



Appeal Decision

Site visit made on 14 January 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/D0840/W/24/3352006

Land west of road from Trevithick Hill to Edge Corner, Polmassick, Cornwall, PL26 6HA

- 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 Michael Brennan against the decision of Cornwall Council.
 - The application Ref is PA24/00198.
 - The development proposed is residential development – erection of three dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (NPPF) came into force on 12 December 2024. As this included changes in relation to housing provision and supply I invited both parties to comment further. I have taken the responses received into account in determining the appeal.

Main Issues

3. The main issues are: (a) whether the proposed development would be acceptable having regard to local and national planning policies on the location of new housing, and (b) the effect of the development on the character and appearance of the area.

Reasons

Suitability of location

4. The appeal site is located on the eastern side of Polmassick and comprises a large agricultural field. The site slopes steeply down from north to south ending at a stream that runs along the length of the site's southern boundary. There are residential properties further south on the opposite bank of the stream and sporadic development beyond the site's boundaries to the north, east and south. The appeal proposal involves the construction of three detached dwellings on the northern part of the site with a shared access. The southern and lower part of the site would be retained as a green space.
5. The spatial strategy for the area is set out in policy 2 (Spatial strategy) of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP). In relation to housing it seeks to manage the location and scale of new development. This approach is

- expanded in policy 3 (Role and function of places) which confirms that housing development will be accommodated in accordance with a hierarchy: with part 1 delivered through a Site Allocations Development Plan Document or Neighbourhood Plan for the identified main towns; part 2 through eco-communities; and part 3, in areas outside the main towns, through Neighbourhood Plans, rounding off of settlements, previously developed land, infill or rural exception sites.
6. Polmassick is best described as a small village or hamlet. It has a reasonably defined form and shape, with built development mostly concentrated on the road frontages and around the crossroads of four roads further west of the appeal site. Beyond that and in particular to the north, east and south of the appeal site, the built development is more sporadic. As such, in visual, functional and physical terms the appeal site does not form part of the village and lies outside its logical and natural boundary within the open countryside.
 7. The appeal site is not allocated for development, it is not within an identified main town and does not form part of one of the eco-community proposals. In relation to part 3 of policy 3, there is no current Neighbourhood Plan and the proposal is not being promoted as a rural exception site (in line with policy 9). It also does not fall within the definition of previously developed land as set out in Annex 2 of the NPPF, namely *"Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land."*
 8. In terms of infill and rounding-off further guidance on this is provided in the Chief Planning Officer's Advice Note (December 2017) (CPOAN). Whilst the latter is not a statutory document its purpose is to provide a consistent approach to interpreting part 3 of policy 3. It is, therefore, an important consideration in this appeal and provides helpful guidance on what the Council regard as both infill and rounding-off.
 9. Based on the guidance in the CPOAN and in paragraph 1.65 of the CLP, infill is defined as development that fills a small gap in an otherwise continuous frontage *"that does not physically extend the settlement into the open countryside"*. In this respect, the northern boundary of the appeal site extends from The Cottage, to the west, up to Meadowbrook, to the east, a distance I am told of some 170 metres. That does not represent a small gap in a continuous frontage, but a large gap that is important to the setting of the village. The appeal proposal does not, therefore, fall within the definition of infill.
 10. Turning to rounding-off, based again on the CPOAN and my own observations on site, the proposal would not constitute rounding-off in that: it does not include any clearly defined physical edges or features that would act as a firm barrier to future growth; it would not provide for the symmetry or completion to the village boundary or its reasonably well defined form and shape; it would visually extend the village and built development into the open countryside; and, it would not represent a logical extension to the village.
 11. As with all such assessments they require an element of judgement to be applied on a case by case basis, having regard to various considerations, including the presence of definitive boundaries, landscape features, the history and nature of the land, existing development and whether the land is despoiled, degraded or derelict. As I confirmed earlier, the appeal site comprises an agricultural field that does not form part of the physical boundaries or form of the Village. Notwithstanding the

- presence of sporadic development, the proposal would extend built development beyond the established limits of the village into the open countryside.
12. It is not uncommon to find sporadic or low density development located beyond the physical boundaries or form/shape of a village, such as this. In this case, the proposal would result in the loss of a site that makes an important contribution to the landscape setting of the village and its transition into the open countryside. The latter is apparent when approaching the historic core of the village from the north, south and east, from where the appeal site exhibits, in my view, a greater physical, visual and functional link with the open countryside.
 13. The Council have also referred to conflict with policy 7 (Housing in the countryside) of the CLP. This states that new homes in the countryside will only be permitted where there are “*special circumstances*”. It is not disputed by the parties that the appeal site is located within the open countryside and there is no evidence before me that the proposal would fall within any of the exceptions to this policy.
 14. In relation to sustainability and accessibility, policies 1 (Presumption in favour of sustainable development), 2 and 27 (Transport and accessibility) of the CLP require, amongst other matters, that new development provides a sustainable approach to accommodating growth taking account of, in particular, location, layout and design; that it maintains the dispersed development pattern of Cornwall; and, that it ensures that development provides accessible and appropriate cycle, pedestrian, public transport and road routes. Policy T1 (Sustainable transport) of the Climate Emergency Development Plan Document (February 2023) (DPD) sets out a similar approach. This requires new development to be designed and located in order to minimise the need to travel and supports a modal hierarchy which prioritises walking, then cycling, then public transport, then car clubs, electric vehicles and lastly private fossil-fuelled vehicles.
 15. As I observed on my site visit, the appeal site is located a long distance from the nearest settlements that contain the variety of day to day services and facilities that new residents would need to access. The evidence before me indicates that the nearest settlement of any size offering such services and facilities is Mevagissey, to the east of the appeal site, some 5 km by road. This distance is well in excess of a reasonable walking distance, with the route involving narrow lanes, enclosed by hedging and trees, with no pavements or streetlights and limited verges. As such, this route would not be convenient, easy or safe for pedestrians or cyclists.
 16. In relation to bus stops, I understand that the closest are located at St Ewe some 1.7 km to the north east of the appeal site. No evidence has been provided of the frequency and comprehensiveness of these services. Even so, to access these bus stops involves a similar walk or cycle along narrow and enclosed lanes, with no pavements or street lighting. Overall, the accessibility of the appeal site is poor and any future occupants would be heavily reliant on the use of the private car. I accept that private cars often provide the main means of transport within rural areas but the appeal proposal would exacerbate the level of reliance on the private car and would not sufficiently support walking, cycling or the use of public transport. In order to promote sustainable development in rural areas, paragraph 83 of the NPPF also states that housing should be located where it will enhance or maintain the vitality of rural communities. There is no evidence before me that the appeal proposal would achieve these aims. For the above reasons, I find that the appeal proposal would not constitute sustainable development.

17. The Appellant has referred to planning approvals for dwellings at Poldark and Meadowbrook, which appear to date from the 1980's and 1990's. Both approvals pre-date the development plan and NPPF and are not, therefore, comparable to the appeal proposal being the result of a very different policy approach. The Appellant also suggests that the Highway Authority's (HA) were not consulted on the issue of access or sustainability. That may be true, but the Delegated Report found that the proposal would not give rise to any highway safety issues. Moreover, in relation to sustainability this is, in my experience, not an issue that HA's commonly comment on given that their main remit is to advise on highway impact and safety. In terms of the reference to the availability of a request bus service, there is no substantive evidence before me of what this would comprise, how it works or the frequency and extent of such a service. Even so, the existence of this service would not mitigate for the poor accessibility of the site.
18. Accordingly, I find that the appeal proposal is not suitably located and that there are no exceptional circumstances to justify development in the countryside. In addition, the accessibility of the site is poor and the proposal would not constitute infill or rounding off. As a consequence, the appeal proposal would be contrary to policies 1, 2, 3, 7 and 27 of the CLP, policy T1 of the DPD and the corresponding policies of the NPPF.

Character and appearance

19. As you approach the appeal site on the lane from the historic core of the village the character of the area becomes distinctly rural, even with the presence of sporadic development. From The Cottage and its detached garage opposite, at the western end of the appeal site, the lane is characterised by extensive Cornish Hedging and trees that continue uninterrupted along the northern boundary of the appeal site. This Cornish Hedging is mirrored on the opposite side of the lane and as a result it has a tranquil, rural feel, which is a positive aspect of character of the area. The latter is also evident on the lane that runs south along the eastern boundary of the appeal site. Along both lanes there are public views into and over the appeal site. Combined with its openness, the appeal site makes an important contribution to the rural setting of the village and reads as being part of the open countryside that surrounds it.
20. Within this context, the proposal would result in built development encroaching further into the open countryside. It would harm the contribution that the appeal site makes to the largely open rural character of the lane and the transition from the established built form of the village to the countryside. It would also result in a development that would be poorly related to the village, due to the fact that it would appear visually and physically separated from it. I agree with the Council that the proposed layout appears contrived, resulting in a development that does not respect or maintain local distinctiveness.
21. The proposed bulk, scale, form and design of the proposed dwellings would be in stark contrast with the more traditional vernacular style of buildings in the village, including the use of local materials such as of white render, stone with slate walls, roofs and some thatch. Whilst I accept that paragraph 135 of the NPPF states that appropriate innovation and change should not be discouraged or prevented, there is, in my view, nothing innovative or contemporary in the proposed design. Even so, paragraph 135 also requires new development to function well and add to the overall quality of an area, be visually attractive and sympathetic to local character

and history, including the surrounding built development and landscape. As I have found above, the appeal proposal would fail to meet these requirements and would represent a poor quality of design and layout.

22. The harm that would result to the rural and landscape setting of the site would be accentuated by the fact that the proposal would comprise a highly engineered development. The new dwellings would be isolated on the highest part of the site requiring extensive excavations as well as the use of gabion baskets, large areas of hardstanding for parking and turning, and a long internal road with a Ha Ha running along most of the width of the site from the new access to the lane to the west. The latter would also require the removal of a significant length of Cornish Hedge, which, as I confirmed earlier, makes a positive contribution to the tranquil rural character of the lane.
23. Overall, the proposal would not promote local distinctiveness and would result in a development whose design, scale, mass, footprint and layout would be excessive and completely at odds with the prevailing pattern of built form in the village. The proposal would have a harmful urbanising effect and would fail to respect or enhance the natural and historic setting of the village. It would, therefore, represent an incongruous development, resulting in significant harm to the rural landscaped setting of the village.
24. Whilst the appeal site does not benefit from any designated landscape policy protection, it is situated within the Gerrans, Veryan & Mevagissey Bays Character Area, CCA22. The 'key characteristics' of this area are: a land use of improved pastoral farming and arable fields of irregular shape; steep Cornish Hedges on valley sides; a dispersed medieval settlement pattern with small hamlets of traditional vernacular style buildings including local materials; and linear lanes on ridgelines, narrower and winding on tight corners. Its 'key sensitivities' are: the ancient but variable field patterns; villages with high concentrations of local vernacular buildings; and undisturbed landscape with high levels of tranquillity and dark skies. For the reasons given above, the appeal proposal would result in a harmful impact on a number of the key characteristics and sensitivities of the CCA.
25. In reaching that finding I have had regard to the submitted Landscape & Visual Impact Assessment (LVIA). Even so, I concur with the Council that the LVIA has not undertaken a robust and proper assessment of the level of impact of the appeal proposal on the landscape and for the reasons I have set out above, I do not agree with its findings.
26. Policy 23 of the CLP seeks to protect local distinctiveness and confirms that where new development is to be permitted it should protect and where possible enhance Cornwall's natural environment. Policy 12 of the CLP and policy C1 (7) of the DPD adopt a similar approach with the emphasis on the need for new development to promote local distinctiveness, have a clear understanding of and response to its landscape setting, provide continuity in built form, and respect, conserve, enhance and work with the natural and historic environment according to its significance. All of those policies are consistent with paragraph 187 of the NPPF. The appeal proposal would conflict with a number of these policy requirements and as such the appeal proposal would have a harmful impact on the rural and landscape character of the area.

27. Whilst I accept that appeal site does have boundary screening, the development would be concentrated on the highest part of the site, from where it would be visible from a number of public vantage points and from the lane itself due to overall height of the development. I also accept that the provision of green space would secure a number of amenity, wildlife and biodiversity benefits, but these do not mitigate for the significant harm that I have found.
28. Accordingly, I find that the appeal proposal would result in significant harm to the character and appearance of the area contrary to policies 12 (1a and 1b) and 23 (1 and 2) of the CLP, policy C1 (7) of the DPD and paragraphs 135, 139 and 187 of the NPPF.

Other matters

29. The Council's Questionnaire indicates that the appeal site lies within the setting of a Grade II Listed Building, namely Step-a-Side, located to the west of the appeal site. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special regard must be had to the desirability of preserving that buildings setting. Similar advice is to be found in the NPPF. The Delegated Report found that as the appeal proposal was not within the setting of this building there was no procedural requirement to advertise as such. I concur with those findings. Step-a Side is located further to the west of the appeal site and is physically and visually separated from it by The Cottage. In view of this, the proposal would not result in any harm to its setting.
30. A number of concerns have been raised by interested parties in relation to flooding and this includes various photographs of recent events. I note that this is not a matter that was raised by the Council in its reasons for refusal. Even so, given my findings on the main issues I have not addressed these concerns further.
31. The Council's Delegated Report indicates that the appeal site falls within the zone of influence for the Fal and Helford Special Area of Conservation (SAC) where a financial contribution is sought from all new dwellings to fund agreed mitigation measures. The Delegated Report states that the Appellant has already signed an undertaking pursuant to section 111 of the Local Government Act 1972 and paid its contribution. Even so, in view of my findings on the main issues I have not considered the implications of the proposal on the SAC further.

Planning balance and conclusions

32. The NPPF states that existing development plan policies should not be considered out of date simply because they were adopted prior to the NPPF's publication. Each policy should be assessed and due weight given to it based on its general conformity with the NPPF. In this respect, policies 1, 2, 7, 12, 23 and 27 of the CLP and policies C1 and T1 of the DPD are consistent with and remain in generally conformity with the NPPF's aims and objectives, namely, promoting sustainable development, restricting new housing in the open countryside, responding to and where possible enhancing local character and distinctiveness, conserving and enhancing valued landscapes and promoting access on foot, by cycling and public transport.
33. Turning to policy 3 of the CLP, whilst its detailed locational aspects may be out of date in relation to housing supply, its more generic locational guidance in relation to understanding the extent of settlements and identifying opportunities for infill and

rounding-off development remain in general conformity with corresponding policies in the NPPF, that seek to ensure that development responds to local character, its history, including the surrounding built environment and landscape setting.

34. Even so, the Council have now confirmed in the Cornwall Interim Policy Position Statement – Draft for Consultation (January 2025), that following the publication of the NPPF they can no longer demonstrate a five year supply of housing land supply (against a revised requirement of 4,421 dwellings per year compared to a previous figure of 2,625). Paragraph 11 d) ii of the NPPF is, therefore, engaged and requires planning permission to be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*
35. The appeal proposal would boost housing, generate short term employment during construction, increase local spend from new residents and contribute towards green space, wildlife and biodiversity. Whilst these benefits are supported by other policies in the development plan and NPPF, I would only accord them moderate weight. The contribution to housing supply is small and the proposal is for market housing and does not seek to address any identified local affordable needs.
36. On the other hand, as I have found, the appeal proposal would not be sustainable or accessible to modes of transport other than the private car, it would have an adverse impact on the rural and landscaped setting of the village, it would not contribute to or enhance the natural and local environment and would have a significant impact on the character and appearance of the area. These adverse impacts lead to conflict with a number of development plan policies which remain up to date as they are consistent with those in the NPPF and thus should be accorded significant weight.
37. In my view, the harm I have identified would significantly and demonstrably outweigh the moderate benefits of the appeal scheme when assessed against the policies in the NPPF, taken as a whole. Consequently, the presumption in favour of sustainable development envisaged in the NPPF does not apply in this instance. The NPPF is not a material consideration in this instance that indicates a decision other than in accordance with the development plan.
38. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR