



Appeal Decision

Site visit made on 24 July 2023

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Appeal Ref: APP/D0840/W/22/3307384

Land at Chapmans Field, Pendoggett Road, St Kew, Bodmin PL30 3HH

- 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 P Chapman against the decision of Cornwall Council.
- The application Ref PA19/06113, dated 20 July 2021, was refused by notice dated 22 March 2022.
- The development proposed is described as residential development for up to 8 houses with all matters reserved except for access.

Decision

1. The appeal is allowed and planning permission is granted for residential development for up to 8 houses with all matters reserved except for access at Land at Chapmans Field, Pendoggett Road, St Kew, Bodmin, PL30 3HH in accordance with the terms of the application, Ref PA19/06113, dated 20 July 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the banner heading above, I have used the description of development to reflect that as provided within the Council's decision notice and as stated at section E of the appeal form, in the interests of accuracy and consistency.
3. The application was made in outline with all matters reserved except for access. The details submitted include an indicative site layout. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site might be developed. I have considered the appeal on that basis.

Main Issues

4. It is noted that the Council's Decision Notice includes within its reason for refusal, reference to the concern that the proposed development would result in the loss of best and most versatile agricultural land. However, the Council's statement of case confirms that they no longer wish to pursue this element of the reason for refusal. The Appellant has been made aware of this change to the reason for refusal and has had the opportunity to comment.
5. The main issue in this appeal is whether or not the proposed development would be in a suitable location, having regard to the accessibility of services and facilities and to the character and appearance of the surrounding area.

Reasons

6. Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) contains the Council's spatial strategy which sets out a sustainable approach to

accommodating growth and maintaining the dispersed development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place.

7. The proposal is for an outline application, with all matters reserved except for access, for an affordable housing led rural exception site for up to eight dwellings. The appeal site comprises land at the north eastern edge of the settlement at Pendoggett, with residential development located to the southwest and west of the site. Nonetheless, by reason of the undeveloped nature of the land to the east of the site and its position relative to the built up form of the settlement, the appeal site is located outside of Pendoggett and within the open countryside in terms of the Local Plan.
8. The appeal site is located within an Area of Great Landscape Value (AGLV) and outside of, but adjacent to, the Cornwall Area of Outstanding Natural Beauty (the AONB) and Heritage Coast. The submissions confirm that the northern section of the site falls within landscape character area LCA35 Kellen Head to Millock Haven Coast, with the southern section of the site being situated within landscape character area CA33 Camel and Allen Valleys. The Cornwall & Isles of Scilly Landscape Character Study (2008) (the LCS) describes the key landscape characteristics for the areas, in part to include undulating plateau and valleys with medium scale fields bounded by straight Cornish hedges. The LCS also describes the pressures on such areas as including, amongst other things, the expansion of settlements and loss of hedges.
9. Policy 12 of the Local Plan concerns design and provides that proposals will be judged against a number of design principles to include character and being of an appropriate scale with a clear understanding and response to its landscape, seascape and townscape setting. Policy 23 of the Local Plan sets out that development proposals will need to sustain local distinctiveness and character, with a particular emphasis on the great weight to be given to conserving the landscape and scenic beauty of the AONB. Saved Policy ENV1 of the North Cornwall Local Plan (the NCLP) also sets out the need for proposals not to have any significant adverse effects on the character and appearance of the area, as well as the need to conserve the natural beauty of the landscape in the AONB.
10. In addition to the above, I have been referred to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) which provides some informal guidance and which notes, in respect of affordable housing exception sites, that schemes should be appropriate in scale, character and appearance to the settlement.
11. The settlement at Pendoggett is centred around a crossroad, with residential development predominately arranged fronting onto the road and lanes that meet at that crossroad. Whilst dwellings within the settlement are predominantly arranged in a linear pattern, to the north of the coast road that passes through the settlement, and opposite the appeal site, there is a cluster of development arranged around a cul-de-sac.
12. By reason of the location of the appeal site at the periphery of Pendoggett, the proposal would result in some loss of openness in this location which marks the transition between the built form of the settlement and the predominately open countryside east of the site. The appeal scheme would represent an encroachment into a currently undeveloped area of countryside which contributes positively to the surrounding landscape and setting of Pendoggett.

13. To facilitate access to the site, a section of hedgerow would be removed. Whilst that may have an adverse impact on ecology and biodiversity, those impacts could be mitigated by the imposition of planning conditions. However, the hedge is adjacent to the highway and forms an important feature that contributes positively to the character and appearance of the area. As noted above in respect of the LCS, one of the key features of the landscape is the presence of such hedgerows forming boundaries to fields.
14. By reason of the encroachment into the undeveloped landscape, and the loss of part of what is an attractive mature hedgerow forming an important part of the setting of Pendoggett, there would be harm arising out of the proposed development with regards to the character and appearance of the surrounding area and AGLV which form the setting to the settlement.
15. However, the proposed development would be seen in the context of the nearby adjacent built form of the settlement. In that respect, and given that much of the appeal scheme would be positioned outside of the AONB and Heritage Coast behind rows of residential development that front onto either side of the coast road, I do not find that the proposal would result in harm to the landscape and scenic beauty of the AONB nor harm the special character of the Heritage Coast.
16. In respect of the Council's concerns regarding accessibility of services and facilities for future residents of the appeal scheme without heavy reliance on private motor vehicles, paragraph 105 of the National Planning Policy Framework (the Framework) provides that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The supporting text to Policy 9 of the Local Plan, which concerns Rural Exception Sites, confirms that within the smallest rural communities and where there is a lack of immediate access to key services and facilities, there may be circumstances where the provision of housing to meet a local need is best met at a specific community rather than in a more sustainable nearby settlement.
17. In this instance, whilst the services and facilities contained within Pendoggett are very limited, the settlement has a bus service linking it to nearby larger settlements which provide greater levels of facilities. In that respect, the Framework provides that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, with the Framework acknowledging that in rural areas development in one village would support services in nearby villages as part of a network.
18. In summary of the above, I do not find that the proposal would result in harm to the landscape and scenic beauty of the adjacent AONB, nor would be harmful to the special character of the Heritage Coast and would not conflict with the provisions of paragraph 105 of the Framework. However, by reason of the encroachment into the open countryside to the east of Pendoggett and given the loss of hedgerow as described above, the appeal scheme would be harmful to the intrinsic character and beauty of the countryside and distinctive character of the AGLV. However, in views of the scheme, the proposal would be seen in the context of nearby residential development, and consequently I attach moderate weight to that harm in the determination of this appeal.
19. Nonetheless, the above described harm would result in the appeal scheme conflicting with the provisions of Policies 12 and 23 of the Local Plan. The

proposed development would also fail to accord with Policy ENV1 of the NCLP and paragraphs 130 and 174 of the Framework. However, in light of the Council's submissions, I do not find any conflict with Policy 21 of the Local Plan which concerns Best Use of Land.

20. In this instance and as noted above, the appeal scheme is for an affordable housing led rural exception site for up to eight dwellings. Policy 9 of the Local Plan confirms that 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, will be supported where: they are clearly affordable housing led, they are well related to the physical form of the settlement, and would be appropriate in scale, character and appearance.
21. Policy 9 of the Local Plan provides that, within the smallest rural communities and where there is a lack of immediate access to key services and facilities, there may be circumstances where the provision of housing to meet a local need is best met at a specific community rather than in a more sustainable nearby settlement. In this instance, whilst the services and facilities contained within Pendoggett are very limited, the settlement has a bus service linking it to nearby larger settlements and there is substantive evidence of affordable housing need within the parish. The scheme would be well related to the physical form of the settlement, being seen adjacent to and in the context of nearby residential development.
22. The submitted planning obligation would secure a financial contribution towards education and provides that a minimum of 50% affordable housing would be included, with a viability mechanism to ensure that the open market housing element to be included would be the minimum necessary to deliver the affordable housing provision. As such, the scheme would be affordable housing led, with the planning obligation including provision relating to eligibility criteria and minimum local connection requirements. The planning obligation further provides for the submission of an Affordable Housing Scheme for approval and which would allow the Council to control the arrangements, such as their number, location, size and design, for the provision of affordable housing at the site.
23. The substantive evidence before me confirms that there is a substantial affordable housing need within the parish. The proposal would make a contribution towards affordable housing and would provide economic benefits in terms of education contributions, employment opportunities and future spend of residents.
24. Cumulatively, I attach substantial weight to the benefits of the appeal scheme with regards to the provision of affordable housing in an area where there is considerable affordable housing need, and in respect of the economic benefits described above. As such I conclude that the public benefits of the proposal would outweigh the above identified moderate harm to the character and appearance of the open countryside of the AGLV.

Other Matters

25. Interested parties raise additional concerns in respect of the proposal, and on the grounds of highway safety, lack of infrastructure within the area, impact on

the living conditions of nearby residents, drainage and adverse impacts on biodiversity and ecology.

26. In terms of highway safety, whilst I acknowledge the concerns raised, the submissions and evidence before me confirms that the site would be within the 30mph speed limit area and that adequate visibility could be achieved by relocating part of the hedge back into the site. The proposal would also provide a pedestrian footway connecting with the site and which would be secured by planning condition. The Council's highways officer has raised no objections to the proposed access and in light of the evidence before me, I find no harm in that regard.
27. In respect of the potential impact on ecology, it appears from the evidence that adverse impacts could be mitigated for and that, subject to matters which would fall for consideration at the Reserved Matters stage, there would be potential for biodiversity net gain at the site.
28. Whilst the concerns regarding drainage and the potential impact on living conditions of nearby residents are noted, details of the drainage scheme to be submitted at the Reserved Matters stage can be secured by condition and which would ensure that the appeal scheme does not increase flood risk elsewhere and near to the site. Additionally, the layout and scale of the scheme is reserved for later consideration and as such, that process will allow for the Council to assess the scheme in respect of impact on the amenity of residents.
29. As acknowledged above, the settlement at Pendoggett only provides very limited services. Nonetheless, the scheme would provide a financial contribution towards education and whilst noting that travel would be required to access facilities such as healthcare, the Framework provides that in an area where there are groups of smaller settlements, development in one village may support services in a nearby settlement.

Conditions

30. Other than the standard condition regarding time limits, in the interests of the living conditions of future and nearby residents and in the interests of ecology, additional conditions are necessary with regards to the submissions of details at the Reserved Matters stage in respect of biodiversity management plan, surface and foul water drainage scheme and provision of pedestrian linkage. In the interests of the living conditions of future and nearby residents planning conditions relating to investigation and notification of land contamination are necessary. In the interests of maintaining a safe and efficient highway network and to ensure that a satisfactory means of access is provided, a planning condition requiring approval of the layout of the access is also necessary.
31. Where necessary, and in the interests of clarity and precision, I have altered the wording of the conditions suggested by the Council in order to better reflect the relevant guidance. The Appellant has been provided with the opportunity to comment on the wording of the Council's suggested pre-commencement conditions and these have been agreed by the Appellant.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

Mr A Spencer-Peet

INSPECTOR

Schedule of Conditions

1. Details of the appearance, landscaping, layout and scale, (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. An application for approval of reserved matters must be made no later than the expiration of 3 years from the date of this decision and the development hereby approved shall commence no later than 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
3. The development hereby approved shall be carried out in accordance with the following submitted plans, but only in respect of those matters not reserved for later approval: SD-001 P1 Existing Location Plan and PL-001 P1 Proposed Site Access & Visibility Splays.
4. 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 Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures 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.
5. 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.

6. The approved remediation scheme in condition 5. 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.
7. 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.
8. The first reserved matters application shall be accompanied by a Biodiversity Management Plan to ensure that there is a net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time and the Biodiversity Management Plan shall include:
 - Proposals for on-site biodiversity net gain (full details of which will be provided in relation to each phase of development and/or for off-site offsetting;
 - A management and monitoring plan for any onsite and offsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2, 5, 10, 15, 20, 25 and 30 from commencement of development, demonstrating how the biodiversity net gain is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
 - A methodology for the identification of any site(s) to be used for offsetting measures and the identification of any such offsetting site(s);
 - Details of any payments for offsetting measures including the biodiversity unit cost and the agreed payment mechanism.

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Management Plan, or any variation so approved by the Local Planning Authority in writing.

9. Any Reserved Matters planning application shall be supported by a detailed site investigation. No development approved by this permission shall be commenced until the local planning authority has been provided with and approved in writing the results of further ground investigations. The results of these investigations must be used to inform the surface water drainage design. Such investigations shall include:
 - The results of infiltration testing

- The results of groundwater monitoring for a full 12 month period

No development approved by this permission shall be commenced until finalised details of a scheme for the provision of surface water management have been submitted to and approved in writing by the local planning authority. The details shall include:

1. A description of the foul and surface water drainage systems operation
2. Details of the finalised drainage scheme including calculations, layout and bespoke surface water drainage solutions (based on the findings of the infiltration testing and groundwater monitoring).
3. A Construction Phase Surface Water Management Plan
4. A Construction Quality Control Procedure
5. A plan indicating the provisions for exceedance pathways and overland flow routes
6. A timetable of construction
7. A plan for the management and maintenance of the drainage systems. This must confirm who will maintain the drainage systems and overland flow routes, and provide a maintenance schedule.

The Developer must inform the local planning authority of any variation from the details provided and agree these in writing before such variations are undertaken.

The surface water drainage systems shall fully manage surface water flows resulting from the developed site up to the 1 in 100-year peak rainfall event plus a minimum allowance of 50% for the impacts of climate change. Any surface water flows discharged from the site will be no greater than the greenfield rate for all rainfall events or rate agreed with South West Water Ltd, whichever is the lesser rate.

The approved scheme shall be implemented in accordance with the timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details for the lifetime of the development.

10. No development take place until detailed plans have been submitted to and approved in writing by the Local Planning Authority relating to line, level and layout of the junction with the public highway access into the site demonstrating accordance with the Cornwall Council's Current Requirements and Specification for Housing and Industrial Estates (or any document that amends these specifications over the period of implementing this permission). These works shall be laid out and constructed in accordance with the approved plans and all the works completed in prior to the first occupation of any part of the development.
11. No individual dwelling shall be occupied until access to that dwelling has been formed in accordance with the layout approved under reserved matters and constructed in accordance with the Cornwall Council's Current Requirements and Specification for Housing and Industrial Estates (or any document that amends these specifications over the period of implementing this permission) except for the application of the final wearing course, over such lengths as are necessary to provide access from a County Road to that particular dwelling.

12. The first reserved matters application shall be supported with a detailed scheme to provide and upgrade at least one pedestrian linkage from the site to the public highway in one of the two following locations:

- The provision of a footway between Firleigh Cottage and Tregirls.
- The provision of a footway between Wayside and Off The Rails on the western boundary of the site.

Once approved, these linkage(s) shall have been completed in accordance with a timetable that has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, or if no timetable has been approved, within one year from the occupation of the first dwelling. The linkages shall thereafter be retained to allow unobstructed passage from the site to the village in perpetuity thereafter.