



Appeal Decision

Site visit made on 20 February 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2024

Appeal Ref: APP/D0840/W/23/3320137

Mount Hope, Old Carnon Hill, Carnon Downs, Cornwall TR3 6LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr N Hewitt-Boorman against the decision of Cornwall Council.
 - The application Ref is PA22/06771.
 - The development proposed is residential development for 3 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with only details of access to be determined at this stage. Matters of appearance, landscaping, layout and scale are reserved for future consideration (the 'reserved matters'). I have therefore treated any references to reserved matters in documentation as illustrative.
3. I have taken the description of development in the banner heading above from the application form. However as '*Outline planning permission for*' and '*with all matters reserved , except access*' are not an act of development, I have removed these elements.
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to comment on the implications of this change and no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

5. The main issues are:
 - whether the appeal site would provide a suitable location for housing, having regard to the local development strategy and the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on highway safety.

Reasons

Location

6. The Council's spatial strategy is provided within Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) which seeks to maintain the dispersed development pattern of Cornwall, and to provide housing based on the role and function of each place.

7. LP Policy 3 sets out a hierarchical strategy for the delivery of new housing. Carnon Downs is not a location named within LP Policy 3(1). However, LP Policy 3(3) provides criteria for housing growth outside the larger named towns. This criterion includes rounding off of settlements and infill schemes.
8. the Feock Neighbourhood Development Plan 2017-2030 (NP) also forms part of the development plan and sets out housing policies and identifies settlement boundaries. NP Policy H1 sets out the approach to small scale infill and rounding off housing development and is permissive of schemes 'within' settlement boundaries, subject to certain criteria. The appeal site is located outside of the defined settlement boundary, although is adjacent to modern residential built form and therefore this Policy is not supportive of the proposal.
9. The appellant argues that the NP policies setting out the settlement boundary are out of date. However, the NP policy approach to housing development, including a settlement boundary, is not inconsistent with the Framework, and policies within the LP which form the basis for the NP approach have not changed. Furthermore, whilst recent development has taken place, its effect on a proposal is able to be considered in the application of the development plan policies, as a whole. Moreover, the Planning Practice Guidance¹ advises that neighbourhood plan policies remain in force until the plan policy is replaced and there is no requirement to review or update a neighbourhood plan. As such, I find that the NP policies setting out the settlement boundary are not out of date.
10. Whilst outside the settlement boundary, LP Policy 3 specifically refers to rounding off on land '*immediately adjoining*' the settlement as well as infill schemes that do not physically extend the settlement into the open countryside. LP Paragraph 1.68 defines rounding off as '*development on land that is substantially enclosed, but outside of the urban form of a settlement, and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). It should not visually extend building into the open countryside*'.
11. The Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (CPOAN) does not form part of the statutory development plan and is to be regarded as informal guidance. However, it does provide some clarity on the locally adopted approach in relation to matters such as rounding off, infilling and PDL. The CPOAN indicates that '*Rounding off provides a symmetry or completion to a settlement boundary*' and '*suitable sites for rounding off must be contained within long standing boundary features (such as a road or Cornish Hedge) and are likely to be surrounded on at least two sides by existing built development*'. The CPOAN continues that '*a judgement will be required on a case by case basis whether a site has the appearance of being within the physical boundaries of that settlement*'.
12. I observed the recent residential development² of two dwellings adjacent the appeal site has resulted in continuous residential development from Old Carnon Hill and along the byway to the appeal site. Therefore, when experiencing the settlement on the ground, and notwithstanding being outside the designated settlement boundary, the site can be considered adjacent the urban form of the settlement. Moreover, the appeal site is substantially enclosed by Cornish

¹ Paragraph: 084 Reference ID: 41-084-20190509

² PA/18/09338 / PA19/06412

hedge boundaries, a byway, the North Grange Industrial Estate (Industrial Estate) and residential development.

13. Notwithstanding, other factors must also be considered in assessing whether a proposal constitutes rounding off or infill schemes, including whether the proposal would visually extend development into the open countryside. In this regard, LP para 2.33 states that '*open countryside is defined as the area outside of the physical boundaries of existing settlements*'. The CPOAN also adds that open countryside is part of an expansive area before the next settlement, although notes that the countryside may include areas containing groups of dwellings.
14. The site is within Cornwall Character Area CCA15: Carnon Valley (CCA). The CCA describes the area as a post-medieval mixed farming landscape, with smaller, more sinuous fields of mainly pasture found within sheltered valleys and fingers of woodland creep along tributary stream valleys. When accessing the byway from Old Carnon Hill, residential development is evident, although the narrow and unsurfaced byway, together with surrounding vegetation provide a more semi-rural character than the more urban character found at Old Carnon Hill.
15. This balance between urban and rural character further changes along the byway, with a distinct change to more rural surroundings and character when the appeal site is reached. There is disagreement between the main parties as to the lawful use of the appeal site as previously developed land and I note reference to an appeal decision³ and statutory declarations within the planning submission. Within the context of an appeal under section 78 of the Town and Country Planning Act 1990, it is not within my remit to formally determine the lawful use of land. If a person wishes to ascertain whether an existing use is or would be lawful, the correct approach is for an application to be made under section 191 or 192 of the Act for a certificate of lawful use.
16. Nevertheless, I observed the appeal site (which has the appearance of a small field) and the surrounding area outside the adjacent built form display some of the key landscape characteristics of the CCA. These include the pastoral landscape of improved and rough grazing, strong field patterns enclosing small-medium scale fields and narrow lanes and with trees occurring in hedges. Although the site is enclosed, it's verdant and rural quality is distinct from the adjoining built form of the settlement and positively contributes to the rural character of the immediate area.
17. I therefore find that the appeal site has a greater affinity with adjoining fields and open countryside, than with the urban form of Carnon Downs. Moreover, even if, due to its size, the appeal site itself cannot be described as 'expansive', it is part of the expansive surrounding countryside landscape, adjacent but outside of the urban form of the settlement. In accordance with LP paragraph 2.33, the appeal site can be defined as open countryside.
18. In coming to this view, I have had regard to the adjacent Industrial Estate and further sporadic built form to the west. I observed the Industrial Estate is accessed from a highway to the west of Carnon Downs, and from this approach, is not visually associated with the settlement, and is seen as part of sporadic development within the countryside. Moreover, when travelling along

³ APP/D0840/W/19/324527

the byway from an easterly direction, users of the byway are not immediately aware of the Industrial Estate until in close proximity. Again, from this direction, the Industrial Estate as well as other development further west along the byway, are seen as development in the countryside divorced from the physical boundaries of the settlement.

19. Despite level differences with the byway, the proposal would be visible from views along the byway, particularly through the access and in the winter months when there is less foliage. Irrespective of the detailed design and whether the final proposal would be single or two storeys, built form would be evident and would inevitably extend development away from the settlement, being emphasised by a resulting visual coalescence with the adjacent Industrial Estate. Notwithstanding any potential landscaping scheme, residential development and an accompanying noticeable change in character would be apparent from users of the byway.
20. It would therefore result in a visual extension of the settlement into countryside and harmfully diminish a rural green gap which is an important part of maintaining the strong rural character surrounding Carnon Downs. As such I cannot agree that the proposal would result in either rounding off or be an infill scheme that does not physically extend the settlement into the open countryside.
21. Another appeal decision⁴ and planning permission⁵ are cited by the appellant. However, whilst the full details of the other cases are not before me, these concern differing sites to the appeal proposal. The Inspector in the appeal decision considered that particular site did not read as being in or forming part of the open countryside. Furthermore, the Inspector found that the site did not provide a rural or important green buffer. The planning permission also related to a differing site with materially differing spatial relationships with the surrounding area. This limits the equivalence of the other case to the current proposal. Moreover, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.
22. Consequently, I conclude that the appeal site would not provide a suitable location for housing, having regard to the local development strategy and would have a harmful effect on the character and appearance of the area. There would be conflict with LP Policies 1, 2, 3, 7, 9, 12, 21, 23 and 27 and NP Policy H1. These policies seek, amongst other things, to take a hierarchical approach to direct development based on the role and function of places while ensuring development does not harm the character of the countryside. Furthermore, the proposal would also be contrary with the provisions of the Framework in relation to ensuring development is sympathetic to local character, landscape setting and conserving and enhancing the natural and local environment.

Highway safety

23. Although an outline application, details of access have been provided and is to be determined at this stage. The appeal site is accessed, as is the case for the adjacent dwellings, via sections of byway. The proposal would result in an increase in vehicular movements along the byways.

⁴ APP/D0840/W/21/3275410

⁵ PA19/09158

24. The main parties have drawn my attention to an appeal decision⁶ relating to a nearby site, which also sought to utilise the sections of byways for access. Although that proposal related to 5 dwellings and the access onto the byway would be in a differing location, the Inspector concluded that the proposal could satisfactorily use the byway surface itself and the associated vehicles would not cause unacceptable harm and conflict with other users. Furthermore, the Inspector found that the increased use of the junction of the byway with Old Carnon Hill would not cause an unacceptable impact on highway safety.
25. I observed the visibility and road conditions at the junction with Old Carnon Hill, the condition of the byway, width and areas of refuge, potential passing areas and that the character of the byway significantly reduces vehicle speeds. Given the likely movements associated with 3 dwellings, I see no reason to disagree with the findings of the other Inspector in these regards and conclude that increased use of the byway and the associated vehicles would not cause unacceptable harm and conflict with other users.
26. However, although not specifically detailed within the Council's reason for refusal, the Council's Officer Report, and Appeal Statement raises concerns in relation to an increase in use of the junction of the 305/1/5 byway and the A39 dual Carriageway. The proposed access arrangement would utilise the existing field access to the south-eastern corner of the appeal site, although it would be reprofiled to discourage access and egress from a westerly direction.
27. Such an access design would reduce the use of a section of byway 305/1/3 directly to the west of the site, as well as byway 305/1/2 and its associated junction onto the A39. Nevertheless, it has not been demonstrated within the evidence that future vehicular movements associated with the proposal would not egress the site and utilise byway 305/1/2 and its junction with the A39. Indeed, I found that such a route would be a more direct route for travel towards Truro and beyond, as opposed to travelling along Old Carnon Hill.
28. I observed this junction meets the A39 at a point within a 50 miles per hour speed limit. At the time of my visit, the A39 was relatively busy, and it appeared that vehicles were travelling at speeds approaching the speed limit, often utilising both lanes in the carriageway. A combination of the visibility of approaching traffic being reduced due to the curvature of the road and the boundary treatment, sloping topography of the A39, speed of vehicles on the A39 and the requirement to accelerate from a slow speed, results in great care having to be taken when utilising the junction.
29. The proposal is likely to result in a material increase in use of the junction. Given the character of the A39 and junction at this location, an increase in use is likely to lead to an adverse effect on highway safety. Indeed, I note the Inspector of the nearby proposal, albeit in relation to a greater number of dwellings, also came to similar conclusions.
30. Therefore, I conclude that whilst I find that the increased use of the byway network would not cause unacceptable harm and conflict with other users, increase use of the junction of byway 305/1/5 and the A39 will have a harmful effect on highway safety. The proposal would conflict with LP Policies 16 and 27 and NP Policy H1 which, amongst other things seek to ensure people are protected from unsafe environments and provide safe and suitable access. The

⁶ APP/D0840/W/22/3295228

proposal would also conflict with the Framework which also requires safe and suitable access to be achieved.

Other Matters

31. I acknowledge the findings of Securing Homes for All: A Plan to respond to Cornwall's Housing Crisis and the contribution that small windfall sites can make to housing supply. The proposal would provide benefits in terms of the contribution of up to three dwellings towards housing supply on a site close to services and facilities. The proposal would also provide some employment opportunities during the construction phase and future occupiers would provide further economic and social benefits in terms of future spend within local businesses and use of local services and facilities.
32. Notwithstanding, and noting the Council are able to demonstrate a Framework compliant supply of housing land, the benefits of the proposed scheme would be limited given the scope and scale of the development. Such matters therefore neither individually nor in combination outweigh the identified harm and the associated development plan conflict described above.
33. The appeal site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC). The appellant has made a financial contribution to the Council towards mitigation of the recreational impact of the proposal on the SAC. If the circumstances leading to the granting of planning permission had been present, I would have considered the impact of the proposal upon the SAC, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the main issues above, I have not found it necessary to consider such matters any further as this would not alter the outcome of the appeal.

Conclusion

34. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR