



Appeal Decision

Site visit made on 27 January 2025

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2025

Appeal Ref: APP/D0840/W/24/3336515

Belle Vista, Hillhead Road, Kergilliack, Cornwall TR11 5PA

- 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 Richard Scott and Ms Gina Craig against the decision of Cornwall Council.
 - The application Ref is PA23/06331.
 - The development proposed is described on the application form as 'Outline planning permission with some matters (appearance, landscaping, layout and scale) reserved for the demolition of an existing dwelling and construction of up to 4 replacement dwellings and associated works'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Richard Scott and Ms Gina Craig against Cornwall Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application was submitted in outline with all matters of detail, except access, reserved for future consideration. I have assessed the proposal on this basis and treated the drawings as being for illustrative purposes only, except in respect of access.
4. On 12 December 2024 a revised National Planning Policy Framework (the Framework) was published. The main parties have been given the opportunity to make comments on the implications of the updated Framework for this appeal and I have taken the comments into account in my considerations.

Main Issues

5. The main issues in this appeal are:
 - Whether the appeal site is in a suitable location for housing with regard to the development plan;
 - Whether the appeal site is in a suitable location for housing with regard to access to services and facilities; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Location

6. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030, adopted November 2016 ('the LP') seeks to secure the majority of housing at or well related to a number of named towns including Falmouth and Penryn. The appeal site lies beyond the current identifiable form of both and is not allocated for development in the Cornwall Site Allocations Development Plan Document, adopted November 2019 ('the SADPD'). It also lies outside of the smaller settlements identified in the Budock Parish Neighbourhood Development Plan 2019-2030, made August 2021 ('the NP'). The appeal site lies in open countryside.
7. Policy 1 of the SADPD sets out that windfall housing growth will also be delivered through existing sites with planning permission, infill development and small scale rounding off which does not physically extend into the open countryside and the development of previously developed land within or adjoining named settlements.
8. The appeal site is located at the end of a private track which runs west from Hillhead Lane. Fields surround the appeal site to the north and west. Development is currently underway on the land to the south, a matter I return to later. The private track serves three other residential properties set in large grounds. They do not have the shape and form to be considered a settlement. The appeal proposal would not fill a gap in an otherwise continuous frontage and neither would it provide symmetry or completion to a settlement boundary. For these reasons it would not constitute infill or rounding off of a settlement.
9. The appeal site is occupied by an existing dwelling and one which is currently under construction, replacing a previous dwelling on the site¹. Much of the rest of the site was laid to lawn. The Framework excludes land in built-up areas such as residential gardens from the definition of PDL. Given my findings above, I am satisfied that the appeal site does not lie in a built-up area. Whilst it could reasonably constitute PDL, the site is not within or adjoining a named settlement.
10. Policy H2 of the NP permits residential development where it would deliver affordable housing to meet an identified need. The appeal proposal does not relate to affordable housing. Policy 7 of the LP permits new homes in the countryside where there are special circumstances. Although this allows for replacement dwellings, the appeal proposal includes the demolition of a single dwelling and its replacement with four.
11. Therefore, the proposed development would introduce new housing into the countryside in a way which would conflict with Policies 3 and 7 of the LP, Policy 1 of the SADPD and Policy H2 of the NP. This would harmfully undermine the spatial strategy for the location of housing contained in the development plan.

Access to services and facilities

12. Hillhead Road is for the most part a single track road and therefore accessing services in Penryn would likely be by car. There is a primary school, secondary school and employment opportunities in Falmouth which are within walking distance of the appeal site. Whilst much of the route would have footways,

¹ LPA Ref: PA23/04750 Demolition of existing dwelling and detached garages and construction of replacement dwelling, parking, associated landscaping and installation of a ground mounted solar PV array

pedestrians would also have to walk the private track to Hillhead Road and along a section of Hillhead Road which are both unlit with no footway. I understand there are also bus stops close to the appeal site with services to Falmouth town centre and other nearby villages and towns, but I have not been provided with details of the frequency of the service.

13. Whilst there is a growing move towards online shopping and the delivery of goods to homes, this would not negate the need for future occupiers of the site to travel to access services such as health and education.
14. Taken together, this indicates to me that future occupiers of the appeal site would have opportunities available to them to access services and facilities by means other than the car. However as this would not be convenient or attractive for all journeys, some minor harm would result. This would conflict with Policies 21 and 27 of the LP and Policy T1 of the Climate Emergency Development Plan Document, adopted February 2023, insofar as they encourage development in locations where the need to travel is minimised and use of sustainable transport modes can be maximised.

Character and appearance

15. The appeal site occupies an elevated location in an undulating farming landscape which slopes gently down to the Penryn River. In this respect, the site demonstrates some characteristics of both the CCA10² and CCA16³ Cornwall Character Areas. However, this is not a location which is devoid of development, with a number of dwellings and other buildings occupying the ridge. Development would be contained within the existing garden area of the property and therefore would not extend into the undeveloped landscape to the north. The proposal would have a neutral effect on landscape character.
16. Visible from various locations particularly from the north around Flushing, existing development on the site appears on the skyline. The new two storey replacement dwelling under construction in the north west corner of the site is particularly visible. However, as the appeal site slopes gently from west to east, development on the lower, eastern part would be less visible. Controls at reserved matters stage could limit the overall height, scale and layout of new development and provide appropriate landscaping such that no harmful visual impact would arise. As Policy H3 of the NP relates to the design of new development it is not relevant to the outline proposal before me.
17. The development of the appeal site would not extend into the 'green buffer' to the north of the appeal site, identified in the SADPD or the 'green gaps' identified in the NP as being important for providing physical separation between the settlements of Penryn and Falmouth. For this reason, Policy H4 of the NP which seeks to prevent coalescence with Falmouth and Penryn is not relevant to my consideration of the appeal.
18. Whilst the density of development on the site would be greater than the other properties served by the track, the resulting properties would still sit in reasonable size plots and provide a transition from the undeveloped land to the north and the allocated housing site to the south.

² CCA10 Carnmenellis of the Cornwall Character Area Study August 2023

³ CCA16 Falmouth and St Mawes of the Cornwall Character Area Study August 2023

19. Notwithstanding the appeal site's elevated and visually prominent location, development would not give rise to an unacceptable visual impact nor harm to landscape character. Accordingly, no conflict with policies 2, 12 and 23 of the LP would arise which seek to maintain and respect the special character of Cornwall.

Other Considerations

20. Planning permission has been granted for the erection of 133 dwellings⁴ on land immediately to the south of the appeal site. Construction is now well underway. The dwellings are part of the larger allocation identified in the SADPD as Policy FP-H3 Kergilliack (phase 2) for approximately 200 dwellings. Once complete, the appeal site would be located immediately adjacent to those dwellings. However, from the evidence before me, there does not appear to be any direct link from the appeal site into this adjacent development. Therefore, I cannot be certain what, if any benefits would arise to future occupiers of the appeal site from the requirements of Policy FP-H3 to deliver improved pedestrian links to Falmouth. I also have no evidence of what this would constitute or a timetable for delivery and have therefore given this moderate weight overall.
21. The Council have indicated that since the publication of the revised Framework in December 2024, they are no longer able to demonstrate a five year housing land supply. The extent of the shortfall is calculated by the Council to be circa 3.8 years which is well below Government expectations. Accordingly, Paragraph 11. d) of the Framework is engaged.
22. Paragraph 14 of the Framework advises that where Paragraph 11d) is engaged, the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that two criterion are satisfied. That is, the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made and that the neighbourhood plan contains policies and allocations to meet its identified housing requirement. The NP was made in August 2021 and is therefore less than five years old.
23. The NP sets out that the housing requirement for the Falmouth and Penryn Community Network Area is 600 dwellings with Budock representing 13% of the area. The NP indicates that taking into account those houses already built and those with permission, no further additional homes are required within the plan period. The NP strategy therefore is for small scale infill and rounding off within development boundaries, with affordable housing delivered through exception sites where there is evidence of local need. The NP contains policies and allocations to meet its identified housing requirement and there is no robust evidence before me which indicates otherwise. Consequently, Paragraph 14 of the Framework is relevant to the determination of this appeal.
24. The appeal site in St Austell⁵ was not located in the open countryside and did not conflict with an up-to-date neighbourhood plan. The scheme sought to provide up to fifty dwellings and included the provision of affordable housing. These were considerations which were given significant weight in the planning balance. The

⁴ LPA Ref: PA19/10381 Detailed planning application for the erection of 133 residential dwellings (including affordable housing) with associated access, estate roads, car parking, infrastructure and open space at Pen Bethan, Hillhead Road, Kergilliack, Budock

⁵ Appeal Ref: APP/D0840/W/23/3332730 Land between Aspen Drive and Boscoppa Road, St Austell

scale of development in the appeal before me and ensuing benefits are not comparable with that appeal and therefore, I give this limited weight.

Other matters

25. I have considered other matters raised by interested parties including, but not limited to, highway safety and loss of privacy but given that I have identified harm in respect of the main issues, these are not matters on which my decision turns.
26. The appeal site lies within the zone of influence of the Fal and Helford Special Area of Conservation (SAC). The interest features of the SAC are considered to be at risk from the effects of recreational disturbance arising from housing growth. As I am dismissing the appeal, an Appropriate Assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the SAC is not required.
27. Dismissing the appeal would not lead to the destruction of the roost used by Common Pipistrelle bats, a European Protected Species. Accordingly, a mitigation licence would not be required.

Planning Balance and Conclusion

28. Whilst I have found that no harm would arise from the appeal proposal in terms of landscape character or visual impact and there would be some, albeit limited, harm arising from the availability of transport options, I have found that the proposal would not be in a suitable location for new housing having regard to the development strategy in the development plan, including the NP. The appeal proposal would therefore conflict with the development plan as a whole.
29. The appeal proposal would result in up to three new dwellings. This would be a small but useful contribution towards the Government's aim of significantly boosting the supply of homes and would go towards improving the current shortfall in the Council's housing land supply. There would also be economic benefits arising from the construction and occupation of the dwellings. I have also given weight to the appeal site being immediately adjacent to a site for the development of 133 homes which is now under construction and could deliver enhanced pedestrian links. Collectively, these are material considerations which I give moderate weight.
30. However, with reference to Paragraph 14 of the Framework, the proposal would conflict with the NP which is less than five years old and contains policies and allocations to meet its identified housing requirement. Accordingly, the adverse impact of allowing the appeal proposal which conflicts with the NP would significantly and demonstrably outweigh the moderate benefits when assessed against the policies in the Framework taken as a whole.
31. Therefore, the proposed development would be contrary to the development plan as a whole and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR