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# Appeal Decision

Site visit made on 28 May 2024

**by C Rose BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 June 2024**

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**Appeal Ref: APP/D0840/W/23/3335610**

**Land east of Sandgate Lodge, Lowertown, Helston, Cornwall, TR13 0BU**

- 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 Mrs J Roberts against the decision of Cornwall Council.
  - The application Ref is PA23/05560.
  - The development proposed is Application for Permission in Principle for the construction of a maximum of 2 dwellings (minimum of 1 dwelling).
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. 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 2 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 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted<sup>1</sup>. All other matters, including the size of the dwellings, effect on living conditions, flood risk and drainage, any groundworks and construction impacts, highway and pedestrian safety, matters related to biodiversity and ecology, and the scale and appearance of the proposal, are considered as part of a subsequent Technical Details Consent (TDC) application if permission in principle is granted. I have therefore determined the appeal accordingly and have treated the Proposed Indicative Site Layout Plan<sup>2</sup> as indicative only.
4. The description of development in the banner heading above has been taken from the Council's decision notice and Appeal Form as it describes the development in more detail than that stated on the application form.
5. The appeal has been accompanied by a Unilateral Undertaking under Section 111 of the Local Government Act 1972 to mitigate the recreational impacts from future occupiers on the Fal and Helford Special Area of Conservation (SAC). This is a matter I will consider later.

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<sup>1</sup> PPG Paragraph: 012 Reference ID: 58-012-20180615

<sup>2</sup> Drawing No. 1721-102

## **Main Issue**

6. 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.

## **Reasons**

7. The appeal site is located to the southern side of Lowertown and comprises an undeveloped field lying between the residential dwellings of Constantia and Sandgate Lodge. The site fronts a public highway along its northern boundary behind planting that is common on such rural lanes. There are residential properties on the opposite side of the road following the predominately loose knit form of detached dwellings often set back from the highway, although the density and design of dwellings vary. The southern site boundary is defined by existing mature planting forming part of a wider woodland providing a buffer to Helston. The site slopes down significantly towards the road and there is a public right of way adjoining the western site boundary that has an enclosed planted rural feel and appearance providing pedestrian access to Helston and its related services and facilities.
8. Policies 2 and 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) set out a hierarchical strategy for development. Lowertown is not a location named within the settlement hierarchy of Policy 3(1) and therefore Policy 3(3) provides that, outside of the larger named settlements, housing growth is to be delivered through the identification of sites through Neighbourhood Plans (NP); rounding off of settlements and development of previously developed land (PDL); infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside; and rural exception sites for the provision of affordable housing. While I acknowledge that there is no dispute between the main parties that the site does not form part of the open countryside, the requirements of Policy 3 still apply.
9. In relation to the above, my attention has been drawn to a Chief Planning Officer's Advice Note: Infill Rounding Off (Advice Note). The Advice Note is not part of the adopted Development Plan, but it is used for development management purposes. The Advice Note provides some clarity on the locally adopted approach in relation to matters such as infill, rounding off of settlements and PDL, and as such I have had regard to it in the determination of this appeal.
10. Whilst Lowertown is roughly linear in form with a very limited range of services and facilities, it is located close to a wide range of services and facilities at Helston. As a result, I find that it is a 'settlement' for policy purposes and the main parties do not dispute this. Furthermore, from the evidence before me the site does not have planning permission, has not been identified for development through a NP, is not PDL, the proposal would be appropriate to the size and role of the settlement and is not for the provision of affordable housing. Therefore, I have assessed if the proposal can be considered to be rounding off of the settlement or infill development.
11. 'Rounding off' is defined in the Advice Note as providing a 'symmetry or completion to a settlement boundary'. The Advice Note states 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'. In this regard, the site is predominately enclosed by significant landscape features, including Cornish hedges with trees and a footpath. These features provide clear physical and visual delineation between the site and the built development of the settlement.

12. The site has the appearance of agricultural land by virtue of its considerable size, length of road frontage, verdant backdrop, access off a narrow lane and undeveloped grassed nature. These features are important in providing part of the verdant setting and semi-rural character to the settlement. Furthermore, the large open and generally unspoilt qualities of the appeal site set it apart from the more developed form of the settlement. As a result, the appeal site falls outside of a clearly defined boundary of built form and the settlement limit for Lowertown.
13. Irrespective of how the dwelling(s) might be designed and laid out at any TDC stage, the development would visually extend built form onto a site that appears, and functions, outside of the settlement. As a result, and despite retention of the boundary planting, built development would have an urbanising effect undermining the verdant and semi-rural character of the area that is important in defining the character of this part of the settlement. Consequently, the proposal would not be rounding off in the context of CLP Policy 3(3).
14. 'Infill' is defined in the Advice Note as 'development that would fill a gap in an otherwise continuous frontage which would normally be a road frontage.' Paragraph 1.65 of the CLP states that 'For the purposes of this policy, 'infilling' is defined as the filling of a small gap in an otherwise continuously built up frontage that does not physically extend the settlement into the open countryside'.
15. With regard to whether the site is within a continuous built up frontage, although there are residential properties either side of the road close to the appeal site, views towards the site up and down the road frontage are semi-rural in nature due to some dwellings being set back behind natural hedge and tree planting directly abutting a narrow road without pavements. Alongside visual gaps in the built form to the southern side of the road created by the appeal site and further areas to the east and west of the appeal site, these provide a semi-rural verdant character and appearance to this part of the road. As a result, the immediate area around the appeal site does not appear or feel significantly developed and in this context, the immediate area around the appeal site does not contribute towards the appearance of, or have the character of, being a continuous built up roadside frontage.
16. Even if I were to conclude that the site was within a continuous built up frontage, at approximately 60m of road frontage length, the site provides a significant gap in built form. Although the application seeks a maximum of two dwellings that are indicated as being of a similar size to some nearby plots, with a 60m frontage the site itself is large enough to accommodate more than two dwellings. In this context, the site represents a large gap. The AN states that large gaps often provide the setting for a settlement, or add character to the area and that proposals should consider the significance or importance that larger gaps can make to settlements.

17. In this regard, and regardless of how many dwellings might be designed at TDC stage, the proposal would lead to development on a site that is currently devoid of built form and that contributes to the semi-rural landscape and dispersed settlement pattern and setting of Lowertown. Dwellings on the site would read as an incursion in the semi-rural landscape that would have an urbanising presence, and significantly diminish, the contribution that the site plays in defining the semi-rural character of Lowertown.
18. Although the existing planting around the site and nearby prevent significant longer distance views of the site and would provide some screening of the development at closer range, development would be more visible from the road in winter months when there is less tree and hedge coverage. Furthermore, a more formal access negotiating considerable site levels would be required with associated visibility splays that would urbanise the site. Development would also be visible from the adjacent public right of way that would undermine its rural verdant character.
19. I have had regard to the Advice Note stating that 'The development of other land which does not entirely fit the definition of infilling (part of continual frontage) or rounding off, but would be within the form and shape of the settlement, will be acceptable where there is no significant harm arising to social, environmental or economic considerations'. The Advice Note continues that 'Development in this respect would accord with Policy 21 c) which encourages proposals to increase building density where appropriate, taking into account the character of the surrounding area and access to services and facilities to ensure an efficient use of land'. However, I have found above that the appeal site does not fall within the form or shape of the settlement and that the development would harm the character and appearance of the area. As a result, the proposal does not find support from this part of the Advice Note.
20. It follows that I conclude that the proposal is not suitable for residential development, having regard to its location, the proposed land use and the amount of development. As such, the proposal is contrary to Policies 1, 2, 3, 12, 21 and 23 of the CLP, Policy C1 of the Climate Emergency Development Plan Document (February 2023) and Policy 1 of the Cornwall site allocations development plan document (November 2019). Amongst other things, these seek to achieve sustainable development and take a hierarchical approach to direct development based on the role and function of places, maintain and enhance Cornwall's distinctive natural character, respect landscape character of both designated and undesignated landscapes, conserve and enhance the natural environment according to its local significance.
21. The proposal would also be contrary to the National Planning Policy Framework (the Framework) that seeks to achieve well-designed and beautiful places, ensuring that sufficient land of the right types is available in the right places, and to protect and enhance the natural environment.
22. The reason for refusal also references Policy 7 of the CLP. However, as the main parties agree that the site does not form part of the open countryside and the proposal is not for a replacement dwelling, subdivision, reuse of a building, accommodation for rural businesses or agriculture or forestry, this policy is not determinative in this appeal.

## Other Considerations

23. I note that the Council have declared a 'Housing Crisis' with support for the increased supply in the delivery of new housing in its document 'Securing Homes for All: A Plan to address Cornwall's Housing Crisis' (December 2021). In addition, the proposal gains some support from paragraph 83 of the Framework from two additional dwellings supporting the vitality of the area. However, given the small scale of the proposal, these benefits and those from increased building and density, employment during construction, utilisation of local services by residents and retention and enhancement of planting and habitat on site, are limited.
24. I have had regard to the two previous applications<sup>3</sup> and two associated appeal decisions<sup>4</sup> on the site and note that the Inspector for the 2002 decision concluded that the development of the site would not be so harmful to Lowertown's appearance and character as to justify dismissal of that appeal. Notwithstanding, the 2002 appeal is a considerable time ago with both appeal decisions pre-dating the adoption of the CLP. They were therefore determined against different development plan policies and in the absence of the Advice Note. As a result, and as I am required to consider the appeal on its merits, I give them limited weight and they do not alter my findings above.
25. As noted above, a Unilateral Undertaking has been submitted with the appeal in relation to the potential effect of the development on the Fal and Helford SAC. A related financial contribution towards habitat mitigation has been paid to the Council. However, as I am dismissing the appeal, I do not need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

## Conclusion

26. It has not been demonstrated that the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development. Consequently, there is conflict with the development plan when taken as a whole. This is not outweighed by any other matters before me. Therefore, I conclude that the appeal should be dismissed.

*C Rose*

INSPECTOR

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<sup>3</sup> W2/PA02/00175/O and PA13/10262

<sup>4</sup> APP/Y0815/A/02/1093259 and APP/D0840/A/14/2220675