



Appeal Decision

Site visit made on 9 August 2023

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2023

Appeal Ref: APP/D0840/W/22/3313952

Land Opposite Higher Tolcarne House, Tolcarne, St Day, Redruth TR16 5HA

- 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 R Davies against the decision of Cornwall Council.
 - The application Ref PA22/00864, dated 31 January 2022, was refused by notice dated 30 June 2022.
 - The development proposed is the change in the use of domestic recreation and storage land to a mixed use for the stationing of a residential lodge and ancillary recreation land.
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Decision

1. The appeal is allowed and planning permission is granted for proposed change in the use of domestic recreation and storage land to a mixed use for the stationing of a residential lodge and ancillary recreation land, at Land Opposite Higher Tolcarne House, Tolcarne, St Day, Redruth TR16 5HA in accordance with the terms of the application, Ref PA22/00864, dated 31 January 2022, subject to the conditions in the Schedule to this decision below.

Applications for costs

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

Preliminary Matters

3. Following the Council's determination of the appeal application, the Climate Emergency Development Plan Document (DPD) was adopted in February 2023. As it now forms part of the Development Plan, and the appellant has been able to comment on it, I shall take the DPD into account in my decision.
4. I understand that the proposed lodge would meet the definition of a caravan in the Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968, and I have considered the appeal on this basis. As a change of use of land, the precise location of the lodge within the site would not normally be fixed. However, during the appeal, the appellant has submitted a plan identifying where it would be located. The Council has commented on this plan. As the plan would clarify rather than change the proposal, I consider that no party would be prejudiced by my taking it into account in my decision.
5. The site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC), as identified in the European Sites Mitigation Supplementary Planning Document, dated July 2021. The appellant made an undertaking pursuant to s111 of the Local Government Act 1972 (the s111) for a financial contribution towards Strategic Access Management and Monitoring

(SAMM) of the SAC. The Council has commented on the s111 and so I will take it into account.

Main Issues

6. The Council's reason for refusal refers to the effect of the proposal on the Cornwall and West Devon Mining Landscape World Heritage Site (WHS), within which the site lies. The Outstanding Universal Value of the WHS includes the reshaping of the landscape from the mining for tin and copper. Although not a reason for refusal, the Council has also referred to the effect of the proposal on the SAC.
7. The main issues are therefore:
 - whether the site would provide a suitable location for the proposal, having regard to the spatial strategy of the Development Plan and its effect on the character and appearance of the area, including the WHS, and
 - the effect of the proposal on the SAC.

Reasons

Suitable Location

8. The site consists of grassed land, used as an orchard for the growing of food and for domestic storage. It is largely without built development, other than modest timber sheds. It is adjacent to Tolcarne Road, which narrows to become a public footpath beyond the appeal site. It has thick Cornish hedges on its boundaries. Surrounding land uses include the dwellings and gardens at Erbys, Higher Tolcarne House, Tamarisk and Tolcarne Cottage, as well as agricultural land and buildings.
9. The former County Council's Landscape Character Study, June 2008, describes the surrounding countryside as having scattered mining remains and a dispersed settlement pattern. Features such as mine workings enable its past to be identified. Other sites locally were used as mineworkers' smallholdings. However, although rural, the appeal site has few if any identifiable features of mining. As such, it makes a neutral contribution to the significance of the WHS.
10. The proposal seeks to site a residential lodge and change the use of the land to recreational use associated with the lodge. The lodge would contain all the facilities for day-to-day occupation. Therefore, for the purposes of planning policy, it would represent an additional unit of residential accommodation, or housing.
11. Policy 3 of the Cornwall Local Plan (CLP), adopted November 2016, provides the Council's planning policy strategy, based on the role and function of places. Outside of main towns, the policy permits housing within or adjacent to settlements, in certain circumstances. Whilst Tolcarne has limited facilities, there is no dispute that it constitutes a settlement and is close to the services and facilities of St Day. I see no reason to disagree.
12. One circumstance where housing is permitted by CLP Policy 3 is on previously developed land. The appeal site is currently used for domestic recreational use and storage, but the main parties dispute whether the site is previously developed, within the meaning of the National Planning Policy Framework (the Framework). However, even if the site does not constitute previously

developed land, CLP Policy 3 also permits housing where it involves the infilling or 'rounding off' of settlements. The Council's Chief Planning Officer Advice Note (CPOAN), dated December 2017, provides guidance on the interpretation of these terms.

13. The proposal would be predominantly enclosed by the boundary features of the hedges and the road. It would also be adjacent to built development on several sides, including Erbys, and Tamarisk and Higher Tolcarne House opposite. However, the proposed siting would leave the rest of the appeal site open. As a result, it would not 'complete' the settlement and could create a further site for rounding off. Furthermore, beyond Erbys, there are no other dwellings on the same side of the road as the proposal to the west. The proposal would not therefore fill a gap in an otherwise continuous frontage. On this basis, the proposal would not meet the definitions of either rounding off or infilling within the CPOAN or CLP Policy 3.
14. However, where these definitions are not entirely met, the CPOAN also permits housing where it would be within the form and shape of that settlement, where no significant harm would arise, reflecting the support of CLP Policy 21 for the best use of land and buildings. The specific area proposed for the lodge on part of the site would be within the envelope of buildings that form the edge of the shape of the settlement, including Higher Tolcarne House.
15. Furthermore, the site is in a discrete location that has a manicured appearance and existing hedging would largely filter the visual effects of both the lodge itself and the change of use of the land. As such, the proposal would not result in the visual extension of development into the open countryside. As a single lodge, the proposal would be of a scale appropriate to the size of the settlement.
16. For these reasons, the proposal would not result in harm to social, environmental or economic considerations, including the WHS. As such, although I have found conflict with CLP Policy 3, it would comply with the advice in the CPOAN and also with CLP Policy 21. I therefore consider that the site would provide a suitable location for the proposal, having regard to the spatial strategy of the Development Plan and its effect on the character and appearance of the area, including the WHS.
17. CLP Policy 7 seeks to restrict new homes in open countryside, being the area outside of the physical boundaries, form and shape of existing settlements. However, as I have found that the proposal would be within the shape of the settlement, I find no conflict with this policy. It would similarly accord with CLP policies 2, 23 and 24, which seek to maintain the development pattern of Cornwall, to protect its character, appearance and local distinctiveness, and to conserve the WHS and its significance.
18. DPD Policies C1 and T1 seek, amongst other things, to minimise greenhouse gas emissions and the need to travel, and to prioritise sustainable means of transport. However, the Council does not dispute the close proximity of the site to St Day or to services and facilities locally. Therefore, I see no conflict between the proposal and these policies. The proposal is not for regenerative or low impact development and so it would not conflict with Policy AL1. The proposal would accord with the Framework, including its aim for development that is sympathetic to local character and history and sustains the significance of heritage assets.

Fal and Helford Special Area of Conservation

19. Features of interest within the SAC include saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries, and reefs. The SAC is protected pursuant to the Conservation of Habitats and Species Regulations 2017 (the Regulations).
20. Recreational pressure, predominantly from those living or staying within the zone of influence causes harm to the habitats within the SAC. Additional residents from the proposal could result in adverse effects on the integrity of the SAC. As a result, alone and in combination with other development, the proposal would have a significant effect on the SAC.
21. Accordingly, as the competent authority in the context of this appeal, I am required to carry out an Appropriate Assessment under the Regulations. Mitigation has been developed in the form of SAMM, to avoid such adverse effects, funded through proportionate developer contributions. In this case, the appropriate contribution has been secured through the s111 undertaking. I have consulted Natural England, who have not objected to the proposal.
22. On this basis, in carrying out the Appropriate Assessment, the adverse effects of the proposal on the integrity of the SAC would be avoided. The undertaking and payment are necessary to make the development acceptable in planning terms, are directly related to the proposal and are fairly and reasonably related in scale and kind to it. For these reasons, the proposal would not harm the integrity of the SAC.

Conditions

23. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty. As no building operation is involved, only indicative elevation and floorplan details of the lodge were provided. I have therefore not included these within the approved plans. For the same reason, no details of external materials are required.
24. In the interests of certainty, it is necessary for me to impose a condition requiring that the residential lodge complies with the definition of a caravan in the Caravan Sites and Control of Development Act 1960 and The Caravan Sites Act 1968 and that no more than one caravan shall be sited on the land at any one time. For the reasons I have set out above, it is necessary that the siting of the caravan is restricted to the area shown on Plan CS1. Given that the proposal does not involve significant demolition or building works, I see no particular need for a condition in relation to construction methods.

Conclusion

25. For the reasons given above, I conclude that the proposal would comply with the Development Plan, read as a whole. The appeal is therefore allowed.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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: Site Location Plan 1, Block Plan 2, PLAN CS1.
- 3) The residential lodge hereby approved shall comply with the definition of a caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. No more than one residential lodge/caravan shall be stationed on the site at any time.
- 4) The residential lodge hereby approved shall only be located in the hatched area as shown on the plan titled PLAN CS1.

End of Conditions