



Appeal Decision

Site visit made on 26 February 2025

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Appeal Ref: APP/D0840/W/24/3351179

Long Meadows, Constantine Bay, Padstow, Cornwall PL28 8JQ

- 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 Mrs S Walters (Creative Planning (SW) Ltd) against the decision of Cornwall Council.
 - The application Ref is PA24/03916.
 - The development proposed is described as Application for Permission in Principle for the demolition of an existing dwellinghouse and construction of 2 dwellinghouses (re-submission of PA23/03675).
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Decision

1. The appeal is dismissed.

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 consent route has two stages: the first (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 stage.
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 application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

4. 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

5. The appeal site contains a detached property a short walk from the Constantine Bay stores and nearby bus stop. Although situated on the edge of the settlement and bound on two sides by the adjoining undeveloped field, the developed site reads as part of the built-up area of Constantine Bay. On this basis and given the size of the settlement, the site's residential use and its enclosed, developed nature, the siting of up to two houses on the site would not conflict with Policies 3 and 21 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP). Amongst other aspects, these set out the Council's approach to accommodating new housing within the district and making best use of land, including through the rounding off of settlements and development of previously developed land.

6. Given a section 106 (s106) agreement secures the existing house on the site as an affordable home, and the appeal proposal seeks to replace it with up to two open-market houses, the Council alleges a conflict with CLP Policy 9. However, this policy relates to rural exception sites and sets out, amongst other things, that development proposals on sites outside of but adjacent to the existing built-up area of smaller towns, villages and hamlets, whose primary purpose is to provide affordable housing to meet local needs will be supported where they are clearly affordable housing led. On the basis that the site is, as accepted by the Council, within the settlement's built-up area, the policy is consequently not applicable in this instance.
7. For the above reasons, I conclude that, in principle, the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Planning Balance

8. Based on my above findings, the proposed development of up to two houses on the site would not conflict with the various development plan policies brought to my attention. This leads me to conclude, on the basis of the available evidence, that the proposed development would accord with the development plan as a whole.
9. Furthermore, a net gain of one residential unit in an accessible location would add to the supply of housing in the district. This is a clear benefit, particularly given that the Council is unable to demonstrate a sufficient supply of deliverable housing sites. The construction of the proposed energy efficient houses on developed land, future occupiers' use of local facilities and the potential incorporation of ecological features at technical details stage for example would provide other social, economic and environmental benefits. With the technical details consent stage covering other matters, such as appearance and scale, the proposed development could also be designed to respect its landscaping setting.
10. However, with the proposed demolition of the existing house and the provision of up to two open-market units in its place, the development would result in the loss of an affordable home, available to local persons in housing need. This matter attracts very significant weight and, given the evidenced un-met need for affordable housing in the locality, equates to substantial harm that weighs strongly against the appeal proposal. On this basis, the appeal proposal also cannot reasonably be described as making use of suitable brownfield land. In coming to this view, I have taken into account that the proposal is said to be no different to the regeneration of housing in other areas.
11. Whilst the relevance of the site's planning history to the determination of the appeal proposal has been questioned, the submitted evidence indicates that the existing dwelling was permitted on the basis it would provide an affordable home to meet a local need, thereby qualifying as a rural exception site. In this respect, I am mindful that the National Planning Policy Framework (Framework) is clear that rural exception sites are small sites used for affordable housing in perpetuity. Setting out that rural exception sites are normally expected to comprise of dwellings that are restricted for occupation as local needs housing in perpetuity, the supporting text to CLP Policy 9 includes similar wording and is thus broadly consistent with the Framework. Irrespective of the previous development plan,

there is clearly, therefore, an expectation in current planning policy that development on rural exception sites remains as affordable housing.

12. However, the submitted legal opinion identifies that the associated s106 agreement only restricts the current dwelling for as long as it exists and does not bind future development. It has been put to me that there is therefore nothing to prevent the existing house from being demolished under permitted development rights. This would clearly result in the loss of the affordable unit and represents, based on the available evidence, a theoretical fallback scenario.
13. In this instance, the continued provision of the existing affordable home cannot therefore be taken as read. Nevertheless, whilst the house is said to be unsuitable for the occupiers and their growing family, the legal opinion confirms that the house is neither unsafe nor uninhabitable. It is therefore highly unlikely that the appellant would proceed with the demolition without first obtaining planning permission for other residential development on the site. As such, whilst the lawful fallback scenario could proceed in theory and would result in the loss of the existing affordable house, it does not represent a real prospect with an outside chance or a greater than theoretical possibility of occurring on its own. It thus attracts very limited weight.
14. In any event, the process for such demolition under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) includes applying to the local planning authority for a determination as to whether its prior approval will be required as to not only the method of demolition but also any proposed restoration of the site. It seems to me that the Council could reasonably expect the site to be restored towards its former undeveloped, less enclosed form. Consequently, were the existing house to be demolished under permitted development rights, restoration is likely to mean that the site would no longer read as being either developed or within the settlement's built-up area.
15. As such, and based on the submitted evidence, any future application for residential development of the site (post demolition and restoration) would be unlikely to be judged as development of previously developed land or as rounding off the settlement. Whilst CLP Policies 3 and 9 are now identified as being partially out of date, the locational guidance of the former and the general approach in the latter are consistent with the Framework. It therefore seems to me that the provision of affordable housing on the site would likely still be required for such an application to be approved.
16. This scenario, if it were to occur, could thus not reasonably be considered as resulting in a similar (or worse) situation than the appeal proposal with regards to affordable housing availability in the locality. Whilst consideration of the potential demolition of the existing house under permitted development rights and any future planning application for residential development clearly requires some speculation, I cannot ignore such matters given the fallback scenario and the associated contentions that have been put to me.
17. The available evidence indicates that the Council has a relatively significant shortfall in housing supply, currently only being able to demonstrate a supply of approximately 3.8 years. This means that the approach set out in paragraph 11d) of the Framework applies. The benefits of the appeal proposal, as identified above, attract significant weight and align with what various local and national policies

seek to achieve, including the Framework's policies in relation to delivering a sufficient supply of homes, making effective use of land and promoting sustainable transport. However, given the scale of the development, its benefits and contribution to housing supply in the area would be relatively limited, even taking account of the objectives in the Framework of boosting significantly the supply of housing and directing development to sustainable locations.

18. Conversely, the loss of an affordable home would equate to a significant adverse impact and be contrary to one of the Framework's key policies of providing affordable homes. The provision of open-market housing in place of the existing affordable house would also mean that the proposed development would not, as per the Framework, address the needs of groups with specific housing requirements. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development does thus not apply in this instance.

Conclusion

19. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, whilst the appeal proposal would result in a net gain of one accessibly located, energy efficient home in an area of undersupply and is supported by the Parish Council, it would also result in the loss of a much-needed affordable home. Accordingly, material considerations indicate that the development proposed should not be permitted notwithstanding its accordance with the development plan as a whole.
20. For the above reasons, the appeal is therefore dismissed.

T Gethin

INSPECTOR