



Appeal Decision

Site visit made on 12 February 2024

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/D0840/W/23/3327778

Land to the north of Creaz-An-Bre, Foxhole, Cornwall PL26 7SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Charlie Cole against the decision of Cornwall Council.
 - The application Ref PA22/08880, dated 30 August 2022, was refused by notice dated 17 February 2023.
 - The development proposed is an application for permission in principle for the proposed construction of four dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (the Guidance) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or 'permission in principle' stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development. All other matters are considered as part of a subsequent technical details consent application, if permission in principle is granted.
4. The Guidance explains that, in summary, that a decision on whether to grant permission in principle to a site following a valid application must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework (the Framework) and national guidance, which indicate otherwise.
5. The application form specifies the maximum number of dwellings proposed is four and the minimum as four. In effect, four dwellings are proposed and I have considered the proposal accordingly.

Main Issues

6. The main issues in this case are:
 - whether or not the development plan would support the development in this location, and

- the effect of the proposed location, land use and the amount of development on the character and appearance of the area.

Reasons

Location

7. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) sets out the strategic approach for the location of development across the plan area, based on the role and function of places. Housing development is to be focused at the main towns. Outside these areas, in summary, housing is to be delivered through rounding off of settlements and development of previously developed land within or immediately adjoining that settlement, infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside, rural exception sites, and the identification of sites through neighbourhood plans.
8. The Chief Planning Officer's Advice Note: Infill/Rounding Off (December 2017) (the Advice Note) provides additional advice on the interpretation of Policy 3 of the Local Plan and I attribute it substantial weight.
9. The submissions confirm that the application seeks permission in principle for four Class C3¹ dwellinghouses and permission is not sought for affordable homes and/or care homes under Class C2. At this stage, the background details explain that two units would be self-build houses for the appellant's sons and the other two units would be designed for a local and well-established registered care home provider specialising in housing for adults with specialist needs.
10. These types of housing would help to address a local need both for self-build units and specialist housing for adults. These are sectors of the housing market that would be worthwhile to deliver and, in particular, would have Framework support. However, at this permission in principle stage, it is not possible to attach planning conditions to any approval or secure any planning agreement to ensure appropriate restrictions on occupation or the type of build. I am also conscious that the development has been advanced as a rounding off scheme under Policy 3 of the Local Plan which would allow open market housing and that the housing is not argued or sought for as affordable housing
11. For completeness, the appeal site is not advanced as a rural exception site, has not been identified for development in a neighbourhood plan, is not previously developed land and would not fill a small gap in an otherwise continuous built frontage. These allowances, as detailed in Policy 3 of the Local Plan for development outside a settlement, would not be met in this case.
12. In terms of whether or not the scheme can be considered to meet with the requirements for rounding off, it is important to assess the relationship of the site to its surroundings.
13. In this case, the appeal site is an undeveloped grass field abutting the built form of Foxhole. On its western side, the properties in Chegwyns Hill are cut into the slope of the hillside and face the road with mainly only their roofs apparent from the appeal site. This row of buildings has a limited influence on

¹ of the Town and Country Planning (Use Classes) Order 1987 (as amended)

the adjoining field and visually there is a clear separation between the built form and the open countryside along this boundary.

14. On the southern side, there is no substantial physical barrier between the appeal paddock and the end of Creaz-An-Bre. However, in visual terms there is a distinct difference in character and a clear division on the ground between the edge of the built development and the field. The group of buildings further up the slope, beyond the south east corner of the appeal site, are very apparent in their elevated position but only enclose a modest section of this eastern boundary and the predominant character of this eastern boundary of the appeal site is the hedge with the open land beyond. The appeal site adjoins with similar fields and paddocks, on the other side of the public footpath, further along the hillside to the north.
15. In the light of this analysis and my site visit, I consider that the appeal site is located outside the settlement area and visually has a greater affinity with the wider surrounding paddocks and other fields on this rising hillside than with the adjoining built form. It effectively merges with the other fields and paddocks along this slope of the hillside and the site does not have the appearance in the landscape that it is substantially enclosed by development.
16. While it would be practical to continue the cul-de-sac of Creaz-An-Bre into the adjoining field to accommodate the appeal proposal, the footpath and modest hedgebank at the northern end of the site would not provide a physical feature that would act as a barrier to further growth. Indeed, it would potentially lead to the adjoining field being considered in the same way as the present appeal site. The Advice Note explains that development resulting in the creation of a further site for rounding off is unlikely to be rounding off in itself.
17. The appeal site would be bordered on two complete sides by development and partially on a third, nevertheless, the proposal would not provide a symmetry or completion to the settlement boundary in this location and it would appear as incremental growth along this section of the hillside. In the circumstances of this site and its surroundings, the construction of dwellings on this land would give the impression of visually extending development into open countryside.
18. It is accepted that the development, with four dwellings, would be of a scale appropriate to the size and role of Foxhole and would immediately adjoin it. However, the proposal would not accord with the approach to rounding off in Policy 3 of the Local Plan, when applying the requirements for an appropriate scheme in the Advice Note and the supporting text in the Local Plan.
19. In these circumstances, I conclude that the development plan would not support the proposed housing in this location, in particular, because it would not meet with the requirements of a rounding off scheme in terms of Policy 3 of the Local Plan. Accordingly, the proposal would conflict with Policies 1, 2, 3 and 21 of the Local Plan which, amongst other things, sets the locational approach to the distribution of housing across the plan area.
20. Additionally in support of the scheme, attention has been drawn to the draft St Stephen in Brannel Parish Neighbourhood Development Plan 2023-2030 (Submission Draft July 2023) (the draft NDP). The information is that the draft NDP has been submitted to Cornwall Council but is yet to progress to an independent examination, and is not at a stage when a referendum could be

arranged. Consequently, given the stage of plan preparation, I consider the draft NDP should afford limited weight.

21. Nevertheless, in terms of the detail, the draft NDP proposes a settlement boundary for Foxhole and the appeal site is located outside but immediately adjoining that boundary. Policy H2 of the draft NDP explains that, outside the Development Boundaries, development proposals will not be supported unless in accordance with Policies 3, 7, 9 or 21 of the Local Plan. For the reasons explained, on this greenfield site, the proposal would not accord with these specified policies in the Local Plan.
22. There is also an additional provision in Policy H2 of the draft NDP which can allow development outside a Development Boundary when it would be a small scale infill within established hamlets and small groups of dwellings that complies with Policy H6 of the draft NDP. The scheme would not be located within an established hamlet and small group of dwellings so as to comply with this element of the policy.
23. Furthermore, when looking at Policy H6 of the draft NDP, which concerns community led housing, there is some allowance for development outside a Development Boundary and this policy includes self-build housing. However, self-build housing could be allowed, on the assumption that it falls within the general category of community led housing, where it would be part of an affordable housing mix on a rural exception site. In this case, the intended self-build element of the appeal scheme is not part of any affordable housing mix and, therefore, the scheme cannot benefit from Policy H6 of the draft NDP.
24. The case is also made that the housing would meet with Policy H7 of the draft NDP concerning housing for older people (or those with a particular specialist housing need). However, Policy H7 is not listed as a type of housing option under Policy H2 of the draft NDP, which sets the allowances for the types of new housing outside the Development Boundary. In terms of the details of the policy when applying the criteria under Part 1, the scheme would not be affordable housing need led, it would not appear to be clear that the scheme would release housing elsewhere because of the nature of the prospective occupants, and would not be located *in* (my emphasis added) a sustainable and well connected settlement, but adjoining it.
25. In terms of Part 2 of Policy H7 of the draft NDP, as only two of the units would have a care element, the scheme as a whole would not meet with this part of the policy regarding Extra Care Units. Furthermore, while the location of those two units may be well related to the physical form of the settlement, although not in character terms, it would not provide a level route of access to public transport, village amenities and facilities which is required to be policy compliant. The proposal in this location, therefore, would not benefit from the application of Policy H7 of the NDP.
26. I have taken into account that St Stephen in Brannel Parish Council support the development. Nevertheless, for the reasons explained, the scheme would not accord with the draft NDP policy approach for the type of housing development which can be acceptable outside the Development Boundary.

Character and appearance

27. From sections of the public footpath, which adjoins the northern boundary of the site, it is possible to look out over Foxhole where much of the built form is generally on the lower land. The appeal site is one of a number of paddocks and fields on this hillside bordering and overlooking the settlement and which contributes to its setting.
28. Notwithstanding the details that could be submitted at the technical details consent stage, and even with extensive structural planting and well-designed dwellings, the scheme would, with the provision of dwellings and the related domestic paraphernalia, change the open undeveloped character of the field to a built form. While the residential development on the eastern side of Creaz-An-Bre has extended up the slope, and there is also the grouping of buildings on higher land to the south east of the appeal site, the development of the appeal field would further consolidate the built form along this part of the hillside and be experienced as an incursion of development up the slope. It would be overly prominent within the landscape and would unduly and harmfully erode its present contribution as an open and green space that forms part of the surroundings to the settlement.
29. It follows that the scheme would not accord with the Framework requirement that development should be sympathetic to local character, including the surrounding built environment and landscape setting.
30. Furthermore, the draft NDP identifies, on the proposals map, part of the site and some of the surrounding fields as an Open Area of Local Significance (OALS). Policy D5 of the draft NDP explains that development in OALSs under Policies 7 and 9 of the Local Plan will only be supported where it is located and designed to maintain the OALS's visual separation, openness and landscape character. The draft policy sets a series of requirements, including locating structures where they will be viewed against the existing built form. In this case, the scheme would not be the type of development that would meet with the requirements of Policies 7 or 9 of the Local Plan and, furthermore, with its position on the hillside, the development would, from views from parts of the surroundings, be seen against a backdrop of the rising hillside rather than the existing built form.
31. I understand the limited weight that should be attached to the policies of the draft NDP and this matter is clearly not determinative in this appeal. Nevertheless, the draft designation of part of the site as OALS, and the supporting text, reinforce my views on the valuable contribution that the site makes to the character and appearance of the area. As I have explained, I am not satisfied that details at the technical details consent stage would be able to address the harm to the character and appearance of the area that residential development across this field would cause. For these reasons, the scheme would not garner support from the draft NDP.
32. In the light of the above analysis, I conclude that the proposed location, land use and the amount of development, notwithstanding the details that could be submitted at the technical details consent stage, would likely unduly harm the character and appearance of the area. As a consequence, the scheme would conflict with Policies 2, 12 and 23 of the Local Plan which, notably, requires that proposals should maintain and respect the special character of Cornwall, recognising that all urban and rural landscapes are important.

Planning Balance and Conclusion

33. The site for the proposed development would conflict with the approach to the location of housing as set out in Policy 3 of the Local Plan and, thereby, would not accord with the spatial strategy for the distribution of development. Additionally, the proposed location, land use and amount of development, based on my assessment and notwithstanding details that could be submitted at the technical details consent stage, would unduly harm the character and appearance of the area. The weight to be attached to these harms is substantial and they are such that the scheme would conflict with the development plan when considered as a whole.
34. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise².
35. In terms of the benefits of the scheme there would be a boost to housing supply and this would be in the circumstances where the Council has declared a housing crisis in Cornwall and published the Cornwall Housing Strategy to 2030. The housing would be delivered on a windfall site and could be delivered by a small builder adding to the overall mix and offer of housing in the area. There would be economic and social benefits to the area during construction and in subsequent occupation. The housing would be delivered in a location, where future occupants, if they were able to manage the slopes to and from the elevated position of the site, would have good access to local services and facilities by foot and the nearby bus stops would allow sustainable travel to larger settlements.
36. An appreciable increase in biodiversity net gain could be achieved on the site compared with the biodiversity present across this section of grazing land. The new housing could be designed to provide high levels of sustainability in both design and operation to minimise carbon use. With the likely size of garden space available the scheme could provide accommodation for occupants that would provide high quality living conditions.
37. The details supporting this permission in principle application indicate a willingness for two units to be self-build for the appellant's sons and the other two units for assisted living. This could potentially be secured at the technical details consent stage by way of conditions and/or a planning agreement. If this was the case, this would be a planning benefit of the scheme over and above the provision of four dwellings themselves.
38. However, I am also conscious that the scheme is advanced at this stage as a rounding off scheme compliant with Policy 3 of the Local Plan and, if agreed, that would allow open market housing. Any agreement at the permission in principle stage would run with the land. While the intentions of the present owners are understood, with the inability to attach conditions or secure any planning agreements at this first stage, I attach moderate weight to the benefits of the proposed self-build and assisted living units.
39. Nevertheless, the scheme would deliver worthwhile benefits. However, as only four units of accommodation would be provided, and in a Council area that can

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

demonstrate a Framework compliant supply and delivery of housing, I attribute the combined benefits moderate weight in favour of approval.

40. I have concluded above that the harms and related policy conflicts should afford substantial weight against the proposal, and that the scheme would conflict with the development plan when considered as a whole. This harm and policy conflict would, therefore, outweigh the identified benefits of the development which I attribute moderate weight.
41. For the reasons given above, there are no material considerations of such weight that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed. This would be a proportionate outcome of the appeal when taking into account all of the matters in support of the proposal, including the personal circumstances of those in need of housing.

David Wyborn

INSPECTOR