
Appeal Decision

Site visit made on 21 May 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 July 2025

Appeal Ref: APP/D0840/W/24/3355557

Chylyn, Towednack Road, St Ives, Cornwall TR26 3AH

- 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 and Mrs Flaherty against the decision of Cornwall Council.
- The application Ref is PA24/01677.
- The development proposed is described as outline planning permission for new dormer bungalow in side garden of Chylyn.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme relates to an outline proposal with appearance, landscaping and scale reserved for future consideration. I have considered the appeal accordingly. Plans have been submitted as part of the appeal which indicate how the proposed development could be accommodated on the site. I have taken these plans into account for indicative purposes only insofar as they concern the reserved matters.

Main Issues

3. The main issues are:
 - whether the appeal site is a suitable location for the proposed development having regard to local policy; and
 - whether the proposed development would be at risk of flooding.

Reasons

Suitable Location

4. Policy 2 of the Cornwall Local Plan 2010-2030 (the CLP) establishes a spatial strategy and outlines, amongst other things, that new development should maintain the dispersed development pattern of Cornwall. Policy 3 of the CLP provides, amongst other things, support for housing via windfall sites that constitute rounding off of settlements, reuse of previously developed land within or well related to settlements as well as infill schemes that do not physically extend a settlement into the open countryside.
5. Policy 7 of the CLP provides support for new dwellings in the countryside in special circumstances such as replacement dwellings, subdivision of existing residential dwellings, reuse of suitably constructed redundant, disused or historic

buildings, temporary accommodation for workers including agricultural, forestry and other rural occupation workers where there is evidence of an essential need.

6. The appeal site is a triangular shaped area of land forming part of the garden of a residential dwelling known as ChyLyn. The site is separated from the road by a stone wall which is set with vegetation and is located within the St Ives and Carbis Bay Area of Great Landscape Value. It is accessed via a single road track which does not benefit from a dedicated footpath or lighting.
7. It is also identified as being within Landscape Character Area CCA03 Penwith Central Hills (the LCA) which is characterised, in part, by a dispersed settlement pattern. It outlines that the LCA is bordered by St Ives and Carbis Bay and the development on the periphery of these settlements, as well as others could erode and threaten the distinctive remote character of the area.
8. The nearby settlements of St Ives and Halestown are well-formed with a relatively clear and distinct shape which do not include the appeal site. There are a small number of dwellings located close to the appeal site, however these are relatively dispersed in character and do not benefit from an identifiable core. Therefore, in my judgement it is not within a clearly defined settlement and is located within the open countryside for planning purposes. Consequently, the appeal scheme would not result in the rounding off of a settlement, reuse previously developed land within or well related to a settlement nor constitute an infill scheme which would not physically extend into the open countryside.
9. Considering the above, the appeal scheme would result in the expansion of built form within the open countryside and likely increase domestic activity. Regarding domestic paraphernalia, the appeal site currently forms part of a residential garden and therefore a level of domestic paraphernalia could be associated with the existing site. Nevertheless, it remains that there would likely be an unacceptable increase in domestic activity as a result. Given that it does not meet the criterion outlined in Policy 7 of the CLP, it remains that the appeal scheme would represent an unsuitable and undesirable form of development.
10. Furthermore, regarding access to day-to-day facilities and services, given the relatively remote location of the appeal site in conjunction with the single road track and the lack of adequate lighting and footpaths, it would be likely that any future residents of the appeal scheme would become reliant upon private motor vehicles, especially during the hours of darkness or in poor weather conditions.
11. My attention has been drawn to other development on Towednack Road and the surrounding area. I do not know the full circumstances of these developments and therefore cannot be certain that they are wholly comparable. Nevertheless, each case is determined on its own merits and they do not lead me to a different conclusion.
12. Given all of the above, the appeal site would not be a suitable location for the proposed development. It would therefore conflict with Policies 1, 2, 3, 7, 23 and 27 of the CLP insofar as they seek to achieve a sustainable approach to accommodating growth including, amongst other things, housing in the countryside. As well as prevent developments in locations that would harm the wider landscape area. It is for the same reasons the appeal scheme would conflict with Policies OS1 and BE17 of the St Ives Area Neighbourhood Plan 2015-2030 (the NDP). It would also conflict with Policy T1 of the Climate Emergency

Development Plan Document 2023 which seeks to ensure the location of developments minimise the need to travel and reliance upon vehicles.

Flooding

13. Part of the appeal site would be located within designated flood zones 2 and 3 including the access to the site from the public highway. Paragraph 175 of the National Planning Policy Framework (the Framework) states that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access amongst other things would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)
14. Additionally, Planning Practice Guidance (PPG) states that a sequential approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Consequently, even if a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.
15. Accordingly, I acknowledge that the appellant's experience of the site has not included significant flooding and whilst the Environment Agency map (figure 3) contained within the Flood Risk Assessment dated February 2024 (the FRA) locates the appeal site in flood zone 2, one of the conclusions of the FRA found a large part of the site to be located within flood zone 1. Notwithstanding this, it remains that part of the access drive and parking area would be located within flood zone 2. Therefore, having regard to paragraph 175 of the Framework a sequential test is required in this case.
16. The FRA refers to Table 2: Flood Risk vulnerability and flood zone incompatibility contained within the PPG. However, the table itself does not show the application of the aforementioned sequential test which should be applied first to guide development to the lowest flood risk area. Consequently, the exception test is not determinative in this case given that it should only be applied after a sequential test.
17. The Lead Local Flood Authority has recommended pre-commencement conditions regarding on-site flood remediation measures. Nevertheless, it remains, in my judgement, that the appellant has not adequately demonstrated that there are any other reasonably available sites appropriate for the appeal scheme in areas that are at a lower risk of flooding, given the lack of a sequential test. Consequently, it has not been adequately demonstrated that the proposed development would be safe from flooding for its lifetime and therefore, a pre-commencement condition would not, in my judgement, overcome the need for a sequential test.
18. In conclusion, due to the lack of an adequate sequential test it has not been sufficiently demonstrated that there are no other reasonably available sites appropriate for the proposed development in areas at lower risk. Accordingly, it has also not been demonstrated that the proposed development would not be at risk of flooding. The appeal scheme would therefore be in conflict with Policy 26 of the CLP insofar as it seeks to manage flood risk.

Other Matters

19. The Council has stated that they are able to demonstrate a housing land supply of approximately 3.8 years. This is below the housing land supply the Council is expected to deliver in line with the Framework. Whilst the proposal would deliver one unit this would nonetheless boost the housing stock in circumstances where there is a shortfall
20. Policy BE17 of the NDP outlines criteria relating to development within existing private gardens. It provides support for infill development subject to certain criterion including appearance, scale and landscaping. However, these do not affect the principle of the scheme which is the matter before me. It is for the same reason that reference to the visual character of the appeal scheme cannot be considered in my determination of this appeal.
21. Compliance with Policy BE17 of the NDP insofar as it relates to highways access is a neutral factor in this case.

Planning Balance

22. As set out above, the appeal site is not a suitable location for the proposed development and it has not been adequately demonstrated that it would not be at risk of flooding. Thus, there would be a material conflict with Development Plan policies and the Framework. Due to the Council's housing land supply position, paragraph 11 d) of the Framework is engaged. Nevertheless, given that the relevant policies accord with the Framework, this conflict attracts full weight in this case.
23. The appeal scheme would result in an open market dwelling in a District that is falling below the level of housing supply required by national policy. It would make a modest contribution as indicated in paragraph 73 of the Framework.
24. The appellant and interested parties highlight that the appeal scheme would contribute to addressing a housing crisis and in particular the critical shortage of homes near St Ives and Cornwall. There would be modest economic benefits as a result of the appeal scheme during the construction phase. However, I have identified above that the unsuitable location of the appeal site and the lack of substantive evidence to adequately demonstrate that the appeal scheme would not be at risk of flooding. Accordingly, I give the appellant's claimed benefits limited weight.
25. Nevertheless, the adverse impacts I have identified as a consequence of the appeal scheme would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework policies as a whole.
26. There are no material considerations of such weight or significance to justify a decision otherwise than in accordance with the development plan.
27. The appeal site is in the zone of influence of West Penwith Moors and Downs Site of Specific Scientific Interest (SSSI). I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have upon the SSSI. However, as I am dismissing the appeal for the reasons given above, I do not need to conduct any further assessment in relation to the SSSI.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR