



Appeal Decision

Site visit made on 16 July 2024

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 05 August 2024

Appeal Ref: APP/D0840/W/23/3330656

Rose Cottage, Mullion, Helston TR12 7HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Waterworth against the decision of Cornwall Council.
 - The application Ref is: PA23/00833.
 - The development proposed is the construction of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 22 November 2023, all areas in England and Wales designated as an Area of Outstanding Natural Beauty (AONB) were retitled National Landscapes. There has been no change to the legal designation and policy status of these areas, but I have replaced reference to the Cornwall AONB with the Cornwall National Landscape in my decision to reflect this change.

Main Issues

3. The main issues in this appeal are:
 - Whether or not the proposed development would be in a suitable location having regard to Local and National Planning Policy, and to its effect on the character and appearance of the surrounding area with particular regard to the landscape and scenic beauty of the Cornwall National Landscape; and,
 - The effect of the proposed development on protected habitats.

Reasons

Location of Development

4. The appeal site comprises an area of gently sloping land that is part of a larger field, and an access trackway located in a rural area on the western side of the Lizard Peninsula. To the southwest of the site is an area of garden land beyond which are positioned a very small cluster of cottages and Predannack Manor Farm. Immediately bordering the site to the southeast is a bungalow which is isolated from the other buildings that are scattered around the site. The appeal site is also located within the Cornwall National Landscape (the CNL).
5. The Council's settlement strategy is contained within Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) which sets out a

sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall, providing jobs in a proportional manner based on the role and function of each place. Policy 3 of the Local Plan seeks to control the distribution of new dwellings across Cornwall and provides that other than at the named larger settlements, housing growth will be delivered through; the identification of sites within neighbourhood plans, infill schemes, rural exceptions sites or rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining that settlement of a scale appropriate to its size and role.

6. There is dispute between the main parties as to whether the buildings at Predannack would constitute a settlement in planning policy terms. The supporting text to Policy 3 of the Local Plan explains that a settlement should have a form and shape and clearly definable boundaries, not just a low density straggle of dwellings, and that the settlement should be part of a network of settlements and/or be in reasonable proximity to a larger village or town with more significant community facilities.
7. In respect of whether Predannack would constitute a settlement, the main parties have also referred me to the Chief Planning Officer's Advice Note – Infill/Rounding Off (the CPOAN). The CPOAN provides that a settlement is a place where people collectively live in permanent buildings. The advice note goes on to confirm that smaller villages and hamlets should have a form and shape with clearly definable boundaries, not just a low density straggle of buildings, with further confirmation that there are no expectations of services and facilities. Whilst being informal guidance, the CPOAN provides clarity on the approach to be adopted in relation to such matters, and as such I have had regard to this advice.
8. I acknowledge the Appellant's submissions regarding the historic context of Predannack and the contention that Predannack is a settlement in two parts comprising Predannack Wartha and Predannack Wollas. However, based on the evidence before me and the observations made on my site visit, I consider that Predannack would not constitute a settlement in the context of the development plan.
9. In my view, Predannack has no clearly definable form or shape. Notwithstanding the number of residential dwellings at Predannack, the small groups of scattered dwellings located close to Predannack Manor Farm and close to the access trackway for the appeal site, are somewhat isolated from each other by substantial gaps in the built environment. As such, I find that development close to the appeal site would reflect the definition of a low density straggle of development as referred to within the CPOAN and within the supporting text to Policy 3 of the Local Plan. I therefore conclude that Predannack does not display the attributes, role or function of a settlement that is suitable for housing growth.
10. In light of the above, I conclude that Predannack is not a settlement in terms of the development plan. Accordingly, the proposed scheme would not represent infill, rounding off or use of PDL within or immediately adjoining as settlement, within the context of Policy 3 of the Local Plan.
11. Even in the event that Predannack was considered to be a settlement, I consider that the appeal scheme would still not accord with the requirements of Policy 3 of the Local Plan. In terms of infill, the appeal scheme would not fill a

small gap in an otherwise continuous built frontage and would not represent use of PDL. Furthermore, the evidence indicates that there is currently no neighbourhood plan which allocates the site for development.

12. In terms of rounding off of settlements, the supporting text to Policy 3 of the Local Plan, and the details provided within the CPOAN, provide that such proposals should provide symmetry or completion to a settlement boundary and be on land which 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), and that development should not visually extend building into the open countryside. The CPOAN also confirms that development resulting in the creation of a further site for rounding off, is unlikely to be rounding off in itself.
13. In this instance, while there are buildings and garden land to the south and the abovementioned lone bungalow located to the southeast of the site, the part of the field that is proposed to be developed is not substantially enclosed. Furthermore, by reason of it forming only part of a larger agricultural field and given that there is no feature or boundary which separates the sections of this field, there is nothing that would act as a barrier to growth towards to the northwest. The appeal scheme would not provide symmetry or completion to the settlement boundary. Given the site's physical and visual affinity with the surrounding predominately open and undeveloped land, the proposal would also be seen as extending the built form into the countryside. Therefore, for the reasons given above, I find that the proposal would not fall within any of the identified methods of delivery set out in Policy 3 of the Local Plan.
14. The supporting text to Policy 7 of the Local Plan defines open countryside as being the area outside of the physical boundaries of an existing settlement where it has a clear form and shape. For the reasons given above, in my view the appeal site is located outside of any settlement. Accordingly, the provisions of Policy 7 apply to the appeal scheme. That policy supports development proposals within the open countryside where it is shown that special circumstances exist. A number of criteria are listed against which proposals may be assessed. The proposed development fails to accord with any of these criteria.
15. Turning now to the effect of the proposal on the character and appearance of the area, as noted above, the appeal site is located within the CNL. Paragraph 182 of the National Planning Policy Framework (December 2023) requires that great weight is given to conserving and enhancing the landscape and scenic beauty within the CNL. Policy 23 of the Local Plan sets out that development proposals will need to sustain local distinctiveness and character, with a particular emphasis on the great weight to be given to conserving the landscape and scenic beauty of the CNL and that proposals should be appropriately located to address the CNL's sensitivity and capacity as informed by the Cornwall AONB Management Plan.
16. The appeal site is located within Cornwall Character Area CCA13 South Lizard Peninsula. The Cornwall Character Area Description sets out the key characteristics of the area, and provides that it is *"composed of an open, flat to gently sloping plateau with a strong sense of exposure and isolation. At the coast incised, narrow stream valleys tumble to rocky, bolder strewn coves, giving rise to fine coastal scenery. The inland area is defined by a mix of*

extensive areas of unenclosed ground and fields bounded by Cornish Hedges. A string of small villages take advantage of the shelter on the eastern side of the peninsula, while elsewhere cottages and farms are scattered throughout. There are extensive areas of semi-natural habitat on the unenclosed downs and coastline, and dense belts of woodland found in the sheltered valleys”.

17. As described above, in my view the appeal site is located outside of any settlement and within the countryside for planning purposes. In this regard, the proposal, with the domestic paraphernalia associated with residential occupation, would represent an encroachment into the countryside which would be detrimental to the landscape and scenic beauty of the CNL. Accordingly, the scheme would not respect and work with the natural environment and would, therefore, conflict with the aims and objectives of Policies 12 and 23 of the Local Plan.
18. I acknowledge that the appeal site would not be highly visible in the surrounding area from the public realm and, where visible, would be seen against the backdrop of cottages and gardens. However, the site would be visible from within the wider surrounding landscape of the CNL. In that regard, the harm to the landscape and scenic beauty of the CNL would be somewhat limited. Nonetheless, by reason of the encroachment into the countryside of the CNL, the appeal proposal would result in a degree of harm to which, in light of the provisions of paragraph 182 of the Framework, I attach great weight to in the determination of this appeal.
19. I note the reference made by the Appellant to a development that has been permitted by the Council. Whilst noting the details of the development permitted at Trenance, for the reasons given above, I have found that the appeal site is not located within a settlement. As such, the matters do not appear to be comparable.
20. With regards to the appeal in respect of a site at Tolcarne, I again do not find the position to be comparable to the appeal scheme that is before me. In the first instance, whilst acknowledging that part of the appeal site has a manicured appearance, it forms part of a larger agricultural field, with the boundary between the site and the remaining section of the field being delineated by where a choice has been made to cut back grass. There is no evidence before me to confirm that the site forms part of the curtilage at Rose Cottage. As such, in this instance the appeal site forms part of the countryside, with the appeal proposal representing an encroachment into that landscape.
21. Notwithstanding that, I shall now consider whether the proposal would represent “Other development within a settlement” as defined within the CPOAN. In that regard, for the reasons given above, I do not find that the nearby buildings represent a settlement. Nonetheless, even in the event that the site was located within a settlement, the CPOAN provides that where the proposal does not entirely fit the definition of rounding off or infill, development of land will be acceptable where there is no significant harm arising to social, economic or environmental considerations. The CPOAN goes on to provide that development in this respect would accord with Policy 21c) of the Local Plan.
22. Policy 21c) of the Local Plan provides that encouragement will be given to proposals that increase building density where appropriate, taking into account the character and appearance of the surrounding area and access to services and facilities to ensure efficient use of land. In this instance, for the reasons

given above there would be harm to the CNL, and it is noted that the appeal site is not conveniently located in respect of access to services and facilities that could reasonably be required on a day to day basis by means other than by private vehicle. Consequently, the appeal scheme gains no support from Policy 21 of the Local Plan.

23. In summary of the above, I conclude that the appeal site is located outside of any settlement and within the countryside. The appeal scheme would not conserve or enhance the landscape and scenic beauty of the CNL. The proposal would therefore conflict with Policies 2, 3, 7, 12 and 23 of the Local Plan and would fail to accord with paragraphs 135, 180 and 182 of the Framework which, together and amongst other things, seek to ensure that the Cornish countryside's distinctive natural character and the landscape and scenic beauty of the AONB, is protected, conserved and enhanced.
24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
25. Against the conflict with the policies of the Local Plan as described above, to which I attach significant weight, the scheme would provide an additional unit towards local housing supply. The Framework seeks to significantly boost the supply of homes and advises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The proposed dwelling would be energy efficient and would provide electric charging point for vehicles. Further environmental benefits in terms of biodiversity enhancement could be secured. There would also be limited economic benefits in terms of employment opportunities during construction.
26. However, the weight attached to these benefits is limited by the scale of the proposal. I therefore consider that the identified harm and conflict with the policies of the Local Plan and the abovementioned paragraphs of the Framework, outweighs the benefits that would arise from the scheme.

Protected Habitats

27. The submissions in this appeal confirm that the appeal site lies within the zone of influence of the Fal and Helford Special Area of Conservation. If the scheme was to be considered acceptable it would be necessary for appropriate mitigation to be secured to ensure that the proposal would not, either alone or in combination with other projects, be likely to have a significant and adverse effect on the integrity of that protected habitat site. It is noted that a completed planning obligation was submitted by the Appellant and the Council has confirmed that the Appellant has made a mitigation contribution in accordance with Policy 22 of the Local Plan.
28. It is also acknowledged that part of the appeal site is located within the Lizard Special Area of Conservation, and that the details before me are limited. However, given my overall conclusion in respect of the above main issue, I have not had to consider that matter further or have needed to undertake an appropriate assessment, given that the principle of a new dwelling at this location is not supported by the policies of the development plan when taken as a whole.

Conclusion

29. For the reasons given above the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR