



Appeal Decision

Site visit made on 5 September 2023

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2023

Appeal Ref: APP/D0840/W/23/3315685

Land Adjacent to Marazion Bypass, Plain An Gwarry, Marazion TR17 0DR

- 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 Mrs T Johns against the decision of Cornwall Council.
 - The application Ref PA21/11408, dated 16 November 2021, was refused by notice dated 19 August 2022.
 - The development proposed is construction of live/work unit on commercial land.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is suitable for the proposal, bearing in mind the settlement policies of the development plan and its effect on the character and appearance of the area.

Reasons

3. The appeal site lies about 500 metres to the north of Marazion, and on the opposite side of the A394, which acts as a by-pass for the settlement. It is at the western end of a level hard-surfaced yard, which is in use as a haulage delivery business. At the opposite end of the yard is a steel-clad goods vehicle depot building. There is a loose scatter of dwellings at Plain An Gwarry, a short distance to the northeast, but the yard itself is in open countryside, with undeveloped agricultural land surrounding it on both sides of the road. The proposal is for a detached two-storey live/work building that would have self-contained living accommodation on the first floor, above an open plan workshop/office with utility and accessible WC below. The building would sit within a garden that would be divided from the yard by a new Cornish hedge.
4. The main settlement policies of the development plan are Policies 2 and 3 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (the Local Plan). Policy 2 provides for a sustainable approach to accommodating growth, which maintains the dispersed development pattern of Cornwall and provides homes and jobs based on the role and function of each place. Policy 3 identifies a hierarchical approach to delivering housing and employment by identifying main towns for development. Outside these main towns, as is the case here, housing and employment growth will be delivered through the identification of sites through Neighbourhood Plans; rounding off of settlements; development of previously developed land (PDL) within or immediately adjoining settlements of a scale appropriate to their size and role; infill schemes; or rural exception sites. In this case, the proposal is for a new home and employment space.

5. The proposal is not for affordable housing, so it cannot be considered an exception site. The site is not identified for development by a Neighbourhood Plan, and the live/work unit would not fill a gap in an otherwise continuous frontage, so is not infill development. Rounding-off, and development of PDL is only supported by Policy 3 where the site is within or immediately adjoining a settlement. Even if it were argued that Plain An Gwarry was a settlement, the site is separated from it by undeveloped land, so does not immediately adjoin it. Consequently, the proposal does not derive any support from Policy 3 of the Local Plan.
6. Policy 7 of the Local Plan restricts the development of new homes in the open countryside to five specific special circumstances. The first four are not relevant to the appeal proposal. The fifth allows for rural workers' homes where there is up to date evidence of an essential need of the business for the occupier to live in that specific location. This is a matter to which I will return, but in the absence of such an essential need, there would be conflict with Policy 7.
7. Policy 5 takes a less restrictive approach to employment development in the countryside. Nevertheless, criterion c) requires it to be of a scale appropriate to its location, or to demonstrate an overriding locational and business need to be in that location, such as farm diversification. The workshop element would serve the existing haulage yard, so has a locational need to be on the appeal site. The principle of this component of the proposal would, therefore, accord with the policy. However, the size of the building would be doubled by the inclusion of the living accommodation, making it far larger than required solely by the necessity for workshop/office space. Consequently, it would not be appropriate in scale, so the overall proposal would be contrary to Policy 5, unless the need for the living accommodation could be demonstrated.
8. It is contended that the residential element is necessary to improve security, due to the presence of a right of way through the site and along its northern boundary. Whilst I acknowledge that this is a concern of the appellant, no evidence has been provided to show that there have been losses, break-ins, or vandalism in the past. Nor has any information been provided to show that alternative means of improving security, such as CCTV, security alarms, or robust fencing have been explored, or deployed, or why they would not successfully overcome the concerns in this regard. On the evidence, therefore, I am unable to conclude that a residential presence on-site is justified in the interests of security.
9. It is also stated that there is a business need for the proposal, as deliveries often take place outside normal working hours, requiring the gates to be opened early in the morning or late in the evening. A presence is required at these times to record details of the deliveries. There is little evidence regarding the frequency of these out of hours deliveries, or why they could not be administered via an on-site office. The evidence suggests that the appellant lives reasonably close to the site, so could be on hand at short notice to deal with out of hours deliveries. Whilst it may be more convenient to have someone living on-site, I am not persuaded, on the evidence before me, that it would be essential to the efficient running of the business.
10. I am mindful that the business is long-established, and that evidence has been provided to demonstrate that it is financially sound. There is, therefore, no evidence to suggest that the lack of an on-site residence has affected the

