



Appeal Decision

Site visit made on 1 April 2025

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/D0840/W/24/3337735

Sandock Nurseries, Middle Dimson, Gunnislake PL18 9NG

- 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 Ms Martin and Mr May against the decision of Cornwall Council.
 - The application Ref is PA23/06058.
 - The development proposed is described on the planning application form as 'New dwelling at Sandock Nurseries (includes demolition of domestic garage belonging to Sandock Cottage)'.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at Sandock Nurseries (includes demolition of domestic garage belonging to Sandock Cottage) at Sandock Nurseries, Middle Dimson, Gunnislake PL18 9NG in accordance with the terms of the application, Ref PA23/06058, and the plans submitted with it, subject to the conditions in the attached Schedule.

Preliminary Matter

2. 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

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area including the Tamar Valley National Landscape;
 - Whether the appeal site is in an appropriate location for housing, having regard to the development plan;
 - The effect of the proposed development on the integrity of the Plymouth Sound and Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area; and
 - Whether there are any material considerations, including the Framework which would outweigh any identified harm.

Reasons

Character and Appearance

4. The appeal site lies within the Cornwall Character Area (CCA) 41: Kit Hill. I saw that in the vicinity of the appeal site, the rural landscape was gently undulating with narrow winding lanes and medium sized fields enclosed by hedges with some mature trees. The topography limited wide ranging views giving an enclosed feeling.
5. The appeal site lies within the Tamar Valley National Landscape (NL) which is a protected landscape of national importance. I am required to seek to further the purpose of conserving and enhancing the natural beauty of the area¹. Whilst this is a high bar, it does not mean that no development should be permitted.
6. The appeal site is located between Gunnislake and Drakewalls and Albaston. A narrow lane bordered by stone walling and hedgerows winds uphill from Gunnislake and past the appeal site. Development here is sporadic and mature trees add to the sense of enclosure. The appeal site is therefore located within the rural landscape setting of Gunnislake.
7. Whilst the environs of the appeal site clearly contribute towards the rural landscape setting, I found that the site's contribution to the key characteristics of the CCA were limited. The site is located between existing dwellings and as such this is not an area which is devoid of development. The appeal site also appeared to have been levelled at some point in the past and was laid to grass. Located to the west of domestic outbuildings and to the north of an existing garage, the appeal site had a domestic rather than undeveloped rural appearance. The boundary to the rear of the site indicated a clear change in character to the undeveloped wider landscape beyond.
8. The proposed dwelling would be set back from the road and grouped together with the existing buildings. Whilst it would be visible from the site access and in gaps between vegetation, these views would be oblique and fleeting such that the proposed dwelling and any associated domestic paraphernalia, would not be a conspicuous addition. The existing buildings are well-spaced and as a result, development on the appeal site would not erode the gap between buildings to a harmful extent.
9. The proposed dwelling would be of a simple rectangular form. With a natural slate roof and stone detailing to the rendered elevations, the proposal would largely utilise vernacular materials, with a small area of cladding to the front porch. Its overall design would not be out of keeping with the neighbouring properties.
10. Taken together, I conclude that development on the appeal site would conserve the natural beauty of the NL and no harm would arise to the rural character and appearance of the area.
11. I therefore find no conflict with Policies 2, 12 and 23 of the LP which seek high quality design which sustains local distinctiveness and character and protects Cornwall's natural environment, including the NL. I also find no conflict with Policy C1 of the Climate Emergency Development Plan Document adopted February 2023 (DPD) which seeks to conserve and enhance the natural environment.

¹ Section 245 of the Levelling Up and Regeneration Act 2023

Location

12. Outside of the main towns, Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 adopted November 2016 (LP) seeks to deliver housing growth through allocation in a Neighbourhood Plan, rural exception sites, and the rounding off, infill and development of previously developed land (PDL) at settlements.
13. The appeal site is not allocated for development in the Calstock Parish Neighbourhood Development Plan 2021-2030, made January 2022 (NP). The appeal site is located outside and between the settlement development boundaries of both Gunnislake and Drakewalls and Albaston identified in the NP.
14. Policy HP1 of the NP only permits development outside development boundaries where it complies with Policies 7 and 9 of the LP or they comprise renewable energy projects, rural workshops or green tourism projects **and** *[my emphasis]* are in accordance with Policy HP2 of the NP relating to Rural Gaps. The use of the word 'and' means that a proposal must comply with Policy HP1 before moving on to consider Policy HP2. HP2 is not a standalone policy which would permit housing development in a Rural Gap irrespective of its non-compliance with Policy HP1.
15. None of the special circumstances set out in Policy 7 of the LP apply to the appeal proposal and Policy 9 of the LP relating to rural exception sites is not relevant as the appeal proposal would not deliver affordable housing. The proposal is not a renewable energy project, rural workshop or green tourism project. The proposal is therefore contrary to Policy HP1 of the NP, and Policy HP2 of the NP is not relevant to the proposal before me.
16. I therefore turn to whether the proposal would constitute the rounding off of a settlement or development of PDL within or immediately adjoining a settlement, or an infill scheme as set out in Policy 3 of the LP. The Council have referred me to their CPOAN², which is not adopted policy but a note to guide greater consistency in decision making.
17. The CPOAN describes infill as the development of a gap in an otherwise built-up frontage. The appeal site is a spacious plot measuring 0.11 hectares³. It is located between Nattore Lodge and Sandock Nursery which are in their own spacious plots, and to the rear of Sandock Cottage which sits on the road frontage. This arrangement of buildings means that the appeal site is not a gap in an otherwise built-up frontage and would not constitute infilling.
18. Whilst the appeal site would be grouped with existing dwellings, the existing dwellings are not contiguous with development at either of the neighbouring settlements. The appeal site is visually and physical separated from Gunnislake by the expansive grounds of Sandock Nursery. It is also visually and physically separated from the settlements of Drakewells and Albaston by undeveloped fields. The appeal site is therefore not within or immediately adjoining a settlement. It therefore does not comply with the requirement in Policy 3 of the LP for rounding off and the development of PDL to be on land within or immediately adjoining a settlement.
19. Policy 21 of the LP gives encouragement to sustainably located proposals that increase building density where appropriate, taking into account the character of

² Chief Planning Officer's Advice Note: Infill / Rounding off dated December 2017

³ Taken from the planning application form

the surrounding area and access to services and facilities. In this respect, the appeal site is in a comfortable walking distance of approximately ten minutes to a number of services and facilities available in Gunnislake including shops, primary school, doctors surgery and the railway station. Future occupiers of the appeal site would have access to facilities and services for day-to-day living without being reliant on the private car. Accordingly, the proposal would comply with the requirement for an efficient use of land in Policy 21 of the LP and Policy C1 of the DPD which seeks to maximise the use of public transport, sustainable and active modes of transport rather than the car.

20. Therefore, whilst the proposed development would introduce new housing into the countryside in a way which would conflict with Policies 2, 3 and 7 of the LP and Policy HP1 of the NP, it would comply with Policy 21 of the LP and Policy C1 of the DPD in terms of being located where there is access to services without reliance on the car. The relevant policies in the development plan therefore pull in different directions and I address this in my planning balance below.

Habitats

21. The appeal site lies within the zone of influence of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA). Designated in recognition of their international importance for wildlife, the SAC and SPA include key marine habitats such as sandbanks, estuaries, shallow inlets and bays, reefs and saltmarshes. These sheltered waters are home to the protected Allis shad migratory fish and other protected species. They also provide important feeding and roosting areas for little egret and avocets which are both protected birds. There is a need to conserve and restore the SAC and SPA and prevent deterioration or significant disturbance of its qualifying features to meet the Conservation Objectives of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
22. The special interest features of the SAC and SPA are vulnerable to threat due to recreational disturbance arising from housing growth. The appeal proposal would result in an additional dwelling and would therefore have a likely significant effect on the features for which the SAC and SPA are designated, either on its own or cumulatively with other similar development, without avoidance measures. As the competent authority, I am required to carry out an Appropriate Assessment pursuant to the Habitat Regulations. I have consulted Natural England accordingly.
23. The European Sites Mitigation Supplementary Planning Document dated July 2021 (SPD) sets out a strategic approach to mitigation and monitoring with a programme of measures and a scale of contributions from development. Where the only potential harm is from recreational disturbance, the Council and Natural England have agreed that mitigation can be met by a specified financial contribution.
24. The financial contribution towards the programme of measures set out in the SPD including providing water-based patrols, educational workshops and the installation of signage has been secured through the s111 Undertaking. Whilst a s111 Undertaking does not bind the Council to spend the money in any particular way or deliver the mitigation, I am satisfied that as a public body, the contribution would be spent as intended thereby mitigating the harm that would arise.
25. The development can therefore proceed without harm to the integrity of the SAC and SPA, thus complying with the expectations of the Habitats Regulations and

Policy 22 of the LP which requires mitigation measures to be secured so that there would be no adverse effects on the integrity of European Nature Conservation Sites.

Other considerations

26. The proposal has the support of local residents who refer to the dwelling being affordable housing for a young couple who already live locally. However, there is nothing before me to secure this. This would be a personal benefit and, as such, carries very limited weight.
27. There is an existing domestic garage towards the front of the appeal site which would be demolished to provide access to the appeal site. The appellant states that the garage is a reasonably unattractive structure and I agree. The removal of the garage on the site frontage, which is highly visible from the highway would be a visual improvement and I give this some weight.
28. 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. Whilst the proposal would only deliver one unit, this would nevertheless be valuable in boosting the supply of housing stock in circumstances where there is a significant shortfall. There would also be economic benefits arising from the construction and occupation of the dwelling.

Other Matters

29. The appeal site lies within the Cornwall and West Devon Mining Landscape World Heritage Site (WHS) which is internationally recognised to be of Outstanding Universal Value. The remains of mines, engine houses, smallholdings, ports, harbours, canals, railways, tramroads, and industries allied to mining, along with new towns and villages reflect an extended period of industrial expansion and prolific innovation. There is no evidence before me that the appeal site contains any of these attributes or contributes to the significance of the WHS. Accordingly, development of the appeal site would not have any impact on the significance of the designated heritage asset. In reaching this conclusion I have had regard to the formal response of the Cornish Mining World Heritage Site Office.
30. Any implications for sewerage infrastructure is the responsibility of the Statutory Undertaker. There is no substantive evidence from the Statutory Undertaker that the existing public sewerage system is at capacity.

Planning Balance

31. I have found that the proposal would introduce new housing into the countryside in a way which would conflict with Policies 2, 3 and 7 of the LP and Policy HP1 of the NP. This would harmfully undermine the spatial strategy for the location of housing contained in the development plan.
32. The proposal would therefore conflict with the development plan as a whole. However, because of the housing land supply position, Policy 1 of the LP regarding the presumption in favour of sustainable development and Paragraph 11d) of the Framework is relevant. As a result, the development plan policies which are most important for determining this appeal are deemed out of date although due weight

should be given to them according to their degree of consistency with the Framework.

33. The detailed location aspects of Policy 3 of the LP are out of the date but aspects of the policy which guide development to suitable locations for growth reflect paragraphs 98 and 110 of the Framework by setting reasonable expectations for judging sustainable locations. This is set out in the Council's Interim Policy Position Statement dated April 2025. I therefore give significant weight to the conflict with the development plan.
34. Paragraphs 98 and 110 of the Framework seek to provide an integrated approach to the location of housing where community facilities and goods and services can be accessed via a range of transport options. In this respect, I have also found that the proposal would increase building density in a location which would enable future occupiers to access goods and services without reliance on the private car leading to some economic benefits to the nearby settlement as set out in Paragraph 83 of the Framework. Paragraph 61 of the Framework seeks to boost the supply of housing and Paragraph 73 acknowledges that small sites can make an important contribution towards this. These are all benefits to which I attach significant weight.
35. I have given great weight to the need to conserve and enhance landscape and scenic beauty in the NL⁴ and have found that no harm would arise to the character and appearance of the area including the NL.
36. When assessed against the policies in the Framework as a whole, the adverse impact of the conflict with the development plan does not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to key policies for directing development to key locations, making effective use of land and securing well-designed places. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted in this instance.

Conditions

37. I have had regard to the advice in the Planning Practice Guidance and the conditions set out in the Council's appeal statement. The appellants have had sight of those conditions and have not indicated that I should not impose them. I have undertaken some minor editing of those conditions in the interests of precision and clarity without changing their overall substance.
38. In addition to the standard time limit condition, a condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of certainty.
39. A landscaping scheme including measures to protect existing trees and hedges during construction is necessary to protect the character and appearance of the area and must necessarily apply before any development is commenced. The appellants have given their consent in writing that this pre-commencement condition may be imposed.

⁴ Paragraph 189 of the Framework

40. A condition to ensure that the work accords with the submitted ecological assessments is necessary to ensure that habitats and species are protected. A condition to secure parking and turning provision is necessary in the interests of highway safety.

Conclusion

41. The proposed development would not adhere to the development plan but material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal should succeed.

Alison Fish

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan dated 24 July 2023; Block Plan dwg no LM23 0104 –01 dated 29 March 2023; Proposed site layout dwg no LM23 1104 –08 dated 31 May 2023; Proposed floor layouts dwg no LM23 0104 –11 dated 9 June 2023; Proposed elevations dwg no LM23 0104 –12 dated 9 June 2023; and Proposed site section dwg no LM23 0104-14 dated 9 June 2023.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) The development hereby approved shall be undertaken in accordance with the recommendations as set out within Ecological Assessment dated 25 April 2023 and the Technical Report: Bat Emergence Survey dated 22 July 2023 carried out by Brookside Ecology.
- 5) Before any of the development hereby permitted is brought into use, parking and turning areas shall be provided in accordance with drawing LM23-0104-08 dated 31 May 2023 and the said areas shall not thereafter be obstructed or used for any other purpose.