



Appeal Decision

Site visit made on 21 August 2023

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2023

Appeal Ref: APP/D0840/W/22/3313807

3 Carnon Valley, The Half Acre, Road From Junction At Grenna Lane To North Grange Industrial Estate, Carnon Downs, Cornwall TR3 6LG

- 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 S Wells against the decision of Cornwall Council.
 - The application Ref PA22/01982, dated 24 February 2022, was refused by notice dated 23 June 2022.
 - The development proposed is described on the application form as 'Construction of a live work unit dwelling on site of garden nursery'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration. I have assessed the proposal on this basis and treated the drawings as being for illustrative purposes only.
3. On 5 September 2023 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework is a material consideration which should be taken into account for decision-making from the date of publication. The only substantive revisions to it relate to national policy for onshore wind development, and there have been no fundamental changes relevant to the main issue in this appeal. Therefore, I will not prejudice any party by taking the Framework into account in reaching my decision.

Main Issues

4. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan;
 - Whether the appeal site offers a suitable location in terms of access to services and facilities;
 - The effect on the character and appearance of the area; and,
 - Whether the scheme would provide suitable living conditions for future occupiers having regard to contamination.

Reasons

Spatial Strategy

5. Together, Policies 1, 2 and 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the LP) set out the Council's spatial strategy for development. In particular, Policy 2 seeks a sustainable approach to accommodating growth with the provision of homes and jobs based on the role and function of each place, underpinned by the need to protect the quality and natural beauty of the environment.
6. As part of its economic strategy, Policy 2 supports the provision of live/work units. Whilst this support is unqualified in Policy 2 it should be read together with the other policies which make up the LP. In particular, Policy 3 seeks to provide housing and employment growth outside the identified towns through allocation in a Neighbourhood Plan, rounding off of settlements, the reuse of previously developed land (PDL) within or immediately adjoining a settlement, infill and rural exception sites. The appeal site lies outside a defined settlement limit but the appellant argues that it is PDL.
7. The appellant states that the appeal site and the land outlined in blue on the site location plan, were formally in use as an aquatic nursery open to the public for the retail sale of plants and equipment for garden ponds falling within Use Class E. Whilst I saw various structures on the site, I have not been provided with any evidence such as a planning permission or Certificate of Lawful Development which is conclusive on the matter.
8. In addition, I am mindful of the definition of PDL in the Framework which excludes land that is or was last occupied by agricultural and forestry buildings. The definition of 'Agriculture' ¹ includes horticulture and the use of land as nursery grounds. For these reasons and in the absence of substantive evidence to the contrary, I am not persuaded that the appeal site falls within the definition of PDL. In any event, the development of PDL for housing and employment would only comply with Policy 3 of the LP and Policy H1 of the Feock Neighbourhood Development Plan 2017-2030 made April 2018 (NP) if it was within or immediately adjoining a settlement which the appeal site is not. As such, a conflict with Policy 3 of the LP and H1 of the NP would occur.
9. Policy 7 of the LP only permits new homes in the open countryside where there are special circumstances but as the appeal proposal does not fall within any of the exceptions listed in Policy 7 of the LP, a conflict would occur with this policy.
10. Policy 5 of the LP and ECON1 of the NP relate to proposals for new employment land. The appellant is seeking to relocate their established fencing business to the appeal site. They state that sufficient office space would be provided in the dwelling to allow the administrative functions of the business to take place and that storage and light industrial work would take place on the land identified in blue on the site location plan.
11. However, I have been provided with a very limited amount of information about the operation of the appellants business including where it is currently operated from, the reasons for relocating, the location of its clients, the number and type of vehicles which would be attracted to the site and

¹ As defined in Section 336 of the Town and Country Planning Act 1990

specifically the contribution it makes to the local economy. Moreover, the use of the blue land does not form part of the appeal proposal so I cannot be certain that it has or would be given the necessary permission and that the stated economic benefits would transpire. As such, I cannot conclude that the scale of the proposal is appropriate or that there is an overriding locational and business need for the appeal proposal to be located at the appeal site. For these reasons, compliance with Policy 5 of the LP and ECON1 of the NP has not been demonstrated.

12. In conclusion, although Policy 2 provides support for the provision of live/work units, the appeal scheme would introduce residential accommodation into the countryside in a way which would not adhere to the countryside policies of the development plan, namely Policies 3 and 7 of the LP and Policy H1 of the NP. In addition, compliance with Policy 5 of the LP and ECON1 of the NP which relate to the provision of employment land has not been demonstrated.
13. Therefore, I conclude that the appeal proposal when assessed against the development plan as a whole would harmfully undermine the spatial strategy for the location of housing and employment land.

Access to Services and Facilities

14. The appeal site is within 200m of the nearest bus stop which, as well as a school service, provides 17 bus services a day between 0725 and 1842 on at least five days a week. In my view this frequency of service represents a reasonable alternative to the private car.
15. The appeal site is located approximately 1km from Devoran which has a primary school, general grocery store, public house, community hall, public open spaces and play areas. Perranwell Station is a similar distance from the appeal site with a branch line that connects with Truro and Falmouth. Carnon Downs has a convenience store and post office which is around 1.4km from the appeal site. 'Manual for Streets' (MfS) suggests that services and facilities which can be accessed easily on foot should be located within a distance of 800m, although it acknowledges that walking a distance of up to 2km could replace short car trips. On this basis, the distances referred to would not seem to be a bar to residents walking from the appeal site to access local services and facilities.
16. However, MfS acknowledges that the propensity to walk is influenced not only by distance, but also by the quality of the walking experience. The roads providing access from the appeal site are rural, with no pedestrian footway and steep sides providing little in the way of pedestrian refuge from vehicles travelling along them. I observed that the roads are well trafficked and unlit. As a result, it is not an attractive proposition for pedestrians particularly in the dark or inclement weather to walk along the roads to reach these local services or bus services. The appellant argues that these services and facilities can be accessed safely on foot or by bike along the Mineral Tramway which can be accessed from the rear of the site. However, this is also unlit and I have no conclusive evidence that occupiers of the appeal site would have lawful access to it directly from the appeal site in any event.
17. To conclude, whilst there would be some opportunities for occupiers of the appeal site to walk, cycle or use the bus, the appeal site is not well placed for most people to conveniently access services and facilities other than by using

the car. This would conflict with Policies 16, 21 and 27 of the LP which seek to minimise the need to travel by car and promote development in areas where opportunities to utilise public transport, walking and cycling can be maximised. The proposal would also conflict with Paragraphs 8 and 9 of the Framework which seeks to guide development towards sustainable locations. In coming to this conclusion, I have been mindful that the opportunities to maximise sustainable transport solutions will be more limited in rural areas.

Character and Appearance

18. The appeal site is not located within a designated landscape but nevertheless it is located within attractive countryside. The road providing access to the site has trees elevated above road level which creates an enclosing tunnel effect when proceeding along the road. There are some openings to the western side of the road providing access to a scattering of buildings to the south of the appeal site. This permits wider views of the rolling landscape beyond.
19. My observations are supported by the Cornwall and Isles of Scilly Landscape Character Assessment (LCA) which describes the area² as a small scale rolling landscape with a strong field pattern enclosing small to medium scale fields and narrow lanes. It highlights the presence of trees and shallow narrow valleys and describes it as a well populated landscape with many built structures giving the landscape a cluttered appearance.
20. The appeal site has well established planting around the edges such that its relationship to the wider landscape is not readily apparent. There is also established planting along its boundary with the road and a solid gate across the existing access. This level of screening together with the presence of buildings and structures on the site at present means that the erection of a dwelling would not have any greater impact on the key characteristics of the wider landscape I have set out above.
21. However, the plans and elevations submitted indicate a two storey dwelling positioned towards the frontage of the site which would be visible from outside the site. That said, appearance and layout are reserved matters, so the scheme need not be developed in the way indicated on the drawings. A less conventional design approach, its repositioning within the site and the provision of further soft landscaping would reduce the extent to which it would be visible from outside of the site. This would not lead to an improvement in the appearance of the site, but the impact on the character and appearance of the area would be very localised.
22. Therefore, in recognising the intrinsic character and beauty of the countryside, I find there would be some minor harm to the character and appearance of the local area and therefore some conflict, albeit limited, with Policies 12 and 23 of the LP which seek to maintain Cornwall's local distinctiveness and character.

Land Contamination

23. The Council states that the appeal site is located on or within the zone of potentially contaminated land. However, the Council have not provided any specific information, such as a formal consultation response from a statutory consultee, regarding what that contamination may be, the extent of it and the impact that, if unresolved, it would have on the living conditions of future

² Landscape Character Area CA11

occupiers. Therefore, from the evidence before me, I cannot be certain that there is anything more than a possibility of contamination on the appeal site and as such, I am not persuaded that this represents a significant public health risk which requires that I dismiss the appeal.

24. Taking a precautionary approach, I consider that it would be appropriate and reasonable, in the event that the appeal were allowed, to require investigations and any necessary mitigation to be carried out prior any construction work taking place by means of suitable pre-commencement conditions.
25. On this basis, I find no conflict with Policy 16 of the LP insofar as it requires that development mitigates against harmful impacts and health risks such as land contamination. I also find no conflict with Paragraphs 174 and 183 of the Framework which seek to ensure that a site is suitable for its proposed use through remediating and mitigating contaminated land to ensure that new development is not put at unacceptable risk.

Planning Balance

26. Notwithstanding my findings in respect of land contamination, I have found that the proposal would conflict with the spatial strategy, would result in future occupiers being largely car dependant and that there would be some minor harm to the character and appearance of the area. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
27. There is clear support in the Framework for economic development. Paragraph 81 of the Framework states that significant weight should be placed on the need to support economic growth with Paragraph 82 allowing for flexible approaches such as live/work accommodation. However, given my findings in Paragraph 11 above, I cannot be certain that the economic benefits advanced by the appellant will necessarily transpire and this tempers the weight I give to the economic benefits of the proposal.
28. The appellant highlights that the proposal will be self-build. However I have nothing before me, such as a legal agreement, to ensure that the site would be developed in this manner. Therefore, I attribute limited weight to this.
29. The appellant advances the argument that the appeal site garners support from Policy 21 of the LP. However, I have concluded that future occupiers of the appeal site would be largely car reliant and this would be at odds with Policy 21 of the LP which seeks to increase building density taking into account access to services and facilities. I therefore attribute very limited weight to this.
30. My attention has been drawn to a number of planning permissions granted by the Council and Inspectors at appeal. However, with regard to the three proposals allowed at appeal³ there are notable differences between these and the appeal proposal particularly in terms of their location and accessibility to services. I have been provided with very limited information regarding the two permissions granted by the Council⁴ such that I am unable draw direct

³ APP/D0840/W/18/3207407 Homer Park, Port Isaac; APP/D0840/W/19/3242533 Polstraul, Trewalder; and APP/D0840/W/21/3283040 Land East of Ellen Close, Mount Hawke

⁴ LPA Ref: PA20/05111 at Trelights, Port Isaac and LPA Ref: PA20/11239 at Land North East of Little Mesmeare, St Minver

comparisons with the appeal proposal. For this reason, I give these decisions limited weight.

31. The appellant highlights the benefits of the proposal including a net reduction in vehicles accessing the site, the tidying up of the site and the benefits of living and working at the appeal site. There are also benefits arising from the provision of additional housing. However, when taken together, the sum of the benefits does not outweigh the harm I have found in terms of the conflict with the development plan and the public interest in having a planning system which is genuinely plan led.

Other Matters

32. The appeal site is located within the zone of influence for the Fal and Helford Special Area of Conservation (SAC). The European Site is liable to harm from increased recreation pressure resulting from new housebuilding within the zone of influence. The proposal would result in an additional dwelling close to the SAC, so when considered alone, or cumulatively with other schemes, I cannot rule out that it would have significant effects on the European Site.
33. The evidence indicates that the effects of the additional recreational pressures on the SAC could be mitigated by the completion of an agreement pursuant to S111 of the Local Government Act 1972, which would secure the payment of a financial contribution of £352 towards a programme of measures set out in the European Sites Mitigation Supplementary Planning Document (July 2021).
34. Had I been minded to allow the appeal, I would have had to consider, through an Appropriate Assessment, whether the proposed financial contribution was a robust method of securing mitigation for the likely impact on the SAC. However, as I am dismissing the appeal, the impacts will not arise. Consequently, it is not necessary for me to consider the proposal any further in respect of the Conservation of Habitats and Species Regulations 2017.

Conclusion

35. Whilst I have found that elements of the proposal would accord with some aspects of the development plan, when the plan is read as a whole, the proposal would be in conflict. The proposal would also conflict with the aims of the Framework. Having regard to all other matters raised, I conclude that the appeal should not succeed.

Alison Fish

INSPECTOR