



Appeal Decision

Site visit made on 5 September 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Appeal Ref: APP/D0840/W/23/3318531

Land adjacent to Bosveal Cottage, Mawnan Smith, Falmouth, Cornwall TR11 5JR

- 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 Ian Johns against the decision of Cornwall Council.
 - The application Ref PA22/01383, dated 3 February 2022, was refused by notice dated 11 October 2022.
 - The development proposed is demolition of existing building and proposed new residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been submitted in outline with all matters reserved for future consideration. Indicative plans have been submitted for the development. These provide a useful illustration of one way that the site could be developed. However, as all matters are reserved, I afforded limited weight to these details and shall consider the appeal on these terms.
3. The Council refused the proposal for two reasons. The second reason concerns the absence of a mechanism to secure the provision of a financial contribution towards mitigating recreational impacts upon the Fal and Helford Special Area of Conservation (SAC). At the appeal stage, the appellant has advised that the Council has confirmed safe receipt of the mitigation contribution. Notwithstanding, as I am dismissing the appeal for other reasons, I will deal with this matter later in this decision, rather than as a main issue.
4. Since the Council made its decision, on 5 September 2023, a revised version of the National Planning Policy Framework (the Framework) has been issued. However, the only substantive revisions relate to national policy for onshore wind development in England, and I am satisfied that the changes to national planning policy do not materially affect this appeal. I have taken the Framework into account in reaching my decision.
5. As the appeal is located within the Cornwall Area of Outstanding Natural Beauty (AONB), I have had regard to the purpose of conserving and enhancing the natural beauty of the area as set out in section 85 of the Countryside and Rights of Way Act 2000 (as amended). The development plan and paragraph 176 of the Framework also seek to protect such designated landscapes, recognise the intrinsic character and beauty of the countryside, and attach great weight to conserving and enhancing the landscape character and scenic

beauty of AONBs, which have the highest status of protection in relation to these issues.

Main Issues

6. The main issues are:

- whether the proposed development would be in a suitable location having particular regard to the spatial strategy; and
- the effect of the proposed development on the character and appearance of the area, including the AONB.

Reasons

Location of development

7. The strategy set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (CLP) seeks to maintain the dispersed development pattern of Cornwall, and to provide housing based on the role and function of each place. CLP Policy 3 sets out the locational strategy for the delivery of housing across the plan area. The policy aims to steer the majority of new housing towards the main towns. Bosveal is not one of the main towns listed in Policy 3.
8. Outside the main towns, CLP Policy 3 says housing growth is to be delivered through the identification of sites through Neighbourhood Plans; rounding off of settlements; development of previously developed land within or immediately adjoining settlements; infill schemes; or rural exception sites.
9. Policy 1 of the Mawnan Parish Neighbourhood Development Plan 2021-2030 (the NDP), which was made on 23 June 2022, supports new housing development that conserves and enhances the landscape and beauty of the AONB. The policy requires housing to be within the built form of Mawnan Smith or within the smaller settlements subject to certain criteria. It also permits housing where the development would comply with Policy 7 of the CLP, which relates to housing in the countryside, and NDP Policy 2 relating to small scale rural exception sites.
10. In this case the site has not been advanced as a rural exception site nor has it specifically been identified for housing development in the NDP. Furthermore, the appellant does not argue the proposal would comprise housing in the countryside in accordance with CLP Policy 7. Consequently, with regards to development plan policy, the suitability of the site for housing is dependent on whether the location of the appeal site would be located within or adjoining a settlement.
11. The Council has produced a Chief Planning Officer's Advice Note, December 2017 (CPOAN) titled Infill/Rounding Off. While this document does not carry the statutory weight of the CLP and NDP, it provides additional guidance and is a material consideration of moderate weight.
12. The CPOAN sets out the need to identify initially whether the proposal physically relates to a recognised settlement. Paragraph 1.68 of the CLP defines a settlement as having a "form and shape and clearly definable boundaries, not just a low-density straggle of dwellings". The CPOAN advises that a settlement is a place where people collectively live in permanent

- buildings. Additionally, it states that well-defined groups of dwellings with a collective name will normally be settlements. There is no expectation of a settlement to have services or facilities.
13. Paragraph 8.2.16 of the NDP says that the settlement of Mawnan Smith is the main focus for housing within the Parish. Paragraph 8.2.20 of the NDP states that elsewhere in the Parish, the majority of existing housing is described as a '*low density straggle of dwellings*' as referred to in paragraph 1.68 of the CLP and is not considered appropriate for housing development, other than those supported through CLP Policy 7.
 14. Nonetheless, paragraph 8.2.20 of the NDP does acknowledge that the NDP does not exclude development in small settlements or hamlets that '*have a form and shape and clearly definable boundaries*', subject to strict accordance with these criteria.
 15. The CPOAN says that 'open countryside' is beyond the physical boundaries of existing settlements where they have a clear form and shape and is part of an expansive area before the next settlement. It says the open countryside may include areas containing groups of dwellings which might not constitute a settlement, due to the lack of a clear form and shape.
 16. The appeal site lies approximately 0.2km from the edge of Mawnan Smith. Consequently, it is not within or adjoining that settlement. Nevertheless, the appellant contends that Bosveal is a smaller settlement for the purposes of the development plan policies.
 17. There is an official road sign identifying Bosveal which is located on the Grove Hill junction to the north of the appeal site. Bosveal, or Busveal, was also recorded on the Tithe Map and on the 1875-1901 and 1906-1908 OS maps. I am told that the Cornwall AONB Management Plan 2022-2027 describes the special qualities of the area as having no large settlements within the Helford River area, with many scattered smaller settlements with villages clustered around the creek heads and crossroads and that the landscape still retains the traditional settlement pattern of scattered rural farming hamlets.
 18. These are matters, together with the other arguments presented by the appellant, that weigh in favour of the view that there is a settlement in this location.
 19. Nevertheless, as I noticed during my site visit, there are only four dwellings in this area, with a low density of development and set away from other houses. Moreover, Tretyack and Bosveal are set back from the road and separated from Bosveal Farm House and Bosveal Farm Cottage by a wide access track creating a dispersed sense of development. Whilst there are several traditional farm buildings to the west and a group of more modern buildings set away from the road to the east, the locality has a highly rural and pastoral setting. The buildings do not themselves have a focus, form or appearance that could be said to provide a sense when traveling through this area of being any more than a small number of buildings, akin to a farmstead, in a rural setting.
 20. The small group of dwellings, despite the presence of residential paraphernalia, including pedestrian gates, boundary walls, parking areas and maintained verges does not contribute to providing a clear shape and form with clearly definable boundaries. Rather it is a low-density straggle of development.

21. Whilst there is a National Trust car park to the south, it is separated by open expanses of farmland. As such, it does not contribute to a sense of settlement for the purposes of the development plan.
22. Consequently, although I acknowledge the references to Bosveal as a hamlet, the weight of evidence, including my site visit, is such that I find the existing development due to its limited and dispersed nature, for the purposes of planning policy, does not contribute to the appearance, arrangement and built form to the area for it to constitute a settlement. Accordingly, the appeal site lies outside any town, village or hamlet. In other words, it is located in open countryside for planning policy purposes.
23. The CPOAN states that in a rural place like Cornwall, other than in its city or towns it is unrealistic for public transport, walking and cycling to meet all residents transport needs alone. Nonetheless, access to local services and facilities, including the bus stop to the north, would be via a stretch of narrow road or a gravel surfaced public footpath. Both routes would be unlit and would be uninviting for some pedestrians or cyclists to have to navigate, particularly in the dark or during inclement weather conditions.
24. As such, although the site presents some opportunity for alternative forms of travel, it is most likely that future occupiers would be likely to be largely dependent on private vehicles for access to meet their day-to-day needs and the site would not be sustainably located. Moreover, this in itself does not assist with the analysis as to whether the appeal site adjoins or is within a settlement.
25. The appellant considers that the proposal would comply with CLP Policy 21, which encourages the best use of land, including sustainably located proposals that use previously developed land. Whilst I acknowledge the appellant's case that the appeal site is not in agricultural use, this is disputed by the Council. Whether or not a use of land is lawful is not within the remit of this appeal. In the absence of a Certificate of Lawful Use or Development, there is little substantive evidence to demonstrate that the land is previously developed. In any case, even if that was to be the case, as the site is not sustainably located it would not meet with this requirement for such development under CLP Policy 21.
26. In respect of the policy approach of the Framework, as the proposed dwelling would not be within or adjoining a settlement and it would be in the countryside for planning purposes, the housing would not be located where it would enhance or maintain the vitality of rural communities as required by paragraph 79. In particular, the scheme would not benefit from the Framework policy approach in the circumstances where there are groups of smaller settlements, and development in one village may support services in a village nearby.
27. For the above reasons, the site does not fall within or adjoin a settlement. It follows that the scheme cannot benefit from the allowances under NDP Policy 1 or CLP Policy 3 for residential development including rounding off, infill or use of previously developed land within and adjoining settlements. Consequently, the appeal scheme would not accord with the requirements of the CLP Policies 1, 2, 3 and 7 which amongst other things, collectively seek to ensure that development is sustainable and avoids creating isolated homes in the countryside.

28. The proposal would also conflict with the approach for housing under NDP Policy 1 and the provisions of the Framework in relation to achieving sustainable development.

