



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: 20th February 2025

Appeal Ref: APP/D0840/W/24/3347784

Land adjacent to Antron Bungalow, Church Road, Mabe Burnthouse, Cornwall, TR10 9JE

- 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 Trevor Howells against the decision of Cornwall Council.
 - The application Ref is PA24/02329.
 - The development proposed is construction of up to 2 dwellings (minimum of 1 dwelling maximum of 2 dwellings).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by the Appellant against Cornwall Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing led development. The permission in principle route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second (*'technical details consent'*) stage is when detailed development proposals are addressed. This appeal relates to the first of these 2 stages.
4. The scope of the considerations for permission in principle is limited to the location, land use and amount of development permitted (paragraph 012 of the PPG). All other matters are considered as part of a subsequent Technical Details Consent (TDC) application, if permission in principle is granted. I have determined the appeal accordingly.
5. 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

6. 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

7. The appeal site is located at the southern end of Antron and comprises a large field that slopes in a downward direction, broadly from its north western corner to its south eastern corner. The latter includes part of the access to Antron Bungalow, from where the submitted sketch layout indicates that the new development would be accessed. Antron Bungalow itself is located towards the north eastern corner of the appeal site. There is no other development on this boundary. The southern boundary, to the main road, is also undeveloped and enclosed by hedging and trees. The northern boundary abuts the gardens to Antron House and Antron Lodge. The western boundary of the site runs along the rear gardens of the properties that front onto Church Road.
8. The appeal proposal seeks permission in principle for the construction of up to two dwellings (minimum of one dwelling maximum of two dwellings). A sketch layout shows two detached dwellings located broadly within the centre of the appeal site.
9. 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.
10. Policy 14 of the Mabe Parish Neighbourhood Plan 2020 – 2030 (October 2023) (MPNP) and in particular criteria 1 a), supports the above approach in that it states that residential development outside the settlement boundary for Mabe Burnthouse will be supported where it is in accordance with policy 3 and 7 of the CLP.
11. The parties disagree over whether Antron falls within the definition of a settlement for the purposes of CLP policy. Whilst I understand the Council's position, on balance, Antron does have a reasonable form and shape. Although the number of properties it contains is small, it is not unreasonable to describe it as a small hamlet. This view is supported by references in the MPNP and in the approval for two dwellings in 2020 within the curtilage of 1 - 3 Antron Bungalows and for one dwelling in 2022 within the curtilage of Antron Lodge. The form and shape of built development is concentrated on either side of Church Road to the west and north of the appeal site. It includes the cluster of three properties behind the recently built 2020 dwellings, all of which are accessed from Church Road, and to a lesser extent Antron Bungalow, which, as I confirmed earlier, is accessed separately.
12. Within the above context, in visual, functional and physical terms the appeal site is not, in my judgement, part of the form and/or shape of the hamlet and instead lies outside its natural boundary, within the open countryside. 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).

13. In relation to previously developed land (pdl), I note that the Appellant contends that the site is pdl, as it forms part of the garden to Antron Lodge. I am unclear as to whether this argument formed part of the Appellants case at the application stage or has come forward later. Even so, this appears to be based on the inclusion of this land within the Title Deed for Antron Lodge. I have not been provided with a copy of this Deed, but that reference alone is not evidence that the site has been used as a garden or is pdl.
14. Annex 2 of the NPPF defines pdl as “*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.*” There is no evidence before me to indicate that the land has been lawfully developed or used as a garden or that there has ever been a permanent structure or any fixed surface infrastructure associated with it. No Lawful Development Certificate has been obtained for its use as a garden and I note that the Appellant refers to it on some occasions as a field.
15. As I also observed, the appeal site does not exhibit any of the characteristics or features of a garden and simply gives the appearance of a well maintained field. There are no paths in the field or any areas of planting and no other residential paraphernalia that you would expect to see in a garden or any signs that it has or is used for that purpose. There is, therefore, no substantive evidence before me to indicate that the appeal site has been used as a garden in conjunction with Antron Lodge. For the above reasons, I find that the appeal site does not constitute pdl.
16. As I understand the Council's position, even if it is determined that Antron is a settlement, they do not consider that the appeal proposal amounts to infill or rounding-off. Further guidance on both is provided in the Chief Planning Officer's Advice Note: Infill/Rounding-off (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.
17. 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, there is no evidence before me to suggest that the proposal would fall within this definition. The length of the southern boundary is extensive and it does not represent a small gap or form part of a continuous frontage, which is the same for its eastern boundary. On the contrary, the southern boundary forms a large gap that is important to the landscape setting of the hamlet. The appeal proposal does not, therefore, fall within the definition of infill.
18. Based again on the CPOAN and my own observations on site, the proposal would not constitute rounding-off, in that: it would not provide a symmetry or completion to a settlement boundary; it would not represent a logical extension to the form and shape of the settlement; it would visually extend built development into the open countryside and involve the loss of a site that is rural in character; and, it could facilitate the continued incremental growth of the settlement into the countryside. 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 its relationship to the countryside and settlement, and the history and nature of the land.

19. It is not uncommon to find fields of this nature either on the edge or even within the form and shape of settlements. The openness and spaciousness of such fields often, as in this case, make an important contribution to a settlements landscape setting and the transition of built form into the open countryside. This is apparent when approaching the hamlet in any direction, from where the appeal site exhibits, in my view, a more physical and visual link with the open countryside to its south, south west and east.
20. 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*”. There is no evidence before me that the appeal proposal would fall within any of the exceptions to this policy.
21. In relation to sustainability and accessibility, policies 1 (Presumption in favour of sustainable development), 12 (Design) and 21 (Best use of land and existing buildings) 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, and creates a network of safe and well connected routes. Policies C1 (Climate Change Principles) and T1 (Sustainable Transport) of the Climate Emergency Development Plan Document (February 2023) (DPD) require new development to be designed and located in order to minimise the need to travel, actively support walking and cycling rather than car use for day to day living, and support a hierarchy which prioritises walking, then cycling, then public transport, then car clubs, electric vehicles and lastly private fossil-fuelled vehicles.
22. As I observed on my site visit, the appeal site is located a reasonable distance from Mabe Burnthouse, which contains the day to day services and facilities that new residents would need to access. However, as I also witnessed it is not easy to walk along Church Road to that settlement. It would be more difficult if the sole means of access to the appeal site would be from its south eastern corner, as is shown on the sketch layout . As well as the hill, the road is busy, with narrow sections and no footpaths or lighting on part of the route. For walkers, it would not be safe, easy or convenient and to a lesser extent, it would also not be easy or safe for cyclists. I note that the accessibility to Mabe Burnthouse was considered acceptable in approving the dwellings to the north in 2020 and 2022. Even so, their route is more direct and closer, and would not involve having to navigate the hill, tight bend and longer narrow route with no pavements.
23. The Council’s policies are seeking, with new development, to promote less reliance on the use of the private car, as is evidenced by the publication of the DPD in 2023 and also criteria f) to policy 14 of the 2023 MPNP, which seeks to support new development “*where there is safe access for vehicles and people*”. Moreover, whilst the detailed layout of the development is a matter for the TDS stage, in considering the suitability of the location for the new dwelling(s) the ability to provide safe, easy and convenient access to local services and facilities, thus reducing reliance on the private car, is an important part of determining whether to approve or refuse permission in principle. Based on the above, I am not convinced that the appeal site would provide safe, easy and convenient access on foot or on

cycle to local services, including bus services (I have assumed that the nearest bus stops are also in Mabe Burnthouse).

24. The above finding is consistent with that reached by an Inspector in dismissing, in October 2012, an appeal for a new dwelling to the south of Antron Bungalow, which included the use of the same access to that shown with current appeal. A copy of that decision (ref APP/D0840/A/12/2171497) was reproduced in Appendix 1 to the Council's Statement of Case. In paragraph 8 of that decision, the Inspector found that the site would not be sustainable. In paragraph 6 the Inspector also found the character of the site to be "*unmistakenly rural*".
25. The Appellant has referred to the approvals for new dwellings to the north of the appeal site in 2020 and 2022. Based on the background to these consents they are not, in my view, comparable to the appeal proposal in that they appear to have involved pdl or infill sites within a continuous frontage or where the land in question was accepted as being well related to surrounding built form.
26. Reference has also been made to a decision for a dwelling at Perranzabuloe, but this is again not comparable in that it involved what was accepted as being pdl, established through a Lawful Development Certificate. The latter was granted as the land formed an extended garden to the adjoining Lodge, and was I understand enclosed with a garden shed, raised flower beds and pathways. In relation to the decision for a new dwelling at Cockwells, that involved the infill of a small gap in a continuous frontage and the replacement of an existing barn, and did not extend built development into the open countryside. For these reasons, none of these examples affect my findings on this issue.
27. Accordingly, I find that the appeal proposal would not constitute infill or rounding-off, that the land is not pdl, that there are no exceptional circumstances to justify development in the open countryside and that the sites accessibility is poor placing greater reliance on the use of the private car. The appeal proposal fails to comply, therefore, with policies 1, 2, 3, 7, 12 and 21 of the CLP, policy 14 of the MPNP, policies C1 and T1 of the DPD, and the corresponding policies of the NPPF.

Character and appearance

28. The appeal site is located close to a junction of roads and as you approach from any of these the site is visually prominent and does not read as part of the hamlet, but as part of the open countryside. The latter is accentuated by the appeal sites openness, topography and boundary hedging/trees. As such, it exhibits all the characteristics of and reads as being part of the open countryside and similar fields that are found immediately to its south, south west and east. For these reasons, the appeal site makes an important contribution to the rural and landscape setting of this hamlet.
29. Within this context, the proposal, even for a minimum of one new dwelling, would result in built development encroaching further into the open countryside. It would detract from the form and shape of the hamlet and result in its built form sprawling into the landscape, harming the contribution that the appeal site makes to the rural character of the area and the transition from built form to the countryside. It would also result in a development that would be poorly related to the hamlet, due to the fact that it would effectively turn its back on it, appear visually separated from it and not integral part of its form and shape.

30. Whilst I accept that paragraph 135 of the NPPF states that appropriate innovation and change should not be discouraged or prevented, the paragraph also requires new development to function well, to add to the overall quality of an area and be sympathetic to local character, including the surrounding built development and landscape. As I have found above, the appeal proposal would fail to meet these requirements. The harm that would result to the rural and landscape setting of the site would be accentuated by my understanding that the intention would be to excavate the site to accommodate the development. Combined with the need for associated parking/turning areas and a long internal access road, as shown on the sketch layout, the proposal would have a harmful urbanising effect.
31. Although the appeal site does not benefit from any designated landscape policy protection, it is situated within the Carmenellis Character Area, CCA10. The 'key characteristics' and 'sensitivities' of this area are: its medieval farmland with many small fields; mature Cornish Hedging with trees enclosing existing fields; a dispersed settlement pattern; narrow enclosed lanes and long views from elevated areas; dark sky nights and a tranquil rural landscape. The pressure and forces for change include the suburbanisation of dispersed settlements and new residential development sprawling into the landscape around settlements.
32. For the reasons set out above, the appeal proposal would result in a harmful impact on a number of the key characteristics and sensitivities of the CCA.
33. 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 of the DPD adopt a similar approach with the emphasis on the need for new development to 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. Criteria e) of policy 14 of the MPNP also requires new development to conserve and enhance settlements special historic, architectural and landscape character. These policies are consistent with paragraph 187 of the NPPF. The appeal proposal would conflict with a number of these requirements, resulting in harm to the rural and landscaped character of the area.
34. The Appellant contends that any potential harm to the character and appearance of the area could be mitigated by good design. Whilst design is a matter for the TDC stage I am not convinced by that argument bearing in mind my findings above. The Appellant refers to the new dwelling(s) being one and a half storeys, set into the ground. Again, whilst those are matters for the TDC stage, they do not affect my findings on this issue. Indeed, as I found, any excavation works would exacerbate the harm that results to the character and appearance of the area.
35. Accordingly, I find that the appeal proposal would result in significant harm to the character and appearance of the area contrary to policies 12 and 23 of the CLP, policy C1 of the DPD, policy 14 e) of the MPNP and paragraphs 135, 139 and 187 of the NPPF.

Other matters

36. Paragraph 4.14 of the Council's Statement of Case indicates that the appeal site falls within the zone of influence of European Protected Sites (EPS) where a

financial contribution is sought from all new dwellings to fund agreed mitigation measures. The paragraph continues by stating 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 EPS further.

Planning balance and conclusions

37. 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, 21 and 23 of the CLP, policies C1 and T1 of the DPD and policy 14 of the MPNP are consistent with and remain in general conformity with the NPPF's aims and objectives of promoting sustainable development, restricting new housing within 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.
38. 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 pdl, infill and rounding-off remain in general conformity with corresponding policies in the NPPF, seeking, in particular, to ensure that new development responds to and is sympathetic to local character and history, including the surrounding built environment and landscape setting.
39. Even so, the Council have now confirmed through the draft Cornwall Interim Policy Position Statement (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."*
40. The appeal proposal would boost housing supply, generate short term employment during construction and increase local spend from new residents. 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.
41. On the other hand, the appeal proposal would not be suitably located, it would increase reliance on the use of the private car, it would have an adverse impact on the rural and landscaped setting of the hamlet, 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.

42. 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.
43. In undertaking this balancing exercise I have had regard to the parties submissions in response to the revised NPPF. Both submissions included, in support, examples of recent appeal decisions. In relation to the examples provided by the Appellant, the Inspectors found that those developments would secure significant benefits that outweighed any conflict with policy or other harm. As I have found, only moderate weight can be accorded the benefits of the appeal scheme. Moreover, one of the cases involved the demolition of block built barns and the other the provision of 50 dwellings. Whilst I also do not have the full planning background to either example, neither appears comparable to the appeal proposal in terms of, for example, the adverse impacts that would arise and conflict with development plan policies. As such, these decisions do not affect my overall findings.
44. 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