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## 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: 03 September 2025**

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**Appeal Ref: APP/D0840/W/24/3356470**

**Land East of Tregildry House, Gillian, Manaccan, Helston, TR12 6HG**

- 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 Matthew Jones against the decision of Cornwall Council.
  - The application Ref is PA24/04448.
  - The development proposed is erection of 1 dwelling and means of access only (all other matters reserved).
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 dwelling and means of access only (all other matters reserved) at Land East of Tregildry House, Gillian, Manaccan, Helston, TR12 6HG in accordance with the terms of the application, Ref PA24/04448, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The appeal scheme relates to an outline proposal with appearance, landscaping layout 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.
3. As the site is within the Cornwall National Landscape (the CNL) I have paid regard to my duty under Section 86 of the Countryside and Rights of Way Act 2000 (as amended) to seek to further the purpose of conserving and enhancing the natural beauty of the area.
4. I have removed words not related to acts of development from the above banner heading for clarity.

### Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the surrounding area including whether the appeal scheme would conserve and enhance the Cornwall National Landscape (the CNL).

### Reasons

6. Policy 3 of the Cornwall Local Plan 2010 – 2030 (the CLP) provides a hierarchy of suitable locations for growth with regard to new development. The appeal site is located within Gillian which is a settlement given its clear form and shape. However, it is not identified in the hierarchy and therefore proposed development

in Gillian should be achieved by either rounding off, infilling or as a rural exception site.

7. Gillian is generally characterised by a dispersed linear settlement pattern and is concentrated between Tregildry Lane and Gillian Cove. A former hotel, Tregildry House is currently a large dwelling in a substantial plot. The appeal site was once under the control of the hotel. It is currently part of the wider domestic curtilage of the dwelling and is currently maintained for use by the residents of Tregildry House, however there is an access track and fencing separating the land from the dwelling. It is located at a lower level than Tregildry House and there is a significant gap between Tregildry House and the adjacent dwellings located on Tregildry Lane as well as the dwelling known as Badgers Patch.
8. Policy 3 of the CLP provides support for rounding-off of settlements and development of previously developed land (PDL) within or immediately adjoining a settlement of a scale appropriate to its size and scale, as well as some infill schemes.
9. The Chief Planning Officer's Advice Note (CPOAN) describes rounding off as development that provides a symmetry or completion to a settlement boundary but it is not intended to facilitate continued incremental growth. Notably, it also outlines that rounding off development should not visually extend development into the open countryside and should be predominantly enclosed by edging features.
10. Given the relationship of the appeal site to Tregildry House and Badgers Patch and the general linear dispersed pattern of the settlement of Gillian, it would not to my mind result in incremental growth. Furthermore, the appeal site does have significant edging features given the number of strong natural boundaries of the site including mature trees and hedgerows.
11. The CPOAN further states that the presence of definite boundaries, landscape features, the history and nature of the land amongst other things are important considerations in determining the physical boundaries of the settlement. I have identified above that the appeal site has historically had a close relationship with Tregildry House, especially when it was used as a hotel. Moreover, the appeal site is also adjacent to housing development on two sides which the CPOAN also outlines is a likely feature of suitable sites for rounding-off. Consequently, whilst I acknowledge that the boundaries of some settlements can be irregular, for the reasons given above, to my mind the appeal site is not land outside of a settlement. Accordingly, the appeal scheme would result in rounding-off.
12. Regarding the proposed development and whether it would constitute an infill development. Policy 3 of the CLP defines infill development as a scheme which would fill a small gap in an otherwise continuous built frontage and would not physically extend the settlement into the open countryside.
13. Given the relationship of the appeal site to the general settlement of Gillian and its proximity to Badgers Patch, it would not to my mind result in extending the settlement into the open countryside. In the supporting text of Policy 3 it outlines that many frontages are not continuously built up and have large gaps. The appeal site is indeed one of these large gaps. Despite the access trackway that is located between the appeal site and Tregildry House, its significant enclosure and historical relationship with Tregildry House, does not to my mind result in the appeal site significantly contributing to the overall rural character of Gillian.

Therefore, in my judgement, the appeal scheme would result in infill development given its specific site context.

14. Annex 2 of the National Planning Policy Framework (the Framework) excludes from the definition of PDL, amongst other things, land in built-up areas that comprises residential gardens and land that was previously developed but where the remains of the permanent structure of fixed surface structure have blended into the landscape. The appeal site is, to my mind, located within a relatively built-up area and given the historical close relationship with Tregildry House as well as its maintenance as garden land, it does, in my judgement, constitute private garden land within the residential curtilage of Tregildry House. Thus, the appeal site does not constitute PDL. Nevertheless, I have identified above that it would benefit from support from Policy 3 of the CLP regarding both rounding-off and infill development.
15. The Framework states that great weight should be given to conserving and enhancing the natural beauty of National Landscapes. The appeal site lies within the CNL. It is also located within the Cornwall Landscape Area CCA12: North East Lizard Peninsula (CCA12) which identifies, amongst other things, that the general character of the area is sparsely settled and has a strong rural character with limited development and high levels of tranquillity and dark night skies.
16. CCA12 further highlights guidance to conserve the landscape character which includes conserving and enhancing the existing nucleated settlement pattern as well as the overall sense of tranquillity remoteness and dark night skies as well as the special qualities of the CNL.
17. Policy 23 of the CLP requires that proposals within the National Landscape must provide only for an identified local need and be appropriately located to address its sensitivity and capacity. The policy does not further define what is meant by identified local need. Given that the Council has stated it cannot demonstrate a five-year housing land supply, in my judgement there is a demonstrable need for the appeal scheme.
18. The immediate landscape in which the appeal site is located consists of a rolling plateau and an enclosed wooded valley. The general development along Tregildry Lane consists of large dwellings with generous plot sizes and mature trees, whereas the dwellings towards Gillian Cove are smaller comparatively.
19. Given, the linear pattern of development in Gillian and particularly along Tregildry Lane, the proposed development would introduce a further dwelling at the end of Tregildry Lane close to Badgers Patch. The gap itself does not however, contribute to the overall landscape given its existing enclosed features. Consequently, it does not, in my judgement, significantly contribute to the sense of openness associated with both CCA12 and the CNL.
20. Policy PD-P11 of the Cornwall National Landscape Management Plan outlines that development should be appropriately located and address landscape sensitivity and capacity being of a scale, density, layout, height and mass with a clear understanding and response to its landscape.
21. Moreover, given that layout, scale, appearance and landscaping are reserved matters, the relevant details regarding these matters are not within the scope of the appeal before me. Therefore, there is limited substantive evidence before me

to adequately demonstrate that the proposed development would result in unacceptable domestic trappings, fenestration, glazing, movements, noise or lighting given that the appeal scheme is for one dwelling. Furthermore, it has not been adequately demonstrated that an adequate landscaping scheme could not be achieved to maintain the skyline trees.

22. Moreover, the appeal scheme would not encroach into the open countryside and would instead be viewed in relation to the existing built form and settlement pattern of Gillian. To my mind, it would not unacceptably extend the settlement of Gillian given that the site is already enclosed on a number of its borders especially when viewed from the North or from the South West Coastal Path. Accordingly, it follows that, in my judgement, the addition of one dwelling at the appeal site would not result in unacceptable harm to the character and appearance of the surrounding area including the CNL.
23. In conclusion, the appeal scheme would conserve and enhance the natural beauty of the CNL and would not result in harm to the character and appearance of the surrounding area. It would therefore comply with Policies 1, 2, 3, 12, 21 and 23 of the CLP, Policy C1 of the Climate Emergency Development Plan Document 2023, Policy 1 of the Cornwall Site Allocations Development Plan Document 2019 and Policies PD-P1, PD-P2 and PD-P11 of the Cornwall National Landscape Management Plan 2022-2027. These policies seek amongst other things to ensure sustainable growth including developments that sustain local distinctiveness and character, conserve and enhance National Landscapes as well as the efficient reuse of land.

## **Other Matters**

### *Appropriate Assessment*

24. The appeal site lies within the 12.5km zone of influence of the Fal and Helford Special Area of Conservation (SAC). This European Site has the following qualifying features: saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries and reefs. It has been established that residential development within the zone of influence would likely result in harm to the protected area through additional recreational pressure. The appeal scheme would result in an additional dwelling and consequently there would be a likely significant effect on the SAC whether alone or in combination with other plans and projects.
25. Policy 22 of the CLP requires proposals to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on the SAC. The Council has a European Sites Mitigation Supplementary Planning Document 2021. It outlines a strategic mitigation strategy which has been agreed between the Council and Natural England. The mitigation measures include onsite access and management as well as off-site provision of suitable alternative recreational facilities.
26. Section 111 of the Local Government Act 1972 (as amended) allows Local Authorities to charge provided they are discharging a Council function or the payment is incidental to discharging any such function.
27. Natural England has been consulted as part of this Appropriate Assessment and is content that the measures secured by the Section 111 agreement, which align with

the SPD, would address the adverse effects associated with the proposed development and thereby relieve the pressure on the SAC. As a competent authority, I am satisfied that the Section 111 agreement secures and ensures the delivery of mitigation sufficient to address the harm likely to result from the appeal scheme. I therefore find that, given the Section 111 agreement, the proposed development would not have an adverse effect on the integrity of the SAC.

### *Other Considerations*

28. Given that the appeal scheme is for outline permission with appearance, landscaping, layout and scale reserved for future consideration, concerns regarding drainage due to the design of a proposed dwelling are not within the scope of this appeal. Nevertheless, the appeal site is located within Flood Zone 1 which is low-risk.
29. Concerns regarding precedent, the value of the proposed dwelling, and an electrical supply cable below the appeal site are not significant material planning considerations in this case.
30. The Council has not indicated concern regarding the proposal constituting a self-build scheme and consequently its exemption from the mandatory 10% Biodiversity Net Gain as outlined in The Environment Act 2021. I find no reason to disagree.

### **Conditions**

31. The Council has provided a list of suggested conditions. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 57 of the Framework.
32. In the interests of certainty and clarity, I have imposed conditions 1, 2, 3 and 4 which relate to the approval of reserved matters, the commencement of development as well as the approved plan.
33. Condition 5 is necessary in the interest of highway safety; it is also necessary that it is in the form of a pre-commencement condition to have its intended effect

### **Conclusion**

34. I conclude that the proposal would accord with the development plan and the material considerations do not indicate that a decision should be made otherwise. For the reasons given above the appeal should be allowed.

*B Astley-Serougi*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 240511 L 01 01 Rev A (Site Location Plan) and 240511 L 01 02 Rev A (Block Plan) insofar as they concern matters that are not reserved under condition 1 above.
- 5) No development shall take place, until a Construction Traffic Management Plan has been submitted to, and approved in writing by the local planning authority. The plan shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) construction vehicle details (number, size and type)
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;The approved Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.

**=====END OF SCHEDULE=====**