



Appeal Decision

Site visit made on 24 April 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2024

Appeal Ref: APP/D0840/W/23/3332955

Zoar Cottage, Passage Hill, Mylor Bridge, Falmouth TR11 5SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr W Wells against the decision of Cornwall Council.
 - The application Ref is PA23/01742.
 - The development proposed is the construction of two dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 1 and a maximum of 2 dwellings at Zoar Cottage, Passage Hill, Mylor Bridge, Falmouth TR11 5SN in accordance with the terms of the application, Ref PA23/01742.

Applications for costs

2. An application for an award of costs was made by Mr W Wells against Cornwall Council. This application will be the subject of a separate decision.

Preliminary Matters

3. The proposal is for permission in principle. Planning Practice Guidance (PPG) 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.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

Reasons

6. The appeal site is located just outside of the settlement of Mylor Bridge. Policy 3 (part 3) of the Cornwall Local Plan Strategic Policies 2010 – 2030 (LP) sets out that the development of previously developed land (PDL) will be permitted where it immediately adjoins a settlement and where the scale of housing is appropriate to the settlement's size and role.
7. A Certificate of Lawfulness was issued by the Council in February 2023 which confirms that the whole site is residential land used incidental to the enjoyment of Zoar Cottage. As such, being a private garden space associated with a dwelling, outside of any defined settlement or built-up area, it is rightly regarded by both parties as PDL.
8. The settlement boundary for Mylor Bridge is identified within the Mylor Parish Neighbourhood Development Plan 2020 – 2030 (NDP). The boundary has been drawn immediately to the south of Zoar Cottage and so excludes the dwelling and the appeal site. Given that the site forms part of the curtilage of Zoar Cottage, it is appropriate to consider them as one contiguous parcel of land. In doing so, it is clear that the appeal site does immediately adjoin the identified settlement boundary. In addition, the proposal is for two dwellings. Given the size of Mylor Bridge as a village, and the various services and facilities that it contains, I am satisfied that the scale of the proposed development is appropriate. Furthermore, while Passage Hill does not have a pavement in the vicinity of the appeal site, the road is straight with good visibility and the centre of the village is only a few minutes' walk away. As such, I do not consider that the site can be regarded as being in an unsustainable location when judged against the adopted spatial strategy in the LP, and it is clear that the proposal is in conformity with Policy 3.
9. Policy H1 of the NDP sets out that housing will not be supported outside of the settlement boundary unless it is a replacement for an existing building, or is an affordable housing led scheme. I acknowledge that the proposed development does not accord with either of these criteria. However, the policy cannot represent an exhaustive list of all housing developments that are acceptable outside of the settlement boundary, because if that were the case, then Policy H1 would be in conflict with the strategic policies of the LP, contrary to footnote 16 of the National Planning Policy Framework. The existence of the NDP policy therefore cannot render the strategic policies of the LP as obsolete or out of date. Therefore, the development plan must be read as a whole, and the silence of the NDP policy on the issue of PDL does not lead me to identify any conflict with it.
10. I therefore conclude that the proposed development would be in conformity with LP Policy 3, and that there would be no conflict with NDP Policy H1. The development also conforms with LP Policies 1, 2, 7 and 21, which in part, seek to ensure that development is sustainably located and that it protects open countryside and makes best use of land.

Other Matters

11. In consideration of the suitability of the appeal site's location, the Council has identified harm in relation to the effect of the proposed development on the character and appearance of the area and the scenic beauty of the Cornwall South Coast Central National Landscape (formerly known as an Area of

Outstanding Natural Beauty). However, in my view, undertaking such an assessment goes beyond the very narrow parameters available to decision makers at the permission in principle stage.

12. The proposed development would extend the built form of the village. However, given that the appeal site is well related to existing linear development along Passage Hill, and that there appears to be sufficient scope for landscaping and planting, I cannot conclude at this stage that the mere principle of additional built form in this location would result in harm. While it might be the case that the proposed development would be unacceptable in this regard, the assessment of this issue should be left for the subsequent technical details consent (TDC) stage when information would be available on the size, scale and layout of the proposed development, including any mitigation measures that may be proposed, such as additional planting. It is only at the TDC stage that planning permission is either granted or refused.
13. However, while the consideration of detailed matters relating to character and appearance is premature, I am still required to determine the effect of the proposal on the setting of the signpost located at the crossroads of Passage Hill and Restranguet Hill, which is a Grade II listed heritage asset. In this instance, the small size of the signpost means that its significance is appreciated from very close range. While the appeal site is immediately opposite the signpost, the indicative plans submitted as part of the application show that there is potential for a landscape buffer between the proposed dwellings and the heritage asset. Were such a buffer to be included at TDC stage, the setting of the signpost would likely be preserved.
14. The Council's officer report notes that the site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC) which has been designated for its saltmarsh, intertidal mudflats and subtidal sandbanks, as well as its large shallow inlets and bays, estuaries and reefs. It is necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SAC.
15. The Cornwall European Sites Mitigation Supplementary Planning Document identifies an agreed mitigation strategy through funding for strategic access management and monitoring. The Council has confirmed that the required payment has been made by the appellant for this purpose. I am therefore satisfied that the contribution would sufficiently mitigate the level of harm likely to be caused by the development and would be pursuant to the Council's adopted strategy. I therefore find that the proposal would not result in an adverse effect on the integrity of the SAC.

Conditions

16. As set out within the PPG, it is not possible for conditions to be attached to a grant of permission in principle.

Conclusion

17. The proposed development is in accordance with the development plan when considered as a whole. Having had regard to all matters raised, I conclude that the appeal should be allowed.

C Butcher

INSPECTOR