

Appeal Decision

Site visit made on 25 September 2024

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/D0840/W/24/3340030

Land North of 5 Lower Barn Court, Priory Road, St Columb Minor TR7 3HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miss Ellie and Amy Eccles against the decision of Cornwall Council.
 - The application Ref PA23/06278 was refused by notice dated 9 October 2023.
 - The development proposed is outline application for 1 new dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for 1 new dwelling at Land North of 5 Lower Barn Court, Priory Road, St Columb Minor TR7 3HX in accordance with the terms of application Ref PA23/06278, subject to the conditions in the attached schedule.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved. I assessed the appeal on that basis.
3. Towards the latter stages of the appeal timetable the appellant submitted an appeal decision¹. As this decision was of potential relevance, I accepted it and gave the Council the opportunity to comment on it during the appeal process.
4. An agreement was also submitted by the appellant pursuant to S111 of the 1972 Local Government Act, seeking to mitigate any likely significant effects of the proposal on the integrity of the Penhale Dunes Special Area of Conservation (the SAC). I return to this issue later in my decision.

Main Issue

5. The main issue is whether the site would be suitable for the proposed development, with reference to the development plan's approach to the supply of housing and the character and appearance of the area.

Reasons

6. The appeal site comprises an area of open land, much of which is rough or set to hardstanding, together with a small garage building, at the north edge of the historic settlement of St Columb Minor, which is now part of the wider town of Newquay. Access is taken from a lane which runs past the west boundary of the site, which also carries a 'gold priority' Public Right of Way (the PROW) north down into and across the Porth Valley. Across the lane to the west is a churchyard and the formidable Church of St Columba.

¹ Appeal ref APP/D0840/W/23/3331740

7. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (the CLP) directs that, as a main town, housing growth in the Newquay area is to be managed through a Site Allocations DPD or Neighbourhood Plan. The Cornwall Site Allocations Development Plan Document (adopted 2019) (the DPD) meets the task of defining strategic level allocations for the main towns. However, it also contains Policy 1, which applies hands on criteria for the delivery of 'organic' schemes for windfall housing in and around the main towns. Its criteria includes the development of previously developed land (PDL) within or adjoining the towns. The policy adopts the definition of PDL as set out in the glossary to the National Planning Policy Framework (the Framework).
8. Policy 21 of the CLP offers support for the reuse of sustainably located PDL where the site is not of high environmental or historic value. Policy 7 of the CLP addresses development in the open countryside, which its supporting text identifies as the area outside of the physical boundaries of existing settlements (where they have a clear form and shape). Given its developed appearance through the garage and hardstanding, and its use for parking and storage, the site is PDL. Whilst there is evidence of a football goal on the site, there is no compelling indication that the site forms a bona fide 'residential garden'.
9. To the south the site relates reasonably well to the conversions at Lower Barn Court, which now have a mixed agrarian/residential character, and therefore read as part of St Columb Minor itself, despite their original purpose. Travelling the PROW, the site is at around the point where one senses they have entered or left the settlement. However, much of the site is hidden. What of the site is visible is mainly the hardstanding and the garage. In longer views, the site sits subtly within the immediate foreground of the dwellings within Lower Barn Court, which are set in a fair density. The clearest feature delineating town and country is the north boundary of the appeal site, and a fairly wide rural building which sits across this boundary in the adjacent field.
10. Consequently, I do not share the view that the site offers any significant sense of low density or verdant transition into the adjoining open countryside. Rather, the site is innocuous and more within the settlement than not. A suitably designed dwelling set behind appropriately landscaped boundaries would simply reinforce the established interface between the nucleated settlement pattern of St Columb Minor and its rural setting. There is no evidence that the site is of any intrinsic high environmental or historic value. Consequently, the scheme finds the support of Policy 1 of the DPD and Policy 21 of the CLP. I also find that the site is not in the open countryside under the terms of Policy 7.
11. The development plan also includes the Newquay Neighbourhood Plan (NNP), which was made just prior to the adoption of the DPD in 2019. Policy G1 of the NNP draws a settlement boundary around Newquay and states that outside the boundary housing will only be permitted to meet a clearly evidenced local need for affordable housing. The scheme falls beyond this boundary and would not provide such, and therefore would conflict with this policy.
12. Policy 1 of the DPD and Policy G1 of the NNP are at odds in approach. The DPD's supporting text refers to a draft NNP, but it is not clear if the draft in question is consistent with the ultimately made NNP. Equally, the NNP would have been found in general conformity with the development plan, but before the DPD was adopted. As such, on the evidence before me, an issue with timing appears to have created an unresolved tension between Policy 1 and Policy G1.

13. Section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that if a policy in a development plan is at conflict with another policy in the plan, the conflict must be resolved in favour of the policy which is in the later document to be added to the plan. The Framework also states that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently. As the making of the NNP predates the adoption of the DPD, I attribute limited weight to the conflict with Policy G1 in this case.
14. The Council has referred to its 2017 'Chief Planning Officer's Advice Note on Infill and Rounding off'. Whilst material, this document is guidance and has not been scrutinised in a way similar to adopted or made policy. Its content has therefore had very little influence on my assessment.
15. This leads me to the conclusion that the site would be suitable for the proposed development, with reference to the development plan's approach to the supply of housing and the character and appearance of the area. Whilst the scheme would conflict with Policy G1 of the NNP, it would accord with the relevant objectives of Policy 1 of the DPD, Policies 1, 2, 3, 7, 21 and 23 of the CLP, Policy H2 of the NNP and the Framework. The Council has also referred to Policy 9 of the CLP. It relates to schemes on rural exception sites adjacent to smaller towns, villages and hamlets and so is not relevant to Newquay.

Other Matters

16. The adjacent Church of St Columba is a Grade I listed building and I have a duty to have special regard to the desirability of preserving its setting. The Church draws a degree of its significance from its prime location at the top of the valley side, with the village gathered around it deferentially. Historic map regression evidences that the site was part of the field to the east and it makes no clear contribution to the significance the church draws from its setting either way. For the reasons given, the dwelling, if sensitively designed, would read as a simple and subservient addition to the housing around the church. This is particularly the case from the important view of St Columb Minor from across the Porth Valley, where the dwelling would appear to slot into a small vacant plot seamlessly. The setting of the listed building would therefore be preserved.
17. Part of the site along the lane falls within the St Columb Minor Conservation Area (the CA), which engages my responsibility to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA is largely drawn from its vernacular churchtown architecture. The lane would be utilised by the scheme and there is no clear evidence that the mainstay of the site has any particular historic role within the CA's setting. The scheme would be a modest addition to the village and the character and appearance of the Conservation Area would be preserved.
18. I appreciate that the access lane is basic and shared with pedestrians. However, there is no persuasive evidence that the modest vehicular movements associated with one additional dwelling would jeopardise highway safety nor the integrity of the network. Likewise, whilst the access to the main village road has limited visibility, this is a dense, populated area where users should anticipate vehicles pulling out of drives and lanes. The integrity of the lane surfacing can be secured through conditions. Detailed elements of the scheme, such as the design of the dwelling, parking provision and allocation,

landscaping, and the protection of biodiversity and trees of public amenity value on and off site can be addressed at the reserved matters stage.

Appropriate Assessment

19. The site is within influence of the SAC. The qualifying features of the SAC include its range of rare plant species amongst the shifting sand dunes. Recreational activity within the area has the potential to disturb this habitat. Given such, in the first instance I am unable to rule out likely significant effects on the SAC through the development, owing to further recreational pressure.
20. In order to mitigate such effects, payment has been made, secured via a S111 agreement. It is intended to fund projects as set out in the Council's European Sites Mitigation Supplementary Planning Document and pursuant to its Penhale Dunes SAC Strategic Mitigation Plan. On this basis, I find that the adverse effects of the proposal on the integrity of the SAC would be avoided. This opinion is shared by Natural England.
21. I therefore conclude within my Appropriate Assessment that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the SAC. It would accord with Policy 22 of the CLP, the Habitats Regulations and the Framework insofar as they seek to secure the long-term protection of such sites and mitigate any adverse effects on their integrity.

Conditions

22. In addition to the standard time conditions for outline permissions, it is necessary for a condition to list the approved plans in the interest of certainty. A condition is also necessary to set out the detailed reserved matters for future consideration. A condition is required to confirm the detailed strategy for the suitable disposal of foul and surface water. Conditions are also necessary to ensure that the relevant section of the PROW is retained in its existing or an improved form, both during construction and following occupation of the proposed dwelling.

Conclusion

23. The proposed development accords with the development plan when read as a whole and the other considerations before me do not indicate that I should make a decision other than in accordance with the development plan.
24. I shall therefore allow this appeal.

Matthew Jones

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site/location Plan 23024.2.001.
- 5) The development hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of foul and surface water drainage has been completed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The details shall include a programme for maintaining the system if required. The system shall be retained and maintained thereafter in accordance with the approved details.
- 6) The development hereby permitted shall not be commenced until a survey of the physical condition of that part of the existing byway used to access the development and the results of that survey have been submitted to and agreed with the Local Planning Authority.
- 7) Upon substantial completion of the development hereby approved a follow-up survey of the physical condition of that part of the existing byway used to access the development and the results of that survey together with a schedule of remedial works shall be submitted to and approved by the Local Planning Authority. Those remedial works shall be sufficient to return the physical condition of the bridleway to a condition equivalent or better than that recorded in the survey provided pursuant to this permission. The development hereby approved shall not be occupied until the remedial works to the byway have been implemented in full.