



Appeal Decision

Site visit made on 4 February 2025 by S Wilson LL.B MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2025

Appeal Ref: APP/D0840/W/24/3349687

Land North-East of Mendhu, St. Hilary, Penzance TR20 9DL

- 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 Ms S Durbin against the decision of Cornwall Council.
 - The application Ref is PA24/00716.
 - The development proposed is permission in principle for an affordable housing-led residential development of between 7 and 9 dwellings.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The proposal is for Permission in Principle (PiP). The Planning Practice Guidance 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. The scope of the considerations for PiP is limited to location, land use and the amount of development. All other matters are considered as part of a subsequent Technical Details Consent application if PiP is granted. I have determined the appeal accordingly.
4. A revised National Planning Policy Framework (the Framework) was published December 2024. An opportunity was provided to the main parties to make further written comment over these changes. The decision is based on the current Framework and has taken account of the further representations made in this regard.
5. In the banner heading above, I have used the description of development to reflect that as provided within the Council's decision notice, in the interests of accuracy and consistency.
6. The St. Hilary Neighbourhood Development Plan 2023-2030 (the NDP) was made 19 September 2024 and carries full weight.

Main Issue

7. The main issue is whether the site is suitable for residential development, having regard to its location, proposed land use and amount of development.

Reasons for the Recommendation

8. The appeal site is a long rectangular field with earth stone hedgerow boundaries to the roadside boundary and the opposite long boundary. The site is bounded to the southwest and to the northeast by existing residential development. The field is identified as being within the Cornwall and West Devon Mining Landscape World Heritage Site (the WHS). It is located within area A3 The Tregonning and Gwinear Mining Districts with Trewavas component of the WHS.
9. The Council's main settlement strategy is contained within Policies 2 and 3 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan). Policy 2 sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing housing based on the role and function of each place. Policy 3 defines how development is accommodated, based on a hierarchy, seeking to steer the majority of new housing towards the main towns or to identified sites through Neighbourhood Plans. The appeal site is not in a main town, nor is it identified as a site required by the NDP.
10. Policy 3 of the Local Plan also allows for rural exception sites under Policy 9. The proposal is for an affordable led scheme of between seven and nine dwellings, the detail of which would be considered at the Technical Consent Stage. The appeal site is not part of the settlement of St Hilary, as set out in the NDP. However, there is a footway, and the site is both close to and well related to the settlement. For these reasons, the appeal site is located adjacent to the settlement and would be closely related to it. Consequently, the proposal would gain support from Policies 3 and 9 of the Local Plan and support from Policy 5b of the NDP.
11. Mineworkers' smallholdings are identified within the WHS Management Plan 2020-2025 (WHSMP) as one of the seven attributes which contributes to the Outstanding Universal Value (OUV) of the WHS and its authenticity and integrity. Consequently, mineworkers' smallholdings are an important feature of the WHS both visually and in respect of an understanding of its origins, and their presence is one of the reasons for its establishment.
12. The Framework makes clear in paragraph 212 that in considering the impact on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset the greater the weight. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
13. The evidence before me includes details from a Tithe Map (1841) which shows the land being occupied by Thomas Hodge whose occupation is given in the census of the same year as a carpenter/miner. Whilst it is difficult to judge based on the limited information provided, the appellant acknowledges that a Mr Hodge did live within the parish. Based on my observations, and by reason of the tithe and census information that has been provided, I conclude that the appeal site was once a miner's smallholding.

14. Due to its undeveloped nature, existing earth stone boundaries and historical association to a former mineworker, the appeal site is clearly legible as a former mineworker's smallholding, despite the limited residential intrusion at each end. It continues to make an appreciable contribution to the setting of smallholding field patterns within the WHS. The development of the appeal site would lead to the legibility of the smallholding being completely overwritten, harming the OUV of the WHS. Whilst this harm would be localised and therefore less than substantial I must, nonetheless, attribute great weight to that harm.
15. The Framework requires that where a proposal would lead to less than substantial harm to a designated heritage asset, the harm should be weighed against the benefits of the development.
16. The development would be affordable led and would provide between seven and nine dwellings which would contribute to the housing stock in Cornwall and to which I attribute moderate weight. There would also be employment, economic and social benefits through the creation of employment during construction, and through the ongoing spend of future residents, and their support for local services in the area. However, the scale of the development means that these benefits cumulatively only carry moderate weight. As the Framework requires that great weight should be given to the heritage asset's conservation, I conclude that the benefits would not outweigh the harm that would be caused to the significance of the WHS.
17. Accordingly, the site is not suitable for residential development, having regard to its location and the proposed land use. The proposal would fail to comply with Policies 1, 2, and 24 of the Local Plan, Policy 3b of the NDP, Policies P3 and C9 of the WHSMP; and the relevant paragraphs of the Framework, insofar as they seek suitably located sustainable development that avoids harm to the authenticity and integrity of the OUV of the WHS, amongst other things.
18. The Council has confirmed that it is unable to demonstrate a five-year housing land supply of deliverable housing sites. Where the development plan is considered to be out of date for the policies most relevant to the determination, paragraph 11(d) of the Framework requires that presumption in favour of sustainable development is applied unless the application of policies in the Framework that protect assets of particular importance provides a strong reason for refusing the development proposed. For the purposes of paragraph 11 of the Framework, the WHS is an asset of particular importance as denoted by footnote 7.
19. The proposal would cause less than substantial harm to the WHS, and the application of the policies in Section 16 of the Framework provide a strong reason for refusing the proposed development. Consequently, the provisions of paragraph 11d(ii) of the Framework are not engaged in this instance.

Conclusion and Recommendation

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet

INSPECTOR