



Appeal Decision

Site visit made on 18 March 2025

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

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/D0840/W/24/3354463

Land east of Lower Town Barn, Trewidland, Cornwall, PL14 4ST

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Horsley against the decision of Cornwall Council.
 - The application Ref is PA24/01944.
 - The development proposed is construction of a single, part two storey, detached dwellinghouse (including demolition of non agricultural building of 220 sqm), using existing access to highway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (NPPF) came into force on 12 December 2024, after the appeal was lodged. The implications of the revised NPPF were addressed in the Council's Statement of Case (CSOC) dated 24 December 2024. Whilst the Appellant had an opportunity to respond to the latter, no Final Comments were received from them. I sent a request to the Appellant on 19 March 2025 drawing their attention to the draft consultation Cornwall Interim Policy Position Statement (CIPPS) dated January 2025. The request invited the Appellant to comment on whether the CIPPS had any relevance to their case. No response to this request was received.

Main Issue

3. The main issue is whether the proposed development would be acceptable having regard to local and national planning policies on the location of housing.

Reasons

4. The appeal site is located on the south eastern edge of Trewidland. It comprises a long rectangular building of vertical timber cladding and a profiled metal roof. The building has a mono pitch roof which rises in a north westerly direction. The whole of the north west elevation of the building has an open frontage that faces onto an area of concrete hardstanding. Running along the north western boundary of the concrete hardstanding is a high wall/fence that forms the common boundary with a nursery of large glasshouses.
5. To the north east, south east and south are open fields and a Public Right of Way (PROW) which follows the track leading to the appeal site (from where access will

be taken) past the site and down the valley to the south east. To the south west is a recently completed housing development. The proposal involves the demolition of the existing building and the construction of a single, part two storey detached dwellinghouse.

6. The Council have referred to Map T7 of the Dobwalls & Trewidland Neighbourhood Development Plan 2022-2030 (NDP) which confirms that the appeal site falls outside the established (defined) Development Boundary for Trewidland (TDB). Policy HO1 of the NDP states that only small scale housing development of infill and rounding off within the development boundaries will be supported so that the open countryside is preserved and agricultural land retained for its primary use. This must be read in conjunction with policy HO2, which states that any proposed residential development outside the development boundaries will be treated as a rural exception site in accordance with policy 9 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP). Policy HO2 continues by stating that such sites must have a minimum of 50% affordable housing and comply with criteria seeking to avoid a negative impact on local landscapes, character or infrastructure.
7. The appeal proposal is not being promoted as a rural exception site and instead seeks permission for market housing. In view of this and as the appeal site is located outside the TDB, the proposed development conflicts with policy HO1 and HO2 of the NDP.
8. The Council have also referred to policies 1 and 2 of the CLP. Policy 1 sets out a presumption in favour of sustainable development. It continues by stating that planning applications that accord with the policies of the CLP and any supporting development plans, including, where relevant, policies in Neighbourhood Plans, will be regarded as sustainable development and approved unless material considerations indicate otherwise. As I have found, the appeal proposal would conflict with the relevant policies of the NDP.
9. Policy 2 of the CLP sets out the spatial strategy for Cornwall and seeks to manage the location and scale of new housing. Part 2 of the policy states that proposals should assist the creation of resilient and cohesive communities by, amongst other requirements, under '2.d' supporting the delivery of 'made' Neighbourhood Plans and other community based initiatives that help make communities more resilient. Again, as I have found, the appeal proposal would conflict with the NDP and would not support or be in compliance with the delivery of a 'made' Neighbourhood Plan.
10. The Appellant contends that the appeal site represents previously developed land (pdl) and that the proposal would comply with part 3 of policy 3 of the CLP. Policy 3 states, in line with policy 2, that new housing should be accommodated in accord with a hierarchy delivered through a Site Allocations Development Plan Document or Neighbourhood Plan for the identified main towns, new eco-communities and in part 3 for areas outside the main towns through Neighbourhood Plans, rounding off, previously developed land (pdl), infill or rural exception sites.
11. The evidence before me in relation to the lawful use of the existing building is not conclusive. As I observed on my site visit, the building has been used recently to repair and sell on refurbished vehicles, which I understand is essentially a hobby of the Appellants son. There are a large number of vehicles on the appeal site and on adjoining land that the Appellant also controls, as well as tools/equipment to assist in the repair and refurbishment of those vehicles. My attention has not, however,

been drawn to any planning permission or Lawful Development Certificate that relates to this use. Moreover, in July 2018 an appeal against the refusal of an application for prior approval, for a change of use of the existing appeal building to a dwellinghouse under Class Q, was dismissed (ref. APP/D0840/W/17/3190234).

12. The Inspector in the above case found that as well as the building requiring substantial works to convert it to residential, it did not qualify from permitted development under Class Q as it had not been demonstrated that the last use of the building was solely as an agricultural use or that it was part of an established agricultural unit. At the time of that decision, the Inspector found that the appeal site was being used for domestic storage purposes and that any agricultural use had probably ceased in mid-2010.
13. Based on the above, I accept that the appeal proposal would involve the development of pdl and would thus, in this respect, comply with part 3 of policy 3 of the CLP. It would also comply with policy 21 which encourages the best use of land and buildings in sustainable locations.
14. Section 38(5) of the Planning & Compulsory Purchase Act 2004 states that where a policy contained in the development plan for the 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. That approach is reaffirmed in paragraph 12 of the Planning Practice Guidance chapter on 'Determining planning applications'. I find, therefore, that policies HO1 and HO2 take precedence over part 3 of policy 3 of the CLP.
15. The Appellant contends that the NDP is silent on the issue of pdl and as such the policies on pdl in the CLP and NPPF (paragraphs 89 and 124 refer) should apply. I do not agree. The NPPF states that policies and decisions should promote the effective use of land in meeting the need for homes, with strategic policies setting out a clear strategy for accommodating objectively assessed needs in a way that makes as much use as possible of pdl. In response, policies HO1 and HO2 prohibit the provision of market housing outside the TDP. Apart from the support for rural exception sites, in line with policy 9 of the CLP, policies HO1 and HO2 do not refer to or include any exceptions or provide support where a proposal might comply with other development plan policies.
16. There is no requirement for the NDP to duplicate or replicate CLP or NPPF policies. In addition, sections 1 and 2 of the NDP confirm, as is required, that the Plan has been prepared in general conformity with the CLP. Also, that it builds on the strategic policies of the CLP and the policies of the NPPF to provide an extra level of detail at local level. It continues by highlighting the various stages leading up to the Plan being 'made' including assessments of its compliance with revisions to the NPPF, local stakeholder consultations and community input and the examination of the Plan to ensure that it conformed with relevant legislation, policies and other designations.
17. The NDP has, therefore, been prepared having regard to the NPPF, as a material consideration and in conformity with the strategic policies of the CLP. That finding is supported by the '*Policy Justification*' for policies HO1 and HO2 in paragraph 10.6 of the NDP. This confirms that the approach set out in the policies arose from the exceptional and unprecedented level of housing development that had taken place in the Plan area which had resulted in the minimum housing targets for this

Community Network Area (in the CLP) being met and exceeded, even with 10 years of the Plan period to go. Policies HO1 and HO2 form part, therefore, of a planned strategy for the area reflecting objectively assessed and identified needs.

18. Whilst these policies adopt a particular approach to development within the defined settlement boundaries (the latter are not specifically referred to in the NPPF), these policies are not, in my view, inconsistent with the NPPF or the CLP as they are supported by appropriate and robust evidence. As I also confirmed earlier, they form part of a planned strategy that would be significantly undermined and prejudiced by the approval of market housing, in the form of either infill, rounding off or pdl, outside of the defined settlement boundaries.
19. Accordingly, I find that policies HO1 and HO2 of the NDP are in general conformity and consistent with CLP and NPPF and that they should be accorded full weight. The appeal proposal would conflict with the central aims and objectives of these policies and its planned strategy, and would also conflict with relevant parts of policies 1 and 2 of the CLP.

Other Matters

20. The Council's Delegated Report indicates that the appeal site falls within the zone of influence of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) where a financial contribution is sought from new housing to fund agreed mitigation measures. The Appellant has already signed an undertaking pursuant to section 111 of the Local Government Act 1972 to secure this contribution. Even so, in view of my findings on the main issue I have not dealt with the impact of the appeal proposal on this SAC further.
21. The Council's Questionnaire indicates that the appeal site lies within the setting of a Grade II Listed Building, namely Lower Town Farmhouse, located to the north west of the appeal site. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special regard must be had to the desirability of preserving that buildings setting. Similar advice is to be found in the NPPF. Even so, the Farmhouse is physically and visually separated from the appeal site. In view of this, the proposal would not result in any harm to its setting.
22. The Council's Delegated Report concluded that even though the appeal site was located within the Looe & Seaton Valley Area of Great Landscape Value, the proposed development would not harm the character and appearance of the area or its designated landscape. That finding was based on Officers assessment that the proposal would replace a large timber building, that it would have a ridge only 3 metres higher than existing, it would have a smaller footprint and included a high quality design and pallet of materials. Also, as the new dwelling would be viewed in the context of the recent housing development and large glasshouses. As such, the Report concluded that the proposal accorded with policies LC1 and LC2 of the NDP and policies 12 and 23 of the CLP.
23. The conclusions of the Delegated Report were reflected in the Council's reason for refusal, which related to the sites location outside the TDB and conflict with policies HO1 and HO2 of the NDP and policies 1 and 2 of the CLP. Even so, the CSOC appears to raise concerns over the impact of the development on the designated landscape and character and appearance of the area. No reasoning is provided as to why that view has changed or what new, if any, considerations or evidence has

led the Council to reach a different finding. There is also no evidence before me to indicate that, from a case management perspective, the Council sought to inform the Appellant of this change once the appeal had been lodged.

24. The Appellants Statement of Case was clearly prepared on the premise that the Council accepted there would be no impact on character and appearance. Whilst it's unclear as to why the Appellant has not responded to the CSOC in their Final Comments, I do not share the Council's concerns and fully concur with the findings that Officers reached in their Delegated Report. For the above reasons, I have not considered this issue further.

Planning balance and conclusions

25. 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 HO1 and HO2 of the NDP and policies 1 and 2 of the CLP are consistent with and remain in general conformity with the NPPF's aims and objectives. These include those seeking to restrict new housing in the open countryside particularly where there is no policy justification or no special circumstances, ensure that new housing development is appropriately located and to protect the open countryside from inappropriate development.
26. In terms of other considerations, there are benefits to the appeal proposal. These include a new residential unit and short term employment from construction, within a sustainable location. Even so, only one unit is proposed for market housing and it is not seeking to meet local affordable needs as identified in the NDP. I, therefore, attach moderate weight to these benefits.
27. However, as I have found, the appeal proposal would conflict with policies HO1 and HO2 of the NDP and relevant parts of policies 1 and 2 of the CLP. These policies, specifically those of the NDP, should be accorded significant weight as they remain consistent with and in conformity with the NPPF and other strategic policies of the CLP. Consequently, even in the absence of visual harm resulting from the new dwelling, I find that the appeal proposal would conflict with the development plan as a whole.
28. The CIPPS confirms that following the publication of the NPPF the Council can no longer demonstrate a five year supply of housing land. 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."*
29. The appeal proposal would not be suitably located and would conflict with the NDP policies seeking to restrict new market housing outside of the defined settlement boundaries, policies that are central to achieving a planned strategy for future housing growth in the area that preserves the open countryside and setting of existing settlements. The proposal conflicts, therefore, with a number of development plan policies which remain up to date and thus should be accorded significant weight.

30. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan, and where a proposal conflicts with an up to date development plan, including any neighbourhood plan, permission should not usually be granted. As the NDP is less than 5 years old and has policies to deliver and promote housing to meet identified requirements and within the defined settlement boundaries, then paragraph 14 of the NPPF also applies. This states that *“In situations where the presumption (at paragraph 11 d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits”*. The latter is a statement of Government policy and thus an important material consideration in this appeal.
31. I find, therefore, that the harm and policy conflict that 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.
32. 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