



Appeal Decision

Site visit made on 26 September 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal Ref: APP/D0840/W/23/3316008

Horizon Farm, Bakers Hill, Tremar, Cornwall PL14 6EA

- 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 Horizon Farm Ltd against the decision of Cornwall Council.
 - The application Ref PA22/03675, dated 11 April 2022, was refused by notice dated 9 December 2022.
 - The development proposed is a hybrid planning application - Conversion of existing building into shop, meeting rooms, offices, hair and beauty salon and associated works (in full) and outline permission with all matters except access reserved for residential development and extra care facility.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development accurately reflects the scope of the proposal, including with the conversion element of the existing buildings and the outline component for the residential development and extra care facility. With the outline aspect, access is for consideration at this stage with all other matters reserved. The submissions include a layout for the residential element, and I have treated it as indicative of what the appellant has in mind for the development and that other layouts would be possible.
3. The description of the development does not specify the number of residential units that are proposed. However, the accompanying details confirms that the residential scheme would be for up to 70 dwellings (of which 25% would be affordable) and a Class C2 residential care home facility. I have considered the proposal on that basis.
4. At the appeal stage, a signed and dated Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 has been submitted. The obligations include affordable housing, education, public open space, health care and habitats payments.
5. The Council was consulted on the UU and given the opportunity to make any representations. The Council, after having time to consider the document, responded by saying that it had no further comments to make on the appeal. Based on all the information before me, including the Council's comments in its appeal statement, which set out the obligations it requires, I consider that it is reasonable to assume that the UU has addressed the second reason for refusal. I will consider the UU later.

Background

6. The appeal site is a former poultry farm, comprising a wide range of buildings, located on both sides of the Tremar-Liskeard Road. The information indicates that the use of the site ceased in 2011 due to changes in legislation relating to egg production using caged birds. As well as egg production, the background information indicates that there were a range of non-agricultural uses on site and these included the packaging of eggs from other farms, the processing of egg products, distribution and office use. It has been previously accepted that the site should be considered as Previously Developed Land (PDL) and I have found no reason to disagree.
7. The site includes some large and redundant buildings that are prominent in the landscape and showing signs of deterioration. Other buildings, such as the business building at the eastern end of the site¹ and the shop and café are in use and/or reasonable condition.
8. The background planning history is pertinent to the considerations in this appeal. In March 2015, an application was submitted for the redevelopment of the site that included 87 dwellings, a retail unit and a change of use of a building from agriculture to 40 apartments. The total residential units on the site would have been 127. This scheme was refused by the Council and dismissed at appeal in November 2016².
9. The Inspector examined in detail the locational aspects of the site and concluded that occupants of the site would have a heavy reliance on the private car to access basic day to day services in St Cleer, Liskeard and further afield and for those without access to a car the services and facilities would not be accessible. The Inspector concluded that there would be a conflict with the social role of sustainability, as well as the environmental role, which seeks to move to a low carbon economy. The Inspector set out the benefits of that scheme but concluded that the adverse impacts of granting planning permission in this location, remote from services and facilities, would significantly and demonstrably outweigh the benefits.
10. Since this appeal decision, a Neighbourhood Plan now forms part of the development plan, and this includes a site specific policy for the appeal site. The St Cleer Parish Neighbourhood Development Plan 2020-2030 (the NP) has been made and Policy 21 is titled – Horizon Farm Mixed Use Development. The intention of the policy is set out in the NP, and in summary, is explained that to be able to realise this opportunity (of the site), a careful mix and balance of development will be required, which provides the necessary value to interest the owner and developers, without involving levels and types of residential development that will make the development unsustainable (e.g. as was the case with the previous application on the site). The NP goes on to explain that to achieve this a Masterplan is proposed that will deliver Horizon Farm as a thoroughly sustainable settlement that complements and integrates with the other settlements in the cluster of villages that form St Cleer Parish.
11. Policy 21 of the NP itself details that the proposal should be brought forward following the development of a detailed Masterplan and include, in summary, residential development comprising 60-70 dwellings, accommodation to meet

¹ Within the blue lined part of the site.

² APP/D0840/W/16/3142537

the locally identified need for older persons accommodation, employment uses including a grocery and top up shop and public open space. The policy then sets out the requirements for when the proposal would be supported and this includes, in section 2i, the provision of a Green Travel Plan which demonstrates in detail how safe access to and from the site will be achieved for all modes of transport particularly pedestrians and cyclists and that the traffic generated from the proposals will be managed to reduce the impact on the road network within the parish.

Main Issue

12. The main issue is whether or not the proposal would provide safe access to and from the site for all modes of transport, particularly pedestrians and cyclists, and the effect of the proposal on safety levels on the road network.

