



Appeal Decision

Site visit made on 12 February 2025

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

an Inspector appointed by the Secretary of State

Decision date: 14 March 2025

Appeal Ref: APP/D0840/W/24/3352120

Harlyn, West Lynn, Road from junction at Lyndale to Carnkief, Perranwell, Goonhavern, Cornwall, TR4 9PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs David Bennetts against the decision of Cornwall Council.
 - The application Ref is PA24/03427
 - The development proposed is change of use from an old piggery and outbuildings having different uses over the years to a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the site address from the application form.
3. A revised National Planning Policy Framework (NPPF) came into force on 12 December 2024. As this included changes 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

4. 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

5. The appeal site forms part of land owned by properties known as West Lynn and Grove Cottage. The site is located to the east of those properties and comprises detached buildings and a terraced garden. To the north is a detached building known as Harlyn, which is also in the same ownership and has permission as an annex. There is also a detached garage and summer house in front of Harlyn. To the east of the site are fields. To the south is a lane that is also a Public Right of Way (PROW) beyond which are further fields.
6. The appeal buildings are referred to as the old piggery and outbuildings and form a long single storey building with low pitched roof. The rear (southern) boundary of

the appeal site with the adjacent lane is enclosed by a high timber fence painted green. This fence extends along the whole boundary with the lane, as well as on the return boundary to the west of West Lynn and Grove Cottage. The appeal proposal seeks consent for a change of use and conversion of the buildings to provide a dwelling. The buildings would be extended in the form of a new first floor addition to provide a 3-bed dwelling. Whilst it is not clear from the submitted plans, I have assumed that access would be taken from the existing gates, in the south eastern corner of the site and would thus be shared with the access to Harlyn.

7. Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) sets out the spatial strategy for the area and seeks to manage the location and scale of new housing. This approach is expanded in policy 3 which confirms that new housing 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 specific eco-communities; and part 3, for areas outside the main towns, through Neighbourhood Plans, infill, rounding-off, previously developed land or rural exception sites.
8. These need to be read in conjunction with policies 7 and 21 of the CLP and policy SD1 of the Perranzabuloe Neighbourhood Development Plan 2018-2030 (PNDP). Policy SD1 defines a settlement boundary for three settlements in the Plan area the closest being Goonhavern, to the north east of the appeal site. New development will be supported within those boundaries and where the proposal involves infill or rounding off. Outside of these defined boundaries, development will be supported only where it meets the requirements of policy 9 of the CLP (rural exception sites) or other policy requirements for new housing in the countryside.
9. The appeal site is located a significant distance to the south west of the defined settlement boundary for Goonhavern. Whilst the appeal site and the properties around it, including those on the lane to the west and north west, appear to form part of an area known as Perranwell, there is no substantive evidence before me to suggest that this is any form of recognised settlement. These properties are, in my judgement, a low density straggle of development that is commonly found in the open countryside. There is no defined form or shape to the properties and there are no clearly definable boundaries. In physical, functional and visual terms the appeal site does not form part of a recognisable settlement.
10. I find, therefore, that the appeal site is located within the open countryside. This finding is supported by the definition of open countryside set out, in particular, in paragraph 2.33 (to policy 7) of the CLP.
11. Within this context, the appeal site is not allocated for development, it is not within an identified main town and does not form one of the eco-community proposals. In relation to part 3 of policy 3 to the CLP and policy SD1 of the PNDP, the appeal site is well outside the defined boundary of Goonhavern and does not fall within the definition of "*other settlements*". The proposal is not being promoted as a rural exception site (in line with policy 9 of the CLP). I accept that the appeal site could be considered previously developed land (pdl) but part 3 of policy 3 states that new housing can be delivered through the development of pdl "*within or immediately adjoining that settlement*". As I have found, the appeal site does not fall within or adjacent to a recognisable settlement and this part of the policy does not apply.

12. In relation to infill and rounding off, part 3 of policy 3 states that for infill this applies to schemes that fill in a small gap in a continuous frontage that does not physically extend the settlement into the open countryside. As the appeal site is not within or adjacent to a settlement, this policy does not apply. For rounding off, this will be acceptable where, for example, it provides for the symmetry or completion to a settlement boundary. The appeal site is not within or adjacent to a settlement and again this policy does not apply.
13. Policy 7 of the CLP sets out the special circumstances whereby new dwellings will be permitted in the countryside. It is, in my view, the key planning policy in this appeal in that part 3 relates to the reuse of suitably constructed redundant, disused and historic buildings that are considered appropriate to retain and would lead to an enhancement of the site. Part 3 continues by stating that the building to be converted should have an existing lawful residential or non-residential use and be ten years old or greater. The supporting text at paragraphs 2.33 and 2.34 state that the appropriateness of buildings for conversion will depend on their scale and method of construction, structural soundness and the ability to convert the building without the necessity for substantial rebuilding operations, and that traditional vernacular buildings should be retained as they are part of the defining character of the Cornish countryside
14. There is no substantive evidence before me to demonstrate that the proposal would involve the reuse of suitably constructed, disused and redundant buildings. As I observed on site, the condition of the buildings vary and there are examples of new and uncompleted work to their fabric. There is also evidence of new blockwork and roofing, a raised terrace, full length glazing, external rendering and external lighting. The Council's Delegated Report states that at the time they visited the building held a therapy swimming pool. At the time of my visit, there were mattresses and other domestic furniture being stored, as well as the storage of building materials.
15. There is also no evidence before me to indicate that the buildings are redundant or disused. No structural report has been submitted to demonstrate that their method of construction and structural soundness are appropriate for conversion and more so whether they could support a new additional floor as proposed. In relation to the latter, the policy relates to the reuse of redundant buildings. Paragraph 2.33 in the supporting text states that whether a building is appropriate for conversion will depend on a number of considerations including the ability to convert the building without the necessity for substantial rebuilding operations, which, in my view, would include new extensions (additions) as proposed.
16. Moreover, the appeal buildings do not benefit from a lawful residential or non-residential use, and there is no evidence to indicate whether the buildings as they exist on site today are the same as those that existed ten years ago or indeed prior to that. The evidence suggests that the buildings have been extensively altered, work which the Council contend has been undertaken without planning permission. In addition, the Appellant themselves indicate that the buildings have had different uses over the years, but don't expand on this. As paragraph 2.36 to policy 7 states, for the purpose of conversions "*buildings should have been erected and used for the purpose for which they had a lawful use for at least ten years before they will be considered for conversion in line with this policy.*" There is simply no firm or clear evidence as to the buildings lawful use over that period.

17. For the above reasons, I find that the appeal proposal would not fall within the exceptions set out in part 3 to policy 7 of the CLP.
18. I fully understand and sympathise with the Appellants personal circumstances and their desire to provide independent living to meet the needs of their daughter, but those considerations alone are not sufficient to outweigh the conflict with various development plan policies and the failure to address or meet the requirements of policy 7 of the CLP. It remains open to the Appellant to apply to the Council for a Lawful Development Certificate to establish the lawful use of the buildings and the determination of that application would not be affected by my decision on this appeal. The latter is, in my view, a pre-requisite to any revised proposal seeking to convert the buildings.
19. The Appellant has referred to a letter of advice received from the Head of Planning at the Council as to what might be appropriate on the appeal site that followed pre application discussions which I understand commenced in 2005-2006. However, any pre-application advice is not binding on the Council and it does not negate the need for any applications that come forward to be properly assessed against the prevailing development plan policies and other material considerations. The existence of this advice does not affect, therefore, my findings on this issue. The fact that there have been no objections to the application also does not negate the need for the proposal to be properly assessed against the prevailing development plan policies and other considerations.
20. Policies 2 and 27 of the CLP, policy TT1 of the PNDP and policies C1 and T1 of the Climate Emergency Development Plan Document (CEDPD) seek amongst other matters to ensure that new development is sustainably located, minimises the need to travel and supports a modal hierarchy which prioritises walking, then cycling and public transport, then car clubs/electric vehicles and lastly fossil-fuelled vehicles. As I observed on my visit, the appeal site is not well located in relation to day to day services and facilities. The nearest services/facilities appear to be at Goonhavern, but it's unlikely that the occupiers of the new dwelling would access those facilities by walking or cycling due to the distance involved, the lack of pavements and street lighting. On public transport, the evidence I have been given is unclear as to whether the site is or is not well served by reliable services and connections. On balance, therefore, I find that the accessibility of the appeal site is limited and that it's likely that future occupants would be reliant on the use of the private car. As such, I find that the appeal proposal would not constitute sustainable development.
21. The Appellant has referred to examples of approved developments within the area, some of which I viewed on my site visit. However, no detailed planning background to these has been provided and I am unable therefore to reach a view as to whether they are in any way directly comparable to the appeal scheme. Even so and as is required, I have determined the appeal proposal on its individual merits having particular regard to the local context and circumstances of this case.
22. Accordingly, I find that the appeal proposal would be contrary to policies 2, 3, 7, 21 and 27 of the CLP, policies SD1 and TT1 of the PNDP, policies C1 and T1 of the CEDPD and the corresponding policies of the NPPF.

Character and appearance

23. The boundaries to the appeal site are enclosed by a high green fence and I note that there is disagreement between the parties as to whether this is or is not

authorised. That is not a matter that is before me and I have proceeded on the basis that this fencing is existing. Even so, the lane at the rear, notwithstanding the presence of this fencing, still has a reasonably rural and attractive feel to it given the presence of extensive hedging/trees on its southern side and some mature trees on the other side, that extend above the existing fence. Whilst this fence screens views of the existing buildings, the proposed additional storey would be visually prominent and would harm the rural character of the lane as well as the public's enjoyment of the PROW.

24. The existing buildings are not traditional vernacular rural buildings, but utilitarian buildings of limited, if any, visual merit or value. The existing structures are simple in their design and appearance, typical of similar ancillary agricultural buildings that are found throughout Cornwall. The proposal would completely alter the ancillary nature of the buildings, resulting in a development that would visually dominate the lane and urbanise its appearance. That impact would arise from the new additional storey which would introduce a large expanse and length of building well above the existing fence. The visual impact on the lane would be accentuated by the mass, scale and height of the new additional storey and its somewhat bland and boxy design. Overall, the proposal would harmfully erode the rural setting of the appeal site.
25. I accept that the frontage to the proposal is largely screened from public view and that in long range views it may only be possible to catch glimpsed views through the screen of existing trees. Even so, any remnants of the original form and shape of the old piggery and outbuildings including original materials, would be subsumed by the new second floor, flat roof, balconies and large areas of glazing, none of which would contribute towards local distinctiveness. For all of these reasons, the proposal would not lead to "*an enhancement to the immediate setting*", a specific requirement of part 3 to policy 7.
26. I accept that the appeal site is not located within a designated landscape. Even so, policies 2, 12 and 23 of the CLP, policies C1, G1 and SEC1 of the CEDPD and policies SD2, HO2, NE2 and NE9 of the PNDP confirm that where new development is to be permitted it should be of a high quality, appropriate to its location, reflect dark night skies and local distinctiveness, and protect and where possible enhance Cornwall's natural environment and landscape character, designated and un-designated. All of those policies are consistent with paragraphs 8, 135 and 187 of the NPPF. The appeal proposal would conflict with a number of these policy requirements and as such it would have a harmful impact on the character of the area.
27. Accordingly, I find that the appeal proposal would result in harm to the character and appearance of the area contrary to policies 2, 12 and 23 of the CLP, policies C1, G1 and SEC1 of the CEDPD, policies SD2, HO2, NE2 and NE9 of the PNDP and the corresponding policies of the NPPF.

Other Matters

28. The Council's evidence indicates that the appeal site falls within the zone of influence for Penhale Dunes and River Fal Special Areas of Conservation (SAC) where a financial contribution is sought from all new housing to fund agreed mitigation measures. I understand 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 appeal proposal on the SAC's further.

Planning balance and conclusions

29. 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 2, 3, 7 12, 21, 23 and 27 of the CLP, policies C1, G1, SEC1 and T1 of the CEDPD and policies SD1, SD2 HO2, NE2, NE9 and TT1 of the PNDP are consistent with and remain in general conformity with the NPPF's aims and objectives. The latter include 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, responding to the surrounding built environment and promoting access on foot, by cycling and public transport.
30. 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 housing land supply. As such, 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.”*
31. The appeal proposal would boost housing supply, involve self-build and generate employment during construction. 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 not seeking to address an identified affordable need. On the other hand, as I have found, the appeal proposal would not be sustainable, it would be located in the open countryside without any justification, it would not contribute to or enhance the natural and local environment and would have a harmful 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.
32. 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.
33. 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