Character and appearance

29. The site is located within the Cornwall AONB and, in particular, the South Coast Western Area section. While this is not a barrier to development in itself, the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. The site is also within the landscape character area of Helford Ria, consisting of a varied landscape of river and creeks framed by fields and wooded slopes with small nuclei of villages, and requiring an objective to maintain the high visual character of the area.
30. The surrounding area near the appeal site is generally characterised by fields bounded by hedges and trees, copses of woodland, open fields and sporadic dwellings and other buildings located within this landscape. The area has a pleasant rural and pastoral character.
31. The appeal site accommodates existing buildings and is bordered by other buildings on two sides with an established hedge to the northern side. Nonetheless, the existing buildings on the site are relatively plain, functional and modest in scale and appearance, which means they have a relatively subdued presence. Consequently, even though there are existing areas of hard-standing, the presence of the buildings does not diminish the scenic beauty, agricultural character, and verdant appearance of the surroundings.
32. I acknowledge that the appeal scheme is in outline form and could come forward as a single storey dwelling. Nonetheless, the appeal site would take on a different character with the likely associated domestic trappings, such as hard-surfacing, parked vehicles and lawn. The cumulative impact of these works would provide a somewhat more dominant and incongruous feature in the landscape causing harm to its character and appearance. While the site is generally well screened, I still consider that elements of the scheme would be likely to be perceptible from beyond the boundaries of the site and would not conserve the landscape and scenic beauty of this part of the AONB.
33. The existing hedgerow, which could be conditioned to be retained, together with additional planting would help mitigate the visual impact of the residential development, and I am cognisant that there are already buildings close to the site. Having regard to these factors, the harm to the AONB identified above would be moderate. Applying paragraph 176 of the Framework this harm is something to which great weight should be given.
34. Taking the above factors into consideration, the scheme would cause some harm to the character and appearance of the area, including the AONB. Consequently, the proposal would be contrary to CLP Policies 2, 3, 12 and 23, and NDP Policies 1, 4 and 5, which together amongst other things, seek to ensure that development respects the surrounding areas and conserves and enhances the scenic beauty and character of the protected landscape. The proposal would also conflict with the provisions of the Framework in relation to conserving and enhancing landscape and scenic beauty in AONBs.

Other Matters

35. The proposed dwelling would fall within the zone of recreational influence of the SAC. However, given my overall conclusion, there is no need to consider the implications upon the SAC because the scheme is unacceptable for other reasons.
36. Whilst not referred to in its reason for refusal, the Council in its statement has drawn my attention to the Climate Emergency Development Plan Document – February 2023 (DPD). Although the appellant would seek to address energy requirements and efficiency within the building at a subsequent stage, in Policy C1 it advises that development should conserve and enhance the natural environment according to its national and local significance, and Policy T1 says new development should be located in order to minimise the need to travel. As such, there would be conflict with the DPD.
37. Although I acknowledge the appellant's various references to the Framework, paragraph 12 makes it clear that the presumption in favour of sustainable development does not change the statutory status of the development plan. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
38. I note the appellant's view that the proposal would provide some environmental benefits in terms of biodiversity enhancement including the replacement of hard surfacing with grass for amenity areas, maximising the value of the site for invertebrates, amphibians, reptiles and hedgehogs, planting native trees and shrubs and providing bat/bird nest boxes and bee bricks. However, the benefits are limited by the scale of the proposal and would not outweigh the totality of the identified harm. Accordingly, these factors are of limited weight.
39. The appellant has identified that the Council has not found harm with regard to highway safety, living conditions, the setting of nearby heritage assets, drainage and ecology. However, these are ordinary requirements for new development, and these do not represent a positive benefit that weighs in favour of the appeal scheme. Concerns regarding the processing of the application are not issues that I can assess as part of this appeal, and this does not alter my conclusions which I have reached with regard to the planning merits of the development.
40. I recognise the Parish Council supports the proposal. The weight to be attached to this does not overcome the policy objections to the provision of a dwelling in this countryside location.
41. The site is within the setting of Bosveal Farm Cottage, a grade II listed building. Its significance derives, in part, from its historical and architectural interest, its age and its traditional construction materials. Due to the separation distance and limited intervisibility the proposal would preserve the setting of this listed building and would not harm its significance.
42. The Council indicates that it has a sufficient supply of homes against its five-year target, and this is not disputed. The proposed scheme would undoubtedly result in some benefits. An additional dwelling would add to the stock of housing and would help with the wider housing supply. There would be benefits arising from the construction period and future spend of occupants giving

support to local services and facilities, including local shops. Given the scale of the development, the benefits would be moderate. However, as only one additional dwelling would be provided, I attribute the cumulative benefits of the proposal limited weight.

Planning Balance and Conclusion

43. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
44. Despite the acknowledged benefits identified by the appellant, the scheme would conflict with the approach to the location of housing in the development plan and Framework. Moreover, the proposal would harm the landscape and scenic beauty of the AONB. These are harms which attract considerable weight respectively and would outweigh the benefits of the proposal.
45. For the reasons given above, the scheme would conflict with the development plan when considered as a whole and there are no material planning considerations identified, individually or cumulatively, which are of such weight to indicate a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, the appeal should be dismissed.

J White

INSPECTOR