



## Appeal Decision

Site visit made on 11 December 2024

**by E Worley BA (Hons) Dip EP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 March 2025**

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**Appeal Ref: APP/D0840/W/24/3345381**

**Land East of Glenmoor, St Ann's Chapel, Cornwall PL18 9HP**

- 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 Christopher Richardson against the decision of Cornwall Council.
  - The application Ref is PA23/08749.
  - The development proposed is the construction of a single storey dwelling, garage and vehicular access onto public highway.
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### Decision

1. The appeal is allowed and permission in principle is granted for the construction of a single storey dwelling, garage and vehicular access onto public highway at land East of Glenmoor, St Ann's Chapel, Cornwall PL18 9HP, in accordance with the terms of application Ref PA23/08749.

### Preliminary Matters

2. 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 consent 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 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 Technical Details Consent (TDC) application if permission in principle is granted. I have determined the appeal accordingly. A proposed site layout plan was submitted as part of the application, I have treated this as indicative only.

### Main Issue

4. The main issue is whether the site is suitable for residential development, in terms of its location, the proposed land use and the amount of development, having specific regard to whether the site is a suitable location for the proposed development having regard to the development plan.

### Reasons

5. The appeal site comprises a vacant parcel of land located between existing properties within a short row of detached dwellings fronting the highway. There

- are residential properties opposite the site and open countryside to the rear. Due to the surrounding topography, the site is at a lower level than the road to the front of the site and slopes down towards the rear boundary.
6. The site lies outside the development boundary of St Ann's Chapel, as defined in the Calstock Neighbourhood Development Plan 2021-2030, made January 2022 (NDP), and in an area designated as a Rural Gap. Part 3 of Policy HP1 of the NDP sets out the strategy for the location of new development in the area. It seeks to control development outside of development boundaries, supporting development only in the specific circumstances listed at a) to d). The proposed development does not fall into any of those exemptions. The justification for Policy HP1 advises that the aim of village development boundaries is in part, to protect the valuable rural gaps that contribute significantly to local character, and also to encourage development closer to existing services with a range of transport options, thus contributing to a reduction in emissions, whilst strengthening social infrastructure.
  7. Policy HP2 of the NDP sets out that development proposals in the Rural Gaps, should be located and designed to maintain the separation of the villages and the visual openness and landscape character of the gaps. The site is located between the dwellings in the existing frontage development and is currently free from built development. It is limited in size and bound by residential development on either side and on the opposite side of the road. Consequently, it benefits from a considerable degree of visual containment and makes a very limited contribution to the landscape character of the area and overall sense of openness of the Rural Gap.
  8. Aside from limited localised views of the site immediately to the front, the proposed development would be viewed against the existing built development nearby. While details of siting, scale and design would form part of a TDC application, a single dwelling on the site could be accommodated so as to retain the proportion and scale of built structures in the existing row, and the space between them, and reflect the surrounding built vernacular. Moreover, as the proposed dwelling would not encroach beyond the confines of the immediate group of properties in which it would sit, it would have no tangible effect on the open countryside which is a component part of the Rural Gap between the group and the edge of St Ann's Chapel or diminish the sense of visual separation between them.
  9. As such, while the proposal would introduce built form into the existing space between the buildings, it would not conflict with the policy requirement to maintain the separation of villages and the overall visual openness and landscape character of the Rural Gap.
  10. Policy 3 of the Cornwall Local Plan: Strategic Policies Document 2010–2030 (adopted 2016) (CLP) sets out that the delivery of new development will take place in accordance with the hierarchy specified. As part of this approach, in areas other than the main towns, Policy 3 supports infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside. Paragraph 1.68 of the supporting text sets out that, in smaller villages and hamlets in which 'infill' sites of one-two housing units are allowed, the settlement should have a form and shape and clearly definable boundaries, not just a low density straggle of dwellings.

11. The Council contend that, while the proposal would constitute infilling of a small gap in an otherwise continuous built frontage, and would not extend visually into the open countryside, given its location beyond a settlement, the proposal would not constitute infilling in accordance with Policy 3 of the CLP. The Council's Chief Planning Officer's Advice Note: Infill/Rounding off, dated December 2017, provides useful guidance as to the interpretation of policies in the CLP, including whether a site is suitable for infill development set out in Policy 3.
12. I recognise the appeal site is physically disconnected from the settlement of St Ann's Chapel, separated from it by the intervening development and a parcel of agricultural land. Nonetheless, it is located within a small group of closely related residential properties, positioned to either side of the A390. Notwithstanding the surrounding rural character of the area, the group has a fairly clear form and shape and is contained within boundaries that are reasonably well defined by existing boundary treatments including hedges and fences. In addition, the site is well located so that future occupiers of the dwelling would benefit from accessibility, via a footway adjacent to the highway, to nearby services, amenities, and options to travel by means other than the private car. As such, I consider that the proposal would therefore constitute 'infill' within a settlement for the purposes of Policy 3 of the CLP. Accordingly, the proposal would comply with Policy 3 of the CLP, with regard to the location of the site.
13. Notwithstanding this, there is clear conflict between Policy 3 of the CLP and Policy HP1 of the NDP in relation to the suitability of the location of the proposed development. Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that, if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. The NDP became part of the development plan for the area when it was made in February 2022, which postdates the adoption of the CLP in November 2016. It therefore follows that Policy HP1 of the NDP should take precedence over Policy 3 of the CLP.
14. Thus, while the proposed development would not conflict with Policy HP2 of the NDP, it would conflict with Policy HP1 of the NDP by virtue of its location beyond the development boundary and the absence of compliance with any of the identified exceptions. That brings the proposal into conflict with the development plan, read as a whole, indicating that it would not be a suitable location for the proposed development, having regard to its location, the proposed land use and the amount of development.
15. However, the proposal would not conflict with the wider aims of Policy HP1 in relation to protecting local character and encouraging development close to existing services with a range of transport options. Furthermore, the proposal would offer benefits in terms of housing supply, and while modest, the additional provision of a single unit would nonetheless be valuable given Council's stated housing supply position of 3.8 years. The proposal would also result in some economic benefits during the construction phase, as well as through local expenditure by future residents.
16. Given the housing land supply position paragraph 11 d) of the Framework, which indicates that planning permission should be granted unless adverse

impacts of doing so would significantly and demonstrably outweigh the benefits, having particular regard to key policies for directing development to sustainable locations and making effective use of land when assessed against the policies in the Framework taken as a whole. Paragraph 14 of the Framework sets out that in such situations, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, where specific criteria are met.

17. Notwithstanding this, given the limited nature of the harm arising from the conflict with Policy HP1 of the NDP in this case, and the absence of conflict with the wider aims of Policy HP1, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would benefit from the presumption in favour of sustainable development, set out at paragraph 11 of the Framework. As Government policy, that is a material consideration of significant weight and, in this case, indicates that a decision should be made otherwise in accordance with the development plan.

### **Appropriate Assessment**

18. Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended), sets out that permission in principle must not be granted for development which is habitats development. Habitats development is defined as development which is likely to have a significant effect on a European designated site either alone or in combination with other projects.
19. The site falls within the Zone of Influence for the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA) (the European sites), which are protected by the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The European sites are designated for their qualifying features including habitats such as sandbanks, estuaries, large shallow inlets and bays, reefs, and Atlantic salt meadows and mudflats, and shore dock, alis shad, and water birds including pied avocet, and little egret, which are of international marine conservation importance. There is, therefore, potential that additional residents at the site, in combination with other development, could result in adverse effects on the integrity of the European sites through recreational pressure and invasive species.
20. The Council's submissions indicate that, subject to a financial contribution towards the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA Strategic Mitigation Plan, it is satisfied that the integrity of the European sites will be maintained. In this case, the Council has confirmed that the appropriate contribution has been paid and is detailed in an undertaking pursuant to S111 of the Local Government Act 1972. I have no reason to disagree. Following appropriate assessment under the Habitats Regulations, I am, therefore, satisfied that adverse effects on the integrity of the European sites by future occupiers of the development, could be mitigated. No significant effect on a European site would arise and, therefore, the permission in principle route is available.

### **Other Matters**

21. The appeal site is located within the Cornwall and West Devon Mining Landscape World Heritage Site (WHS). The Council consider that the proposal

would not harm the Outstanding Universal Value of the area. Having regard to the scale of the development, for a single dwelling, and the site context, I have no reason to reach a different conclusion.

**Conclusion**

22. For the foregoing reasons, the appeal is allowed.

*E Worley*

INSPECTOR