viability of the business to date. An essential need for an on-site dwelling has not been demonstrated. The proposal would, therefore, conflict with Policies 3, 5 and 7 of the Local Plan.

11. My attention has been drawn to Policy 2.3.h of the Local Plan, which says that proposals will be welcome that improve conditions for business and investment in Cornwall, in particular by supporting the provision of work hubs and the ability to work from home through live/work units. As the proposal is for a live/work unit, this Policy provides some support. However, the Local Plan needs to be considered as a whole, and the support for live/work units, in this particular paragraph, should not be read in isolation from the overall settlement strategy of Policies 2 and 3. Proposals for residential or employment buildings are considered under the overarching strategy, so it would be irrational that a scheme that combined both uses would not be subject to any locational criteria. Rather, I conclude that the support for live/work units given by Policy 2.3.h relates to proposals that also comply with the spatial strategy. Consequently, it does not outweigh the conflict that I have identified with the settlement policies of the Local Plan
12. I am mindful that the Inspector in another appeal¹ relating to a live/work unit concluded that the support given by Policy 2.3.h, and other material considerations in favour of the scheme, outweighed the conflict he had identified with Policies 3 and 7. I have not been provided with full details, but the evidence indicates that in that case the site was closely associated with an existing group of dwellings, and a short walk along a lightly trafficked road from the services and facilities in a nearby village. These circumstances do not apply to the case before me, so the balance of considerations is not directly comparable. I therefore give it little weight in my decision.
13. The site is readily visible from the A394, particularly when approaching from a north-westerly direction. From here the gap in the roadside hedge allows unimpeded views across the access track to the yard and building. The stored vehicles, green-painted steel sheet boundary enclosure, and industrial character of the site are not positive features in this otherwise rural landscape. The proposed building would be located right at the front of the site, close to the road, and it would have a very domestic appearance, particularly as it would be set within its own garden. It would, therefore, appear rather incongruous in its countryside/commercial setting. However, the building would be constructed of natural materials, and, together with its Cornish hedge boundary, would screen views into the commercial yard beyond. Its net impact on the character and appearance of the area would not, therefore, be harmful. As a result, there would be no conflict with Policies 12 and 23 of the Local Plan, which seek to maintain and enhance the distinctive natural character of Cornwall.

Planning Balance

14. Section 6 of the National Planning Policy Framework (the Framework) says planning policies and decisions should help create the conditions in which businesses can invest, expand, and adapt. Paragraph 82 says planning policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic

¹ Appeal Ref: APP/D0840/W/18/3207407

circumstances. Policy 2 of the Local Plan provides specific support for live/work units, but only within a sustainable settlement strategy that provides homes and jobs based on the role and function of each place. Whilst it is claimed that the proposal would improve the security and viability of an established rural business, there is little evidence to demonstrate that on-site living accommodation is necessary for either. I therefore give only moderate weight to the economic benefits of the proposal.

15. The proposal would not be harmful to the character and appearance of the area, however the lack of harm in this regard is not a positive factor in the balance.
16. I have found that the inclusion of living accommodation in this countryside location would result in a conflict with Policies 3, 5, and 7 of the Local Plan. Paragraph 12 of the Framework says that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. In this case, the economic benefits do not outweigh the conflict with development plan policies.

Conclusion

17. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR