



Appeal Decision

Site visit made on 4 February 2025

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/D0840/W/24/3347946

Land North West of Trenawin Lane, Connor Downs TR27 5JF

- 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 Mr S Cock against the decision of Cornwall Council.
 - The application Ref is PA24/03114.
 - The development proposed is construction of five dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for construction of five dwellings at Land North West of Trenawin Lane, Connor Downs TR27 5JF in accordance with the terms of the application, Ref PA24/03114.

Preliminary Matters

2. Planning Practice Guidance (PPG) advises that permission in principle 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) (PIP) establishes whether a site is suitable in-principle, and the second ('technical details consent' stage) (TDC) 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. All other matters are considered as part of a subsequent TDC application if PIP is granted.
4. I have taken the description of development in the banner heading above from the application form. However as 'Application for Permission in Principle for' is not an act of development, I have removed this element.
5. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to comment on the implications of this change and no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

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 an enclosed area of undeveloped land of sufficient size to comfortably accommodate five dwellings. The site lies adjacent to a highway which

forms the settlement boundary of Connor Downs as defined within the Gwinear-Gwithian Neighbourhood Development Plan 2016-2030 (NP), in a location with reasonable access to services and facilities.

8. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) sets out a hierarchical strategy for the delivery of new housing based on the role and function of places. Connor Downs is not a location named within Policy 3(1) and therefore Policy 3(3) provides that, outside these larger named settlements, housing growth is to be delivered through, amongst other criteria, infill schemes that do not physically extend the settlement into the open countryside.
9. LP para 1.65 defines 'infill' as filling of a small gap in an otherwise continuously built-up frontage that does not physically extend the settlement into the open countryside. LP para 2.33 defines open countryside as the area outside of the physical boundaries of existing settlements (where they have a clear form and shape). This is expanded further by the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) which adds it is part of an expansive area before the next settlement.
10. The appeal site is located in between residential development on the edge of the settlement boundary, commercial premises, and also enclosed by a road and byway to the other sides. As such, despite being outside the settlement boundary, it does not have the appearance of being part of an expansive area before the next settlement and has more affinity to the settlement of Connor Downs than open countryside.
11. Nevertheless, the south side of Angarrack Lane is not continuously built up. Only a single dwelling fronts Angarrack Lane to the east of the appeal site, with no buildings directly fronting Angarrack Lane to the west. This results in the appeal site not being seen as a gap between buildings or groups of buildings. As such, I find that the proposal would not accord with the definition of infill.
12. Concerns are also raised that potential noise emanating from the adjacent commercial units would result in unacceptable harm to the living conditions of future occupiers of the proposal. The Framework states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
13. The noise assessment¹(NA) included surveys undertaken over two distinct periods in July and November 2022, and found that *noise is not a consideration at the site, with ventilation being provided by partially open windows, ensuring that the site can comfortably co-exist with the commercial operations, providing appropriate levels of simultaneous acoustic and thermal comfort for future residents, without constraining the existing commercial activity.*
14. Nonetheless, it is put to me that the commercial premises are within Use Class B2, and other future lawful activities within this Use Class could result in additional noise. Indeed, within a previous appeal² at the site, albeit for a larger number of

¹ Inacoustic 17 January 2023

² APP/D0840/A/14/2217749

dwellings, the Inspector found that the level of noise would be likely to exceed that which residents would find acceptable and thus, would have potential to result in complaints and enforcement action against the existing business under statutory environmental legislation.

15. Notwithstanding, since that appeal decision, further residential development has been approved in close proximity to the commercial premises, particularly dwellings to the rear at Roseveth Farm which I observed to be complete. The close proximity of these dwellings could result in constraints in any future activities generating substantial levels of noise from the commercial premises. Indeed, the evidence before me indicates that complaints were previously made from existing nearby residents.
16. However, as set out above PIP is predicated on a two-stage process, with assessment of the proposal at this stage being limited to a high-level assessment of location, land use and the amount of development proposed.
17. Therefore, given the NA conclusions and the existence of other nearby dwellings, I am not persuaded that in principle, the location is unsuitable due to noise issues. Whether the proposal can be designed to provide adequate mitigation against noise, which could include layout, is not a matter for this stage. It would instead be open to the Council to require detailed information at TDC stage and to refuse such an application at that stage if adequate living conditions for future occupiers cannot be demonstrated. For this reason, I find that the proximity of the existing commercial premises is determinative.
18. Nevertheless, for the reasons set out above, I conclude that the site is not suitable for residential development, having regard to its location and land use, as it would result in open market dwellings located outside of the settlement boundary and would not constitute infilling. At this PIP stage I find no conflict with LP policies 1, 12, 16 and Policy C1 of the Climate Emergency Development Plan Document 2023 which seek, amongst other things to avoid or mitigate against harmful impacts from noise. However, there would be conflict with LP policies 3 and 7 which, among other things, seeks to take a hierarchical approach to direct development based on the role and function of places.

Planning Balance

19. The Council have stated that they are unable to demonstrate a five year housing land supply, stating it has a supply of circa 3.8 years. In these circumstances the Framework indicates that where the requisite housing land supply cannot be shown, the policies which are most important for determining the application should be deemed out-of-date. It continues that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the 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.
20. The proposal would achieve an increase in housing supply in an area with an acknowledged lack of housing provision. Given the location close to services and facilities I afford moderate weight to the provision of 5 additional houses to the housing supply. Additionally, the proposed development would provide other modest short term economic benefits from the construction of the proposal and

further modest economic and social benefits from the future occupation of the dwellings and associated support of local services and facilities.

21. However, the proposal conflicts with the local development strategy and therefore LP policies 3 and 7, and the development plan as a whole. Nevertheless, given the modest scale of the proposal, the site location close to services and facilities and close spatial relationship with the settlement boundary, I afford this moderate weight.
22. The Framework is clear that new development should be directed to sustainable locations and seeks to significantly boost housing supply and promote the effective use of land. Taking everything into account, I consider that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when weighed against the Framework as a whole. As a result, the application of Paragraph 11(d) of the Framework indicates that permission should be granted.

Conditions

23. The PPG indicates that it is not possible to impose conditions as the terms of any permission in principle must only include site location, type of development and amount.

Conclusion

24. The proposal would conflict with the development plan, read as a whole. However, material considerations indicate that a decision should be made other than in accordance with it. Accordingly, the appeal is allowed.

S Harrington

INSPECTOR