



Appeal Decision

Hearing held on 10 December 2024

Site visit made on 11 December 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/D0840/W/24/3348094

St Roche, Mawgan Porth Hill, Mawgan Porth, Newquay, Cornwall TR8 4BN

- 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 Alex Hayward against the decision of Cornwall Council.
 - The application Ref is PA23/04681.
 - The development proposed is the demolition of an existing dwelling and associated outbuildings and construction of 6 earth sheltered dwellings with access, parking and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024. As this could affect the issues and matters in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest version of the Framework and the responses received on it.
3. At the hearing, the appellant referred to the Cala Homes Court of appeal case¹ and a copy of the judgment was subsequently provided. However, as the Framework has since been finalised and published, there is no need for me to consider the implications of the previously draft Framework in my decision.

Main Issues

4. The main issues in this appeal are:
 - whether the site would be a suitable location for housing, having regard to the provisions of the development plan;
 - the effect of the proposed development on the character and appearance of the Watergate and Lanherne Area of Great Landscape Value;
 - the effect of the proposed development on the setting and significance of the Mawgan Porth early medieval settlement and associated burial ground Scheduled Monument; and
 - the effect of the proposal on the integrity of the Mawgan Porth to Newquay County Wildlife Site.

¹ Cala Homes (South) Limited v SSCLG [2011] EWCA Civ 639

Reasons

Suitability of the location

5. The appeal site lies on the side of a hill which slopes down from north to south. It comprises the existing residential building and grounds at St Roche and a large area of open land, which continues eastwards beyond the site. The houses Odd Spot and The Shack lie to the south, beyond which is further open land leading down to chalet sites running along the foot of the valley. On the opposite side of the B3276 to the north lies more dense residential development. There is a mini golf course to the west.
6. Policy 3 of the Cornwall Local Plan 2016 (CLP) sets out a hierarchy for accommodating new development in the Council's area. Mawgan Porth is a settlement within a Community Network Area (CNA) not specifically identified as a housing location. Within CNAs, the policy allows the rounding off of settlements and development of previously developed land immediately adjoining that settlement of a scale appropriate to its size and role.
7. The CLP defines rounding off as applying to 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 also states that development should not visually extend building into the open countryside.
8. The appellant and the Council agree that considerable weight should be given to the Council's Chief Planning Officer's Advice Note (CPOAN) on infill/rounding off which gives further guidance. Amongst other things, this states that rounding off provides a symmetry or completion to a settlement boundary and 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.
9. The CPOAN indicates that the presence of definite boundaries, landscape features, the nature of the land and topography are amongst the important considerations in this respect. It requires proposals to be adjacent to existing development and contained within long standing and enclosing boundary features, for example, a road, outlining that suitable sites are likely to be surrounded on at least two sides by existing built development.
10. The proposal is to demolish the existing building and construct six earth sheltered dwellings across the site. The proposed structures would lie between the B3276 and the buildings at Odd Spot and The Shack, within an area enclosed by accesses to existing properties. Whilst it would be bounded by development on at least two sides, the road provides a distinct physical break between the tighter knit built development in the settlement on the opposite side of the road and the open land and houses to the south.
11. When travelling from Trevarrian down the hillside opposite, the appeal scheme would largely be seen between the lower-level Odd Spot and The Shack in the foreground and higher-level built development north of the B3276 in the background. However, the extension of built development beyond the urban form of the settlement would be particularly evident in views from the B3276 adjacent to the site and when descending northbound from the long distance coast path on the opposite valley side. Therefore, the proposal would visually

extend building into the open countryside and would not round off the settlement of Mawgan Porth, contrary to Policy 3 of the CLP.

12. The parties agree that the western section of the site at St Roche is previously developed land. There is a well in the eastern part of the site, but regardless of whether this structure has blended into the landscape, it covers only a very small portion of the appeal site. Therefore, much of the proposed scheme would not be on previously developed land, in conflict with CLP Policy 3.
13. Consequently, I conclude that the site would not be a suitable location for housing, having regard to the provisions of the development plan. This would be contrary to Policies 1, 3 and 7 of the CLP where they set out the approach towards housing development adjoining settlements in the CNAs and seek to restrict the development of new homes in the open countryside.

Character and appearance

14. The site is within the Watergate and Lanherne Area of Great Landscape Value (AGLV) where CLP Policy 23 requires the character and distinctive landscape qualities to be maintained. With reference to the Council's AGLV Review 2023, the significance of the AGLV includes its combination of a spectacular coastline backed by the picturesque valley of the River Menalhyl, resulting in a strong sense of place and with recreational value. The Landscape & Visual Impact Assessment (LVIA) recognises the contrast between the coastline landscape with its extensive views and the relatively empty, rolling agricultural landscape and high Cornish hedges which add to the sense of enclosure.
15. The LVIA identifies the overall quality of the AGLV as good but recognises that more recent developments in the locality detract from the landscape, resulting in poor to moderate quality within the local vicinity of the site. It assesses the AGLV as having high value overall but medium value within the local vicinity of the site due to the associated settlement and fragmented developments within the valley floor close to the coast.
16. Nevertheless, the eastern part of the site is characteristic of the undeveloped steep valley side which is naturally vegetated in scrub and grassland and contributes to the wider valley landscape character with which it is connected to the east. At the hearing, the appellant stated that the largely undeveloped eastern section of the site has moderate landscape quality whereas the western domestic part is of poorer quality, and I have no reason to disagree.
17. The scheme would result in the removal of the existing highly visible structure at St Roche. The proposed buildings would reflect the topography, with wall materials which take account of the local vernacular and flat green roofs. There would also be areas of new planting and retained vegetation around the new structures. The Council considers that the design holds merit and responds well to the character of the site.
18. However, the proposal would introduce new development on the eastern part of the site, impinging on the scrub and grassland landscape. Although partly set into the sloping ground, due to their three-floor height, the buildings would project significantly above the level of the surrounding land. Whilst the scheme would be seen nestled between existing development in some north facing views, it would particularly encroach on views of the undeveloped landscape from the coast path on the opposite side of the valley.

19. Further, the new and widened accesses from the B3276 and the large hardstanding areas close to the road would urbanise the landscape. Due to their height, the proposed buildings would also be evident from the adjacent road. As a result, development in the eastern portion of the site would adversely affect the scrubland landscape character in views when travelling along the adjoining road.
20. Therefore, I conclude that the proposed development would harm the character and appearance of the Watergate and Lanherne AGLV. This would be contrary to Policies 2, 12, 21 and 23 of the CLP where they require proposals to maintain and protect Cornwall's character, including natural landscapes and the landscape qualities of AGLVs. Whilst the first reason for refusal does not refer to it, saved Policy 14 of the Restormel Local Plan 2001-2011 (RLP) is referred to in the appeal documents and was discussed at the hearing. The proposal would also conflict with saved Policy 14 of the RLP where it aims to resist proposals that would harm the landscape and characteristics of AGLVs.

Setting of Mawgan Porth Scheduled Monument

21. The site lies adjacent to the Mawgan Porth early medieval settlement and associated burial ground, a Scheduled Monument (SM). The designated heritage asset extends down the hillside from the boundary of St Roche and south of Odd Spot and The Shack.
22. The significance of the SM derives from it being a rare example of a well-preserved deserted medieval settlement. Situated close to the mouth of the estuary, on the northern bank of the River Menalhyl, excavations in the 1950s uncovered the remains of part of a settlement of at least four farm houses and a portion of the associated contemporary burial ground. Dating from 850 to at least 1050 AD, the settlement appeared to have been abandoned because of encroaching sand. Although partially excavated, it still contains a great deal of further archaeological and environmental evidence. This relates to its construction, development, longevity, abandonment, farming practices, trade, domestic arrangements, religious development, social organisation, health and welfare of the inhabitants and its overall landscape context. It remains one of the most important sites of its type in Cornwall and England.
23. The Heritage Impact Assessment November 2023 (HIA) identifies that the deserted settlement would have derived its significance from its isolated position and extensive outward views to some extent. Although the isolated setting has largely been lost to modern development, the SM retains its proximity to the sea which would likely have been a major reason for its development in this location.
24. Historic England (HE) considers that the monument's open setting contributes to the understanding of its location within the dunes. As the settlement's situation within the dunes is so important to its establishment, abandonment, survival and archaeological preservation, I agree with HE that the eastern part of the appeal site in particular greatly contributes to the significance of the heritage asset. It is important to understanding and appreciating the monument within its wider context as a rare surviving example of an early medieval Cornish coastal community.
25. The HIA outlines that the SM has historical illustrative value as part of the narrative of early development of settlement at Mawgan Porth. The

geophysical survey finds low to negligible archaeological potential for the site and, as a largely below ground monument with limited public visibility and interpretation, the SM has limited aesthetic and communal value. As it was mainly buried below wind-blown sands, it survived as an intact deserted early medieval settlement until excavations in the 20th century. Part of it remains unexcavated and the HIA indicates that it has high authenticity and integrity.

26. The proposed dwellings would be higher and more visible than the existing building at St Roche, occupying significantly more land. The scheme would extend settlement, creating substantial further development close to the SM. It would not be particularly visible from the monument, and the existing buildings at Odd Spot and The Shack would remain between the proposed dwellings in the eastern part of the site and the heritage asset. Nevertheless, due to the height and extent of the proposed development, it would create a greater feeling of enclosure around the monument. The development would impinge on the open dunescape in which the SM is located, eroding the currently open aspect of the monument's setting within the sand dunes at Mawgan Porth. HE objects to the proposal, and I agree with the HIA's finding that the development would have a moderate adverse impact on the SM.
27. The appeal scheme would cause less than substantial harm to the setting and significance of the SM and the appellant considers that this would be at the lower end of the spectrum of harm. Nevertheless, Policy 24 of the CLP requires any harm to the significance of a designated heritage asset to be justified, with proposals causing harm to be weighed against the substantial public benefits of the proposed development.
28. The proposal would remove an existing 1930s structure and provide new, carefully designed family sized homes, a net gain of four dwellings. This would modestly contribute to the Council's housing land supply and a key measure in the Council's Housing Crisis Plan. The scheme would also extend the footway along the B3276 site frontage, but this would not link to any other footpaths. In addition, whilst there would be economic benefits during the construction phase and from local expenditure by future occupiers, given the relatively small scale of the proposal, these benefits would be limited. Further, although biodiversity net gain (BNG) would be provided, as outlined below, this would not compensate for the loss of semi-natural habitat. Therefore, given the scheme's impacts on the historical illustrative value of the rare, well-preserved deserted medieval settlement of Mawgan Porth, the public benefits would not be of sufficient weight to outweigh the harm that would be caused to the setting and thus the significance of the SM.
29. Consequently, I conclude that the proposed development would harm the setting and significance of the Mawgan Porth early medieval settlement and associated burial ground SM. This would be contrary to Policies 2, 12 and 24 of the CLP where they require development to maintain Cornwall's distinctive historic character, including by conserving and enhancing the significance of designated heritage assets and their settings.

County Wildlife Site

30. The eastern part of the site mainly comprises scrub, grassland, and areas of underlying exposed sand, with much denser scrubland continuing further east. There is some planting around St Roche, beyond which is the grassed golf course with the B3276 and houses separating it from the coastal sand dunes.

31. The site lies within the Mawgan Porth to Newquay County Wildlife Site (CWS) which stretches along the coast and extends inland to Menalhyl Marsh at Mawgan Porth. The CWS's qualifying features include maritime cliff and slopes and coastal sand dune priority habitats. Irrespective of whether the site forms part of a coastal sand dune habitat, the CWS also includes valley sides to the north which support a large area of mixed scrub and grassland mosaic. The semi-natural habitat in the eastern section of the site positively contributes to this part of the CWS.
32. The Ecological Impact Assessment found negligible potential for roosting bats, relatively low bat activity and only low populations of reptiles during surveys of the site in 2022. At the hearing, the appellant indicated that reptiles cannot travel between the coastal sand dunes and the site due to the road and houses in between. Nevertheless, the surveys indicate the presence of protected adders and slow worms on the site on several dates, the former of which are listed as a priority species supported within the CWS.
33. The appeal scheme would retain areas of existing vegetation around the buildings, hardstandings and terraces in the eastern part of the site. Even if dwellings 1-4 could be developed without disturbing the surrounding retained habitats, the construction of buildings in this area would result in the direct loss of scrub and neutral grassland which contribute to the mosaic of habitats in this part of the CWS and provide a habitat for adders and other reptiles. The retained habitat would be disjointed and would disrupt the existing block of scrub and grassland semi-natural habitat which extends from the eastern portion of the site further into the CWS beyond.
34. The scheme would also include areas of new scrub and grassland, particularly in the western portion of the site, and all buildings would have intensive green roofs. The aim would be to compensate for lost habitats and provide enhancements, including the eradication of invasive non-native species. The BNG Report indicates that over 10% net gain could be achieved for habitat and hedgerow units. Regardless of whether the stated BNG gains could be achieved, the proposed biodiversity measures would not compensate for the loss of integrity to the CWS caused by the proposed development in the eastern portion of the site.
35. Policy 23 of the CLP only permits development likely to adversely affect CWSs, their features or function as part of the ecological network where the need and benefits of the development clearly outweigh the loss and the coherence of the local ecological network is maintained. Irrespective of the scheme's benefits, due to the amount of the eastern part of the site proposed for development, the disjointed nature of the retained habitat and the interruption of the habitat mosaic which continues eastwards, the proposal would fail to maintain the coherence of the local ecological network.
36. I acknowledge that Cornwall Wildlife Trust's (CWT) comments on the proposal have been replicated for other applications nearby. Nevertheless, I agree with the CWT that the scheme would result in the loss of habitat which would adversely affect the CWS.
37. Consequently, I conclude that the proposal would harm the integrity of the Mawgan Porth to Newquay CWS. This would conflict with Policy 23 of the CLP which seeks to conserve biodiversity interests, including requiring

development to ensure that the importance of habitats and designated sites are taken into account.

Other Matters

38. The Framework states that existing policies should not be considered out-of-date simply because they were adopted prior to its publication. Rather, due weight should be given to them, according to their degree of consistency with the Framework. CLP Policies 1, 2, 7, 12, 21, 23 and 24 and RLP Policy 14 are consistent with the Framework's aims to achieve sustainable development, restrict new housing in the open countryside, reflect local character, protect valued landscapes and sites of biodiversity value, and conserve heritage assets. Whilst the detailed locational aspects of CLP Policy 3 may be out of date in terms of housing supply, the generic locational guidance regarding rounding off is consistent with the Framework's aim for development to respond to local character.
39. Nevertheless, following the Framework's publication, the Council states that it cannot demonstrate the required five year housing land supply against the new requirement of 4,421 dwellings per annum. This triggers the circumstances in paragraph 11(d) of the Framework. The proposal would harm the setting and significance of the Mawgan Porth early medieval settlement and associated burial ground SM, and this provides a strong reason for refusing the development proposed. As such, the presumption in favour of sustainable development does not apply.
40. The Council did not find harm or development plan conflict in relation to several other matters, including neighbouring living conditions, vehicular access and parking, contamination, energy efficiency and access to services. At the hearing, the Council confirmed there would be no need for contributions towards affordable housing, open space and health facilities. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
41. The proposed development would be likely to have a significant effect, either alone or in combination, on the Penhale Dunes Special Area of Conservation (SAC). This is due to its location within the 12.5km recreational zone of influence. The appellant has paid a contribution towards mitigating any significant effects on the SAC and made an undertaking under Section 111 of the Local Government Act 1972. However, given my conclusions on the main issues, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Conclusion

42. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Peter Village KC	Counsel, Essex Chambers
Mr Richard Marsden	Managing Director, Laurence Associates
Mr Ivor Matthew	Principal Landscape Architect, Laurence Associates
Mr Michael Taylor	Architect, Michael Taylor Architects
Mrs Sophie Higgins	Principal Ecologist, LC Ecological Services
Dr Samuel Walls	Director, Southwest Archaeology

FOR THE LOCAL PLANNING AUTHORITY

Mr James Holman	Principal Development Officer, Cornwall Council
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INTERESTED PARTIES:

Mr William Corbett	Planning Group Lead, St Mawgan Parish Council
Dr Liz McKenzie	Chair, St Mawgan Parish Council