
Appeal Decision

Site visit made on 27 August 2025

by **R Kent BA (Hons) MTP DipM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 October 2025

Appeal Ref: APP/D0840/W/24/3353484

The Garage, Pit Lane, Higher Fraddon, Indian Queens, Cornwall TR9 6LG

- 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 Mr S. Jones against the decision of Cornwall Council.
 - The application Ref is PA23/09094.
 - The development proposed is described as “the construction of up to 5 dwellings on previously developed land.”
-

Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 3 and a maximum of 5 dwellings at The Garage, Pit Lane, Higher Fraddon, Indian Queens, Cornwall TR9 6LG in accordance with the terms of the application, Ref PA23/09094 dated 19 October 2023.

Applications for costs

2. An application for costs was made by the appellant against Cornwall Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal is for permission in principle. 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.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. The application form for permission in principle states that a minimum of 3 and a maximum of 5 dwellings is proposed on the site. I have determined the appeal accordingly.
5. A revised National Planning Policy Framework (the Framework) was published in December 2024 after the Council made its decision. The Council has subsequently provided an update on its housing land supply position taking into account the new Framework and has confirmed that it now has 3.9 years’ worth of housing land supply. I have determined the appeal on this basis.

Main Issue

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

Reasons

Location

7. The site lies outside the settlement envelope for Indian Queens between a loose group of dwellings and the north bound off slip road from the A30 dual carriageway. A triangular parcel of land and the embankment along the slip road separates the site from the road. An adjoining vacant piece of land lies immediately to the north east of the main part of the site. Permission in principle was granted for five dwellings¹ on this land off Highgate Hill in 2022 and subsequently received outline planning permission for the construction of 5 dwellings² later that same year. The current appeal site has a narrow strip running across that land towards Highgate Hill.
8. Housing policy 2 of the St Enoder Parish Neighbourhood Plan 2018-2030 (the NP) and the supporting text to policy 7 of the Cornwall Local Plan Strategic Policies 2010-2030 (the CLP) indicate that land outside the settlement envelope is considered to be countryside for planning policy purposes. However, even allowing for the triangle of green space between the site and the slip road, the location of the site between existing development and the A30, coupled with the existing building on the site, means that the site does not look or feel part of the open countryside which lies beyond the site to the west and south west.
9. The site's location between the slip road, the development along Pitt Lane to the north west, and Pitt Lane itself means the site is contained by existing development and does not have the character or appearance of land which forms part of an expansive area before the next settlement. It therefore does not fall within the definition of 'open countryside' set out in the Chief Planning Officer's Advice Note³ (CPOAN) which, whilst not part of the development plan, gives guidance on the definition of 'open countryside.' The harm which would be caused in this case to the countryside as a result of the principle of development beyond the settlement envelope is therefore limited.
10. The triangular parcel of land between the site and the slip road is separated from the site by trees and vegetation along its boundary with the site. Whilst it marks the boundary between the site and the adjoining land, it is not a sufficiently substantial physical feature to act as a barrier to further growth. This view is supported by the evidence which indicates that the hedgerow has previously been breached. Therefore, although Pitt Lane and the existing residential curtilage to the north provide a clear boundary, and the potential development of the adjoining site to the north east could provide a further enclosure of the site in due course, the development would not constitute rounding off as defined in the supporting text to CLP policy 3 and the CPOAN, and as supported by NP housing policy 3.
11. The triangular parcel of land between the site and the A30 would maintain a gap between a large part of the site and the road. As a consequence, whilst in principle

¹ APP/D0840/W/21/3275410

² LPA reference PA22/08765

³ Chief Planning Officer's Advice Note: Infilling/Rounding off. 2017

the proposed dwellings would not physically extend the settlement into the open countryside, the development would not fill a small gap in an otherwise built up frontage. It would therefore not constitute infill development as defined in CLP policy 3 or NLP housing policy 3.

12. I have not been provided with any compelling evidence that a suitable access could not be accommodated in this location or that a vehicular access would have an adverse effect on a public right of way. Nevertheless, these would be matters for the technical details consent stage to address if the appeal were to be allowed.

Land use and amount of development

13. The Council accepts that the majority of the site has been covered in hard core from 2016 onwards. Whilst the hard core constitutes a large area of hardstanding, it is not referred to in the approved Certificate of Lawfulness of Existing Use or Development⁴ (CLUD) issued by the Council for the existing building on the site. It is not clear from the evidence before me if or how the area of hard core was associated with the building. Nor has the extent of the curtilage of the building been clearly demonstrated. Therefore, whilst the existing building is a permanent structure and therefore constitutes previously developed land (PDL), I have not been provided with clear evidence to demonstrate that all of the site falls within the definition of PDL set out in the Framework.
14. Notwithstanding this, the location of the site between existing development and the A30 coupled with the existing dilapidated building and the absence of trees or vegetation on the site, means that it makes a limited contribution to the rural character of the countryside and the landscape setting of the village. As a consequence, recognising that the final amount and layout of the scheme would be matters for the technical details consent stage if the appeal is allowed, the principle of 3 to 5 dwellings on the site would cause only limited harm to the character or appearance of the landscape.
15. The site falls within Landscape Character Type A 'China Clay Workings' which is part of the Cornwall Character Area CCA27 'St Austell or Henberrow China Clay Area' identified in the Cornwall Character Area Study. The study indicates that the CAA is defined from the surrounding landscape by its historically elevated form altered by mining activity to become a dramatic skyline of spoil heaps now covered in naturally regenerating scrub and heath. The location of the appeal site described above means that the change in land use as a result of the proposed development would be contained between existing and proposed development and the A30 embankment and would not have an adverse effect on the wider landscape character described in the study. The proposed amount of development would be compatible with the density of the adjoining development and for the reasons given above would not harm the character or appearance of the site and its surroundings.
16. Policy 21 of the CLP encourages sustainably located proposals that use PDL that is not of high environmental or historic value. Whilst the extent of PDL on the site is not clear, there are services, facilities and businesses in the village and adjacent to it which, together with the pedestrian access to bus stops, indicates that the site is in a sustainable location. Therefore, development of the part of the site which has the benefit of the CLUD would make use of PDL in compliance with policy 21.

⁴ LPA reference PA23/03941

17. Nevertheless, the location of the site outside the settlement envelope means that it would introduce new housing into an area designated as countryside and cause harm to its character, which whilst limited, conflicts with policies 2, 3, 12, and 23 of the CLP, NP housing policies 2 and 3 and NP landscape policies 1 and 2 in so far as they seek to control new development outside settlement envelopes and protect landscape character. However, as I have found that the site does not lie within the open countryside, the proposal would not conflict with CLP policy 7 which relates only to the development of new homes in the open countryside.

Other Considerations

18. Set against the harm I have identified, the development would provide additional housing to assist with meeting local housing needs which, given the Council's housing land supply shortfall, would be a significant benefit. There would also be moderate short term economic benefits arising from the construction of the development and the support which future occupiers could give to local services and facilities. The dwellings are proposed to be energy efficient which would be a further moderate environmental benefit as would the use of PDL.
19. The description of the development does not include the provision of affordable housing. St Enoder Parish Council suggests that the proposal may form part of a larger site with the adjoining land which has outline planning permission. Whilst I have not been provided with any compelling evidence that the proposal is a deliberate attempt to circumvent the size threshold for affordable housing, the provision of affordable housing is a detailed matter to be addressed at the technical details consent stage if the appeal is allowed.
20. The site does not include the triangular parcel of land between it and the A30. I am not aware of any development proposals for that land but any such future proposals would need to be considered on their individual merits in accordance with the development plan policies and other material considerations which apply at the time. As a consequence, on the evidence before me, concerns about possible future developments on the adjoining land have little bearing on my decision.
21. I am aware that the site and its surroundings have a complex planning history including a previous appeal⁵ in respect of the retention of the building and its continued use for the storage and repair of motor vehicles. However, that appeal related to a different form of development to the current appeal which I have determined on its individual merits.
22. I am also aware of other appeal decisions at St Agnes⁶, Mylor Bridge⁷ and Perranporth⁸. However, I am not aware of the full details of those cases, the sites or their planning context. Whilst those decisions address the matter of PDL, the specific circumstances of those sites and the nature of the PDL in question differ to this appeal.

⁵ APP/D0840/W/20/3252052

⁶ APP/D0840/W/19/3242527

⁷ APP/D0840/W/21/3278892

⁸ APP/D0840/W/22/3312076

Planning Balance

23. The CLP and the NP form the development plan for the area in which the site is located. Whilst I have not found conflict with CLP policies 7 and 21, the limited harm which I have identified would cause conflict with CLP policies 2, 3, 12, and 23, NP housing policies 2 and 3 and NP landscape policies 1 and 2. The proposal would therefore conflict with the development plan when read as a whole.
24. The Council can only demonstrate 3.9 years supply of deliverable housing sites which is well below the minimum level required. Consequently, with reference to paragraph 11 d) of the Framework, consideration of the presumption in favour of sustainable development is required.
25. Paragraph 232 of the Framework nevertheless states that due weight should be given to existing policies according to their degree of consistency with the Framework. The policies in the Framework require that planning decisions should be sympathetic to local character including the surrounding built environment and landscape setting. They also require that planning decisions recognise the intrinsic character and beauty of the countryside.
26. Therefore, the parts of CLP policies 2, 12 and 23 which seek to protect the landscape and the character of the countryside and NP landscape policies 1 and 2 are consistent with the Framework. Conflict with those policies should be given substantial weight in this appeal. However, the restrictive approach to housing in CLP policy 3 and NP housing policies 2 and 3 is not consistent with the Government's objective in the Framework to significantly boost the supply of homes. Whilst NP housing policy 1 supports delivery of approximately 150 new homes in the Parish between 2018 and 2030, that requirement pre-dates the 2024 Framework. Moreover, I have not been referred to any specific allocations in the NP to meet the NPs housing requirement. Therefore, in view of the shortfall in the Council's housing land supply, the conflict with CLP policy 3 and with NP housing policies 2 and 3 attracts limited weight.
27. The Framework highlights that small sites such as this can make an important contribution to meeting the housing requirement in the area and are often able to be built out relatively quickly. The benefit of up to 5 additional dwellings therefore attracts substantial weight in favour of the proposal. The economic and environmental benefits identified above are consistent with the Framework's policies to build a strong and competitive economy and plan for climate change. Whilst the economic benefits carry moderate weight in favour of the development, the environmental benefits would be a matter for the technical details stage. They therefore carry limited weight in favour of the proposal at this stage.
28. Overall, when assessed against the policies in the Framework, 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 sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination. As a result, the presumption in favour of sustainable development applies to this appeal.

Conclusion

29. The proposed development would conflict with the development plan but material considerations, including the Framework, indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

R Kent

INSPECTOR