



Appeal Decisions

Site visit made on 31 October 2023

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2ND JANUARY 2024

Appeal Ref: APP/D0840/W/23/3314261

Old Pine Workshop, Skate Park Lane, Mount Hawke, Cornwall TR4 8BQ

- 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 Andrew Leatherbarrow against the decision of Cornwall Council.
- The application Ref PA22/02391, dated 8 March 2022, was refused by notice dated 22 July 2022.
- The development proposed is for the erection of a live/work unit.

Appeal B Ref: APP/D0840/W/23/3314463

Middle Earth, Skate Park Lane, Mount Hawke TR4 8BQ

- 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 Simon Bradbury against the decision of Cornwall Council.
- The application Ref PA22/02337, dated 2 March 2022, was refused by notice dated 14 July 2022.
- The development proposed is a self-build live/work unit.

Decisions

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework December 2023 (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2023 version of the Framework.
3. The development with respect to Appeal A and Appeal B are subject of an Enforcement Notice. The Enforcement Notice alleges the material change of use of the land from nil use to residential through the creation of two dwellings and associated operational development, but no ground (a) appeal has been plead. For simplicity, the appeals against the Enforcement Notice have been dealt with in a separate Decision¹.
4. Appeal B is described on the application form as a self-build live/work unit. It is unclear whether this is a general description or if it is reference to self builds as described under The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). However, as there is no planning obligation before me, there is no mechanism in place to ensure that the proposed scheme for Appeal B would be retained in line with The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). As

¹ Appeal A Ref: APP/D0840/C/22/3307527 and Appeal B APP/D0840/C/22/3307542

such, reference to self-build in the proposals for Appeal B have been regarded as a general description.

5. The term live/work unit is referred to in the Cornwall Local Plan 2016 (the Local Plan) and the Framework, however, it is not strictly defined in either document. Notwithstanding this, what is understood is that live/work units would include two primary uses (residential and commercial) occurring on the same site, either within a single planning unit or possibly a single building. In the absence of a specific policy on live/work units, I consider it necessary to have regard to policies concerned with the primary uses of housing and employment. I have determined the appeal on this basis.
6. As set out in the banner headings, there are two appeals on neighbouring sites. I carried out the site inspections for the two appeals during one site visit and I have considered each proposal on its own individual merits. However, the appellant's jointly own the land, have the same agent, and the main issues and impacts of the proposals are the same. As such, to avoid duplication, I have considered the appeals together, but I will refer to any differences with respect to Appeal A and Appeal B where necessary.
7. The Council has advised that the Climate Emergency Development Plan Document (Climate DPD) was adopted in February 2023, following the determination of the applications subject of Appeal A and Appeal B. It is indicated that the Climate DPD sets out policies that provide further direction on planning for a sustainable future, and the strategic policies of the Climate DPD and the Local Plan should be read as a whole.
8. The Council refers to the document in its Statement of Case and the appellant has referred to it as an emerging plan. However, the appellant had the opportunity to comment on the adoption of the plan and any relevant policies in their final comments. As such, no party would be prejudiced by my regard to the Climate DPD in my determination of the appeal.
9. The Council's second reason for refusal with respect to Appeal A and Appeal B was the adverse effects of the development on the integrity of the two Special Areas of Conservation (SAC) without mitigation. The appellants have provided a copy of a completed Section 111 agreement with each appeal submission as well as a receipt for the payment of financial contributions for Appeal A and Appeal B. Having regard to the agreement and payment, the Council confirm they no longer object to the proposal regarding the impact on the two SACs. Based on the evidence before me, I find no reason to conclude otherwise.

Main Issues

10. Therefore, in light of the above, the main issues in these appeals are:

- Whether the development would provide a suitable location for housing and employment, with regard to the Council's spatial strategy and accessibility.
- The effect of the development on the character and appearance of the area.

Reasons

Location and Accessibility

11. The sites relate to a relatively small paddock of land within a clearing of a woodland area, which has been subdivided. Appeal A relates to the Old Pine Workshop to the left and Appeal B relates to Middle Earth, which is the plot to the right. They lie adjacent to an existing private lane that provides access to the site as well as to Mount Hawke Skatepark.
12. Policy 1 of the Local Plan and Policy C1 of the Climate DPD promotes a presumption in favour of sustainable development. Local Plan Policies 2 and 3 set out the Council's spatial strategy for development. The policies outline a sustainable approach to accommodating growth, whilst maintaining the dispersed pattern of Cornwall, and providing homes and jobs based on the role and function of each place, as well as increasing the accessibility of development via other modes of transport. This approach is consistent with the Framework.
13. Policy 2 does indicate support for the provision of work hubs and the ability to work through live/work units, which aligns with the support for live/work units set out in paragraph 86 of the Framework. In this respect there is support for the type of development proposed in the spatial strategy and the Framework. However, development proposals should be considered in line with the whole of the development plan, to ensure that there is no conflict with the overall spatial strategy for housing and employment. Similarly, the support in paragraph 86 should be balanced with other policies set out in the Framework and whether the development is consistent with its overall aims and objectives.
14. With the above in mind, Policy 1 of the St Agnes Neighbourhood Development Plan 2019 (St Agnes NP) states that development within the boundaries outlined in villages of the St Agnes area, including Mount Hawke, will be supported where such development conforms to other policies in the plan. The defined boundaries of the Mount Hawke settlement set out in the St Agnes NP are clear, and the site is located outside of the settlement in the countryside. The residential element of the live/work development is contrary to the requirements of this policy.
15. Policy 3 of the Local Plan seeks to provide housing and employment growth outside the identified towns through either allocation in a Neighbourhood Plan, rounding off of settlements, the reuse of previously developed land (PDL), infill and rural exception sites. I have considered PDL in line with the definition set out in Annex 2 of the Framework. The Local Plan outlines 'infill' as schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside. Rounding off of settlements is with respect to sites within or immediately adjoining a settlement and of a scale appropriate to its size and role.
16. There is limited evidence before me to determine that the land is classed as PDL as defined with the Framework. I have also not been provided with any evidence to demonstrate that the site is allocated for housing or employment as part of the policies set out in the Local Plan or St Agnes NP. The residential element is not proposed as a rural exception site and it would also not fill a small gap in another wise continuous built frontage.
17. Due to the separation distances between the site and Mount Hawke (500 to 600m), as well as the intervening road and agricultural fields, it would not consist

of a rounding off of the settlement. There is neighbouring development to the proposals, but in my judgement, it is an area of sporadic low density development, which I do not consider has a clearly defined form, shape, and boundary of its own. On this basis, I would not define the site and the immediate area as a settlement. As such, it does not conform to any of the exceptions set out in Policy 3 of the Local Plan.

18. Policy 7 of the Local Plan sets out exceptions where the Council would support housing in the countryside. These include, replacement dwellings, the subdivision of existing dwellings, the reuse of disused, redundant, or historic buildings, temporary accommodation to support established rural businesses and permanent dwellings for rural enterprises. Although businesses are being operated from the sites, from the evidence before me, neither are established rural businesses or proposed as a rural enterprise. The proposals do not, therefore, comply with any of the exceptions listed in Policy 7 of the Local Plan.
19. Policy AL1 of the Climate DPD introduces an additional type of housing that may be permitted as an exception in the open countryside. It seeks to permit regenerative, low impact development. Policy AL1 of the Climate DPD requires the development to be well related or adjoining a settlement or an existing farm or a location that can be justified in terms of the activity being undertaken. It also seeks robust evidence to demonstrate compliance to a clear zero carbon approach. Policy SEC1 of the Climate DPD also seeks to allow proposals with sustainable energy and construction credentials. Policy SEC1 of the Climate DPD requires an 'Energy Statement', to show how the proposal will achieve certain levels of heating and energy consumption.
20. The appellants are seeking to live and work sustainably from the site, proposing to retain low impact timber buildings with materials being re-used as well as the use of a compost toilet, solar panels for energy and a bore hole for water. However, as already set out, I do not consider the development to be well related or adjoining a settlement, the site is not an existing farm, and the location has not been justified in terms of the activity being undertaken. Also, no technical reports, such as a carbon statement, biodiversity action plan, travel plan or an energy statement have been submitted. Based on the location and evidence before me, the proposals for Appeal A and Appeal B are contrary to the requirements of Policy AL1 and criterion 2b) of Policy SEC1 of the Climate DPD.
21. Policy 5 permits new employment land in the countryside and smaller rural settlements if they are of a scale appropriate to its location, or if they demonstrate an overriding locational and business need to be in that location. Policy 15 of the St Agnes NP reinforces this by setting out that applications for new employment workspace will be supported where the scale and nature of development is appropriate in size and character to the immediate surroundings and does not adversely affect neighbour's living conditions. Also proposals will be favoured where they have good vehicular access and minimal impact on the landscape.
22. I note that the appellants jointly own the land and have customers nearby in Mount Hawke. However, no overriding locational and business need has been outlined in the evidence before me for Appeal A or Appeal B. The appellants indicate that the workshops for each appeal are small, and therefore are appropriate to their location, complying with Policy 5 of the Local Plan and Policy 15 of the St Agnes NP.

23. While this could be the case, I have not been provided with any objective assessment of the scale of the buildings and why it is appropriate for their location. As such, there is limited evidence with either Appeal A or Appeal B to demonstrate that the scale of the workspace is appropriate for its location. The amount of floorspace proposed is also made larger by the living accommodation in the separate building. While it is not strictly employment workspace, it does form part of the mixed use of the development. As there is no clear reasoning behind the residential floorspace being necessary to accommodate the commercial enterprise, the scale of the development would have to be considered too large for its location. Therefore, the proposals for Appeal A and Appeal B would conflict with Policy 5 of the Local Plan and Policy 15 of the St Agnes NP.
24. I recognise that the site would have a similar level of accessibility to Mount Hawke as those properties nearby, such as Bramwell Barn and the adjoining Gypsy and Traveller sites. However, Policy C1 of the Climate DPD requires proposals to maximise the ability to make trips by public transport, sustainable and active modes of transport through careful design and mix of uses that actively support walking and cycling rather than car use for day to day living. This is reinforced by Policy T1 of the Climate DPD, which requires development to be located in order to minimise the need to travel and support a modal hierarchy which prioritises more sustainable modes of transport over the private car.
25. The site is within a reasonable walking distance, approximately 500 to 600m, to the edge of Mount Hawke as well as a bus stop near to Gover Road. The bus stop near to Gover Road has no bus shelter and I have limited information on the frequency of the service provided. St Agnes NP indicates that there is a primary school, shops, a public house and doctors' surgery in Mount Hawke. The nearest principal village settlement is St Agnes, approximately 3km to the north, which has greater level of services and facilities to serve the occupants but is also accessed along connecting roads with limited footways and lighting.
26. It is physically possible to access Mount Hawke from the sites on foot or via bicycle. However, due to the distance that would have to be travelled, coupled with the limited walkways, lighting and public transport options, occupants are likely to travel by private car to access services and facilities in Mount Hawke and then further afield in St. Agnes or other larger settlements. This is the least sustainable option and would be exacerbated for more vulnerable occupants with mobility issues.
27. I recognise that the appellants for Appeal A and Appeal B are operating businesses from the same location as they reside, reducing their need to travel between work and home. However, the nature of the businesses described means customers visit the appellants' workshops to discuss projects (in respect of Appeal A) or bring bicycles to be fixed (in respect of Appeal B). Furthermore, bicycles would have to be picked up or delivered to the customer and both appellants visit customers in Mount Hawke and further afield to carry out their services as a carpenter/joiner or plumber. In light of this, it has not been adequately demonstrated that the live and work element of the proposal would significantly reduce the appellants need to travel by car on a regular basis to access customers, shops, services and facilities in the nearby settlements.
28. I have had regard to the nearby Mount Hawke indoor Skate Park, which does offer additional services beyond skating, such as a community studio, a music studio and a cafe. However, considering its primary function as an indoor skate

park, and the limited nature of the additional facilities provided, it would not provide sufficient facilities and services to sustain the everyday needs of future occupants in the nearby site. The developments and the occupants may support shops and services in the nearby locations in line with paragraph 83 and 89 of the Framework. However, the proposals are of such a small scale that support to services in adjoining rural areas would be limited and there is no opportunity to improve the accessibility of the site.

29. The appellant has highlighted examples of other live/work schemes that were granted permission at appeal or as part of a planning application. I have been provided with plans, relevant Officer Delegated Reports and Appeal Decisions in respect of these sites, but I do not have all the information that would have been available to the decision maker.
30. Without all the information, it is difficult to fully compare these decisions with the developments proposed as part of the appeals. Nonetheless, from the information provided, the Inspector in the 2022 appeal² considered the scheme to be an existing business with an affinity to the countryside. The Polstraul appeal determined in 2020³ and the Homer Park appeal in 2018⁴ were considered as closely adjoining a village settlement and rounding off of a settlement respectively. The Council approval at Trelights⁵ supported an existing rural business, and the Wadebridge application⁶ supported a tourism use that was encouraged by the neighbourhood plan for the area. I accept the cases have some similarities, but for these reasons they are not directly comparable. Consequently, I have given them limited weight in my decision.
31. Accordingly, the developments lead to the creation of residential and employment uses in an inappropriate and inaccessible location, in conflict with the spatial strategy for the location of housing and employment land established in the Local Plan, St Agnes NP and Climate DPD. Despite the general support for live/work units set out in Policy 2 of the Local Plan, the proposals would ultimately conflict with the overall aims and objectives of the spatial strategy for development indicated in Policies 1, 2, 3, 5 and 7 of the Local Plan, Policies C1, SEC1 and AL1 of the Climate DPD and Policies 1, 10 and 15 of the St Agnes NP. These policies, amongst other matters, seek to direct new development to settlements and accessible locations, and only permit certain types of housing and employment development within the countryside. These policies are generally consistent with the housing and employment policies set out within the Framework.

Character and Appearance

32. The character assessments provided with the appeal show the site to be in the Cornwall and Isles of Scilly Landscape Character Study area of Redruth, Cambourne and Gwennap (LCA) and the Elevated Upland/Plateau Exposed Land of the St Agnes Local Landscape Character Assessment (LLCA). The LCA and LLCA, amongst other things, indicate that the area is largely pastoral land, which has been affected by the historic tin and copper mining of the past. Woodlands occur in semi natural form in the valley floors and historical buildings are primarily made of stone with slate roofs. Modern-day developments are both single and two-storey buildings, finished in brick and render.

² Appeal reference APP/D0840/W/21/3283040

³ Appeal reference APP/D0840/W/19/3242533

⁴ Appeal reference APP/D0840/W/18/3207407

⁵ Council reference PA20/05111

⁶ Council reference PA20/11239

33. As indicated previously, the sites relate to a clearing in an area surrounded by semi natural woodland. The plot has been subdivided by a low boundary fence resulting in two separate plots, side by side, with a shared parking/turning area in between. It lies adjacent to an existing private lane to the south, which provides access to the site as well as the skatepark, a converted stone barn, and Gypsy and Traveller plots.
34. The separation distance and woodland setting means the site is distinct from development in the village of Mount Hawke. Despite the existence of the neighbouring developments, there is no pattern of development to the built form in the immediate locality. However, the neighbouring stone barn along with the surrounding semi natural woodland and pastoral land is characteristic of the landscape character described, and positively contributes to it.
35. The construction method and timber materials of the development result in the buildings appearing more transient or temporary in character. As such, the developments would be at odds with typical permanent residential dwellings and employment buildings. However, the small scale and single storey height is not dissimilar to the scale and height of the neighbouring stone building or the transient character and appearance of structures and buildings on the neighbouring Gypsy & Traveller sites. The buildings are also of a height and location that means that they are not prominent from public vantage points outside the site.
36. Consequently, in terms of their visual impact, the development is not significantly out of scale or character with the built form in the immediate area and would be limited to localised views from within the site and along the shared private road. Nonetheless, without the buildings, fences, and parking areas the site would have a largely undeveloped appearance within a predominantly natural wooded area. The fact that the buildings are not large in scale or unduly visible from wider areas is not a good reason to allow unjustified development in rural locations. The erection of the buildings and domestication of the plots is at odds with the semi natural woodland character and appearance of the site.
37. Accordingly, the development has an adverse impact on the character and appearance of the area, contrary to the aims and objectives of Policies 12 and 23 of the Local Plan and Policy 10 of the St Agnes NP. The development should have appropriate regard to the identity of the local surroundings and not detract from or have an adverse impact on the landscape character of the area identified in the LCA and LLCA. The proposal would also not comply with the provisions of the Framework, which does seek to support a strong rural economy, but through the conversion of existing buildings or well-designed new buildings. The Framework also seeks to secure high quality design and development that is sympathetic to local character.

Other Matters

38. I note that there is a housing crisis, and the Council has initiated a plan to address the issues with housing. The appellant has provided Cornwall Council 'Committee Papers 10/01/2023 – Responding to housing Crisis: 1 Year On' with the submissions with Appeal B. Amongst other things, it sets out issues associated with high rents, homelessness, and lack of affordable housing for local residents in Cornwall. However, the matters put forward to address the housing crisis are directed at increasing the supply and delivery of affordable, low cost or

temporary homes, which is not in line with the scheme put forward in this appeal. As such, I attribute limited weight to this in my determination.

39. I recognise that by dismissing these appeals, the appellants and the appellant's son (with respect of Appeal B) will not be able to use this land and the buildings for residential and employment use. In this regard, I have considered Protocol 1, Article 1 of the European Convention on Human Rights, as enshrined in the Human Rights Act (1998), which refers to the peaceful enjoyment of property. Dismissing the appeals would interfere with the appellants' rights under Article 1. However, having regard to the legitimate and well-established planning policy aim to ensure that development is appropriately located, and the countryside is protected, I conclude that the personal matters do not outweigh the harm that would be caused by the proposal in respect of my conclusions on the main issues. It would not unacceptably violate the rights of the appellants under Article 1, as the protection of the public interest cannot be achieved by means that are less interfering of the appellant's rights.
40. Several representations have been submitted outlining support in the local area. This includes, amongst other things, support for the businesses, which help the local economy, and suggest the buildings have a minimal environmental impact as well as help with the affordability issues with housing in the area. Although, I have had regard to these representations, these matters do not outweigh my conclusions on the main issues.

Planning Balance and Conclusion

41. The contribution that the new dwellings from Appeal A and Appeal B could make to the local housing stock is a benefit. I also note that there would be social and economic benefits from the additional expenditure in the local economy, as well as the retention and operation of the businesses in the locality. There would be personal benefits to the appellants and their families from living and working from the appeal site. The appellants use of sustainable materials and renewable energy helps reduce energy consumption and the introduction of some plants and trees on the site would provide some biodiversity uplift.
42. However, given the scale of the proposals, the individual and cumulative benefits set out above are limited for both Appeal A and Appeal B. These benefits do not outweigh the significant harm I have identified above in respect of the conflict with the spatial strategy of the Local Plan, St. Agnes Neighbourhood Plan and Climate DPD as well as the harm to the character and appearance of the area.
43. For this reason, the appeals in respect of Appeal A and Appeal B would conflict with the development plan when considered as a whole. There are no material considerations, individually or cumulatively, worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeals should therefore be dismissed.

M. P. Howell

INSPECTOR