Reasons

13. The site is located in a generally rural area outside the boundaries of any settlement. Lower Tremar and Tremar lies to the north and are accessed from the site along a road that is in places, quite steep, curving and with banked boundaries. The nature of the road in places reduces the intervisibility between vehicles and any pedestrians, and with the reasonably limited available refuges for walkers, it is not, in my view, an attractive or especially useable route for pedestrians, particularly for those that may be walking with children or a pushchair.
14. St Cleer is a larger settlement with some services and facilities, principally a primary school and public house. An area of common land separates the site from the village, and there is no formal public right of way across this common to connect with the village. The connecting roads to St Cleer from the site are unattractive for walkers, and not especially desirable for cyclists, because of the speed of the traffic, distance and general road conditions. There is a limited bus service that passes the site, but this does not appear to me to be convenient for most future occupants as a means of regular transport, other than perhaps school children going to secondary school, because of the frequency of the service. I therefore agree with the previous Inspector that to access any services and facilities that are not on the site, without improvements to the connections, would lead to a heavy reliance on the private vehicle.
15. The NP policy seeks to address this including by promoting a range of business uses on the site, which could allow occupants of the site to be employed and/or shop or use the health and beauty facilities that would be available. This would assist with occupants of the housing and care facility being less dependent on the private vehicle. However, notwithstanding this, the requirements of the policy make the provision of the development contingent on a Travel Plan that demonstrates, in detail, safe access to and from the site would be achieved for all modes of transport, particularly pedestrians and cyclists, and that the traffic generated would be managed to reduce the impact on the road network.
16. It is, therefore, not sufficient for there to be a mix of uses on the site, but safe interconnectivity with other communities is important if a dependence on the private vehicle is to be reduced to an acceptable level. Indeed, with the provision of employment space, a shop and the hair and beauty use, as well as residents of the care facility who would likely have visitors, there will be local

residents in Tremar and St Cleer who would be likely to wish to access the site to visit, shop or work and the policy requires that there is safe access to and from the site using all modes of transport.

17. The appellant has made endeavours through the submissions, including with highway consultants, to seek to demonstrate that the site would be able to operate sustainably with options other than with a dependence on the private vehicle. The various components of the proposed uses reflect the uses specified in Policy 21 of the NP. It is important to appreciate that the site has been allocated for development in a recent neighbourhood plan and there is a different combination of uses from that considered by the previous Inspector. However, despite all the highway submissions as part of this proposal there is, in my judgement, insufficient evidence to clearly demonstrate that there would be effective and practical means in the long term to reduce travel by car, and in particular the scheme would not include the provision of a serviceable link with St Cleer to provide an option for walking or cycling to and from that community.
18. The Quiet Lane scheme for the section around the site and to Tremar, including with the proposed shared surface and reduction in the speed limit, could, in principle, be of assistance to walkers and cyclists. However, even with this scheme the road would still accommodate two way traffic and be bound by the banks on the route to Tremar and with some visibility restricted by the curves in the road. It would, therefore, not in my view, provide a situation where walkers in general would feel comfortable in the safety aspects of the route and this updated linking road, as proposed, would still not provide an inviting connection between the appeal site and the residential communities to the north.
19. This situation would be a discouragement for those residents of Lower Tremar and Tremar, where there are no services and facilities, to access those at the appeal site by foot. Even as proposed to be updated, these road conditions would not meet with the policy requirement to provide a safe access to and from the site for pedestrians and cyclists. The lack of pedestrian injuries in the area and that there are some local residents who access the existing shop and café on site by foot at the moment is not a good reason to encourage a development that would not be generally accessible by foot or bicycle and where, consequently, the proposed uses would be likely to encourage more local residents to travel to the site by car.
20. Furthermore, the implementation of the Quiet Lane scheme would require the agreement of the Highway Authority as the reasonably extensive works would fall within the highway. There is no clear and documented evidence that the Highway Authority would be agreeable to such a scheme, and it has maintained its objections throughout the application process. Consequently, the evidence does not satisfy me that there would be any prospects that the Highway Authority would agree to the implementation of the Quiet Lane scheme, and that it could be performed within the normal time-limit imposed by a permission. Consequently, having regard to the advice in the Planning Practice Guidance it would not be reasonable to seek to secure the off-site works by a negatively worded (Grampian) condition in any approval.
21. Furthermore, the UU does not appear to include an obligation to deliver off-site highway works either directly or in the form of a requirement to enter into a

s278 agreement with the Highway Authority to ensure that the highway works would be delivered as part of the scheme. Therefore, even if I was to be satisfied by the argued benefits of the Quiet Lane element of the proposal, there is doubt in my mind that it could be appropriately secured as part of the scheme before me.

22. I have carefully considered the Travel Plan and all its measures, including the role of the Travel Plan Coordinator. However, despite the actions which are proposed, which I accept would have some effect, without suitable and effective physical measures to provide reasonable connectivity by foot and cycle, I am not satisfied that the package of measures would meet with the requirements of the Green Travel Plan as set out in Policy 21 of the NP.
23. I also have taken into account that the appellant's highway assessment makes a comparison with the previous use of the site, and especially the heavy vehicles that accessed the site. However, that use has ceased, and while different uses based on those lawful uses could take place, they would, in all likelihood, have a different pattern of movements compared with what is now proposed, in particular, having regard to the visitors to the site from the adjoining communities and the travel patterns of occupants of the proposed housing. This different pattern of movement increases the need for appropriate connectivity to local communities in accordance with the intention of the NP.
24. Drawing these matters together, this is a different scheme to that considered by the previous Inspector and the reduction in housing units from before has an effect on the number of traffic movements that this use would generate, albeit that other uses are now included.
25. I appreciate that the National Planning Policy Framework (the Framework) advice includes that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, the Framework details that it will be important to ensure the development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling and public transport).
26. The Framework also explains that significant 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 Framework also notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision making.
27. It seems to me that this Framework balance is largely what Policy 21 of the NP seeks to achieve. The requirements of section 2i of the policy essentially requires the scheme to exploit the opportunities to make the location more sustainable in accordance with the Framework and by seeking to ensure that for some journeys there is a genuine choice of transport modes. The NP Policy establishes the approach of bringing forward the development of the site through a Masterplan and I am conscious that the Parish Council object to the application. It raises concern that there is a lack of an appropriate road access and a lack of a footpath from the proposed development to the heart of the village.

28. The Parish Council also raise the issue that the roads in this area are already busy, and it is concerned that they could not cope with additional vehicles. The Parish Council is also concerned about the safety of pedestrians in this area. These concerns are reinforced by the views of some local residents who object to the scheme³, with some representations explaining in detail the concerns that the development would have on the safety of road users and, in particular, the implications for pedestrians. I have carefully considered the submissions from the appellant's highway engineers, and I have taken these fully into account, however, the development of the site in the way envisaged by the NP is contingent on meeting the requirements of Policy 21 of the NP as a whole. For the reasons explained, I am not satisfied that the scheme would accord with the requirements in section 2i of Policy 21 of the NP. This is an important matter and, therefore, there would be conflict with the policy as a whole.
29. Accordingly, I conclude that the scheme would not make satisfactory provision for safe access to and from the site for all modes of transport, in particular for pedestrians and cyclists, in accordance with the approach set out in Policy 21 of the NP. This would lead the occupants of the site who would need to access services and facilities elsewhere, and visitors/workers travelling to the proposed uses, to have an unacceptable level of dependence on the private vehicle, even if some of those journeys were reasonably short. For those that did seek to walk or cycle to and from the site from, for instance, the St Cleer or the Tremar communities, there would be a potential conflict between those walkers and cyclists, and vehicles. Therefore, I am not satisfied that a safe and suitable access would be achieved to the site for all users, as required by the Framework. It follows that the proposal would not meet with the requirements of Policies 1, 2 and 27 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan), Policies 21 and 24 of the NP and the Framework which seek, amongst other things, to support new dwellings where there is existing safe walking and cycling to public transport, services and facilities or this can be achieved through the provision of new paths to link with the existing network and to local facilities.

Planning Agreement

30. The appeal has been accompanied by a completed UU which includes a number of obligations. I will examine each in turn, taking into account the advice in the Framework and Planning Practice Guidance. There is a requirement that each obligation is required to meet the statutory tests⁴. These tests are that an obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
31. The affordable housing contribution in the form of 25% (18) of the units would meet with the terms of Policy 21 of the NP and, together with the accessible and adaptable dwelling requirement, is therefore necessary and reasonable in the circumstances of this site. The mix and tenure would appear to meet with the advice of the Council's Affordable Housing Officer. I consider that the obligations in this respect would meet with the statutory tests and are matters to which I attach full weight.

³ I have also taken into account the representation in support.

⁴ Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

32. The health care financial obligation accords with the calculations provided by Kernow NHS Clinical Commissioning Group. In line with the advice it has provided, I am satisfied that this obligation would meet with the statutory tests, and I attach this matter full weight.
33. The Education Authority has explained that St Cleer Primary School is near capacity and the contribution per qualifying dwelling as recommended would be provided by the education obligation. I am satisfied that this obligation would meet the statutory tests and should be attributed full weight.
34. In terms of public open space obligations, including the financial contribution and on site provision and maintenance, are necessary to meet with the requirements of Policy 16 of the Local Plan, Policy 21 (1.d) of the NP and the advice of the Council's Public Space Officer. I conclude that these obligations are necessary, meet the statutory tests and should be afforded full weight.
35. The site is located within the zone of influence of the Plymouth Sound and Estuaries Special Area for Conservation and the Tamar Estuaries Complex Special Protection Area. In accordance with the Cornwall European Sites Mitigation Supplementary Planning Document July 2021 (SPD) a payment per dwelling is required to mitigate the recreational affects on these habitats sites from the additional residents resulting from the development.
36. The payment set out in the UU would secure suitable mitigation, in accordance with the SPD, such that the proposal would not, either alone or in combination with other projects, likely to have a significant and adverse effect on the integrity of the habitat sites. The obligation is, therefore, necessary and would meet with the statutory tests and again is a matter that I attach full weight.

Other Matters

37. I understand the frustration from the appellant which is set out in the appeal and other papers that despite asking on several occasions to meet and discuss the proposal with the Highway Authority these invitations have been declined. The site is one which has use rights, buildings that are deteriorating and affect the character of the area, and is allocated for development in the NP. The NP explains a resolution for the site will need to be found, however, I can only determine the proposal based on the information before me and on its merits.

Planning Balance

38. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁵.
39. The site consists of an extensive area of PDL, with large and prominent buildings many of which are in a state of deterioration. There would, with an appropriate scheme at the reserved matters stage, be clear benefits with the redevelopment of this PDL site leading to improvements to the character and appearance of the countryside. The removal of the larger and bulkier buildings could potentially, subject to details at the reserved matters stage, improve to a modest extent the setting of the Cornish Mining World Heritage Site and

⁵ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Cornwall Area of Outstanding Natural Beauty in this area. Collectively, these are matters to which I attach substantial weight.

40. The scheme would deliver a mix of residential and commercial development in accordance with the uses identified in Policy 21 of the NP. The housing would provide a very worthwhile addition to the housing numbers, and this would meet with the Government's intention set out in the Framework to significantly boost the supply of homes. The delivery of a policy compliant number of affordable units, especially with the possibility that the site could benefit from the Vacant Building Credit, should afford very substantial weight. The provision of the open market housing is a separate benefit that should merit substantial weight in favour of approval.
41. The extra care facility would not only help to meet a local need for such accommodation but would also assist and complement the employment and business uses on the site. These activities would help diversify this part of the rural economy. The delivery of the development would provide an economic boost during construction/conversion and in subsequent use. In accordance with the Framework, which seeks to support a prosperous rural economy, significant weight should be attached to the construction works, the economic benefits from the additional residents in the area and from the employment floorspaces for businesses which the scheme would deliver.
42. The proposal would address the contaminated land on the site, and the scheme would likely provide a policy compliant biodiversity net gain. The buildings, especially the new housing and care home, would be built to high environmental standards, minimising carbon use and should provide high quality accommodation in new buildings. The shop, meeting rooms, café, and hair and beauty salon would help to provide local services meeting the needs of those future occupants on site and in the wider community, and would assist with reducing the length of some journeys by car.
43. Taken together, the totality of the benefits of the scheme would be meaningful and very worthwhile, and I attribute them, collectively very substantial weight.
44. On the other hand, for the reasons explained, the scheme would not meet with the requirement in Policy 21 of the NP that safe access to and from the site should be achieved for all modes of transport, particularly pedestrians and cyclists. While the occupants on site may be able to access the services and facilities on site by foot, their connectivity by all modes of transport to other communities would not be satisfactory, and occupants of the housing who wished to travel elsewhere, and those from other communities who would be likely to be attracted to the site to use the proposed facilities or work, would be very heavily dependent on the private vehicle. There would not be the safe options for walking and cycling to and from the site that the NP envisages and the intention of Policy 21 to integrate the site with the other settlements in the cluster of villages that form the St Cleer Parish would not be adequately met. This is a very significant deficiency of the scheme and one that means that the proposal would not accord with Policy 21 of the NP when considered as a whole.
45. Indeed, the conflict with Policy 21 of the NP, and the other related policies that seek safe access by a range of transport modes, would mean that the scheme would not comply with the development plan when considered as a whole. This

harm could not be overcome by conditions or submissions at the reserved matters stage.

46. I have had regard to the previous appeal decision on this site. However, that proposal had a different combination of uses, with more housing, and was at a time before the NP was made with its site specific policy. Consequently, while I consider that this decision is consistent, where appropriate, with the previous appeal decision, I have determined the scheme on its merits based on the latest evidence and policy position.
47. The scheme has much to commend it and the benefits should accrue very substantial weight in favour of approval. However, given the harm and policy conflict, particularly as this concerns the ability to have the option to safely access the site by foot and bicycle, this means that these are matters that should weigh to an even greater extent against approval. I acknowledge all the efforts that the appellant has taken to seek to address these matters, however, given the seriousness of the issue in terms of access and public safety, I consider that the balance should fall against the scheme.

Conclusion

48. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR