settlement by the mainline railway and the busy Dudnance Lane, which run alongside each other. The land to the south of the railway is characterised by small clusters of development in an otherwise open, rugged landscape, with rough grass fields, bracken, moorland and exposed stone outcrops. The western boundary of the site adjoins one of these clusters of buildings, but the land beyond the road that forms its long southern boundary is undeveloped countryside.

7. The Council's settlement strategy is set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (the Local Plan). The strategy seeks to provide housing based on the role and function of each place. Policy 3 of the Local Plan defines how development will be accommodated, based on this hierarchy of roles, and definite housing targets are set for specified main towns, including Camborne with Pool, Illogan and Redruth. The Policy says that in these towns the delivery of housing will be managed through a Site Allocations DPD or Neighbourhood Plans.
8. The Cornwall Site Allocations Development Plan Document (the DPD) was adopted in 2019, and Policy 1 sets out that housing growth in the main settlements will be delivered through allocations in the DPD; existing sites with planning permission; infill development; small scale rounding off; and the development of previously developed land (PDL) within or adjoining the named settlements. The appeal site is not allocated for development by the DPD or a Neighbourhood Plan, and does not have planning permission. The proposal would not fill a gap in an otherwise continuous frontage, so would not constitute infill development, and it is not argued that the site is PDL. Consequently, the proposal would only accord with the settlement strategy if it comprised small scale rounding off.
9. Paragraph 1.11 of the DPD explains that small scale rounding off will provide a symmetry or completion to a settlement boundary, and not facilitate continued incremental growth; will not visually extend development into open countryside; must be adjacent to existing development; and should be predominantly enclosed by long standing edging features. Furthermore, it says that suitable sites are likely to be surrounded on at least two sides by existing built development. Similar definitions are provided at paragraph 1.68 of the Local Plan and in the Chief Planning Officer's Advice Note (the CPOAN) titled Infill/Rounding Off, which both parties have referred to.
10. Although the site is close to the southern edge of Pool, it is physically separated from it by the road and railway line, so the existing buildings in the settlement are not adjacent to the site. They are, in fact, some distance away. Consequently, the site is only bordered to one side by built development, and this boundary comprises a very small proportion of its extensive perimeter. For the most part, the site is surrounded by the railway embankment to the north, and a road with open countryside beyond to the south. Whilst the road and railway line represent long standing edging features, they do not visually enclose the site from the surrounding countryside. From many viewpoints the narrow lane, with its vegetated verges, is not apparent and the appeal site merges with the patchwork of small undeveloped fields beyond. Housing on the site would, therefore, appear as a visual extension of development into this open countryside. Consequently, the proposal would not comprise rounding off.

11. The site lies beyond the existing limits of the built development of the settlement, and forms part of the open countryside to the south of the railway line. The proposal does not comprise any of the types of new housing that are supported by Policy 3 of the Local Plan or Policy 1 of the DPD. Consequently, it would constitute residential development 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 identified special circumstances, none of which apply in this case. The proposal would, therefore, be contrary to the settlement strategy of the development plan.
12. It is contended that the proposal is supported by Policy 21 of the Local Plan, which seeks to ensure the best use of land by encouraging sustainably located proposals. It is not argued that the site is PDL, or that it is despoiled, degraded, derelict or contaminated land. Consequently, support from this policy is dependent on meeting criterion c), which provides for increased building density, where appropriate, to ensure an efficient use of land, taking into account the character of the surrounding area and access to services and facilities.
13. The services and facilities in the main settlement are located a short distance away on the other side of the railway line. A large supermarket is accessible by foot over the pedestrian bridge to the west, a journey of about 250 metres. This route includes walking on a short stretch of road that has no lighting or footways, but it is level and carries little traffic. Consequently, it provides a relatively safe and convenient alternative to the use of a car. Furthermore, it is indicated that pedestrian safety in the area could be improved by re-routing a Public Right of Way through the site as part of the detailed scheme. Occupants of the houses would, therefore, have good access to services and facilities.
14. The site is, however, situated within the Cornwall and West Devon Mining Landscape World Heritage Site (the WHS). It lies within a rugged, open countryside that is highly characteristic of the Redruth, Camborne and Gwennap Landscape Character Area<sup>2</sup>. The defining features of this area include its post-industrial mining landscape with many visible mining relics. The Heritage Impact Assessment (the HIA) submitted with the application identifies that it is almost certain that mine waste was deposited on the site, although the evidence indicates that its historical integrity has been diminished by the removal of this material. Consequently, the HIA concludes that, with further investigation and recording of any subsurface features, the site is likely to be receptive to a residential scheme.
15. Nevertheless, the Landscape Character Study recognises that this is a very special, atmospheric landscape, containing pockets which have been left to nature after mining activity. The appeal site is one of these, and it makes a positive contribution to the wider surrounding landscape. Whilst there are clusters of buildings to the south of the railway, they are isolated, and it is the open rugged landscape that predominates, in sharp contrast to the very urban development on the other side of the tracks. From most viewpoints, including the pedestrian bridge over the railway, and the footpath alongside Dudnace Lane, the site is seen as a constituent part of this undeveloped landscape, with very little association with any existing built development.

---

<sup>2</sup> As defined by the Cornwall and Isles of Scilly Landscape Character Study (2008)

16. Dwellings on the site would, therefore, be an intrusive feature in the generally open countryside that extends southwards from the railway line to connect, visually, with the moorland and rocky outcrops on the higher land beyond. The development would appear as an isolated group of new buildings, surrounded by undeveloped land, so would appear as an incongruous addition that would be in stark contrast to the relic landscape surrounding the site. I am not persuaded that sensitive design could mitigate this impact to any meaningful degree. The proposal would, therefore, be harmful to the distinctive character of the surrounding area. Consequently, it would not derive support from Policy 21 of the Local Plan, and would conflict with Policy 23, which seeks to protect and where possible enhance Cornwall's natural environment.
17. The site is located within the Camborne, Pool, Illogan and Redruth Critical Drainage Area. The Environment Agency risk of surface water flooding map shows that a considerable part of the site is at risk of flooding, with much of the adjacent access road liable to flood to a depth of 900mm in the low, medium, and high-risk scenarios. Paragraph 159 of the Planning Policy Framework (the Framework) advises that inappropriate development in areas at risk of flooding should be avoided, by directing development away from areas at highest risk.
18. To achieve this, paragraphs 161 and 162 say that all plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. So, although the site lies in Flood Zone 1, and has a low probability of river and sea flooding, it is known to be at risk of surface water flooding. Therefore, the sequential test set out in the Framework should be applied to the proposal, and paragraph 162 advises that development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding.
19. The Council's evidence indicates that it can demonstrate a 6.6-year supply of deliverable housing sites. No contrary evidence has been provided to demonstrate that this is not the case. Furthermore, I have no evidence to indicate that the dwellings could not be accommodated in areas at lower risk of flooding and in accordance with the settlement strategy set out in the Local Plan and the DPD. I cannot therefore safely conclude that the sequential test could be satisfied.
20. The submitted Flood Risk Assessment suggests that the dwellings could be located on parts of the site that are not at risk of flooding. It also sets out proposals for mitigation, and outlines a surface water drainage strategy. Furthermore, it recommends that if flood waters are present, residents should remain in the dwellings and within the site until flood waters subside. However, these issues should be considered as part of the exception test, which should also demonstrate that the development would provide wider sustainability benefits to the community that outweigh the flood risk.
21. The Framework states that the exception test should only be applied if it is not possible for the development to be located in an area with a lower risk of flooding. As this has not been demonstrated, I conclude that the proposal fails the sequential test, and is therefore unacceptable, in principle, on flood risk

grounds. The location of dwellings on the site would, therefore, be contrary to Policy 26 of the Local Plan, which seeks to minimise, or reduce and where possible, eliminate flood risk. It would also be contrary to the advice on planning and flood risk in Section 14 of the Framework.

### **Planning Balance**

22. I have found that the proposal would be contrary to the settlement strategy of the development plan, giving rise to a conflict with Policies 2, 3, and 7 of the Local Plan and Policy 1 of the DPD. The development would also be harmful to the distinctive landscape character of the surrounding area, and would fail to comply with the sequential approach to flood risk. It would therefore conflict with Policies 23 and 26 of the Local Plan. The conflict with the development plan must be balanced against any benefits of the development.
23. My attention has been drawn to the Council's Housing Strategy 2030, which outlines its desire to urgently provide more homes for local people against a background of rising house prices and rent levels. The proposal could make a modest contribution to that aim, although there is no mechanism within the proposal to demonstrate that the housing would be affordable, or would meet an identified local need. In any event, 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.
24. Nevertheless, paragraph 60 of the Framework seeks to significantly boost the supply of homes, and paragraph 69 says that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. The development would provide four to six houses, which would assist with this aim, and would be a benefit of the proposal. However, as the site does not lie within the settlement, this benefit does not attract the great weight applied by paragraph 69c).
25. 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.
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 as the starting point for decision-making. The limited benefits associated with the proposal do not outweigh the conflict that I have found with the policies of the development plan relating to the location of new dwellings, the protection of landscape character, and the avoidance of flood risk.

### **Conclusion**

27. For the reasons given above, I conclude that the appeal should be dismissed.

*Nick Davies*

INSPECTOR