
Appeal Decision

Site visit made on 21 October 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/D0840/W/24/3337862

Land East of Eden Way, Eden Way, Penwithick PL26 8FA

- 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 David Abbott (Moorsolve) against the decision of Cornwall Council.
 - The application Ref is PA22/02526.
 - The development proposed is residential development.
 - This decision supersedes that issued on 24 December 2024. That decision on the appeal was quashed by order of the High Court
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal has been made in outline, with all matters reserved for future consideration. A plan that accompanied the application shows an indicative layout. However, as access, appearance, landscaping, layout, and scale are all reserved matters, I have considered this drawing solely on the basis that it has been submitted for illustrative purposes.
3. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). Both parties have had the opportunity to address the implications of the revised Framework in their submissions, and I have considered the amended advice in my determination of the appeal.
4. During the appeal, the appellant submitted a Unilateral Undertaking made in pursuance of section 106 of the Town and Country Planning Act 1990, dated 16 May 2025 (the UU). It contains obligations relating to the provision of financial contributions to off-site open space and education facilities.

Main Issues

5. The Council has confirmed that the UU overcomes reason for refusal numbered 3 on the decision notice. Consequently, the main issues in this appeal are:
 - a) Whether the site is suitable for the proposal, bearing in mind the settlement policies of the development plan and the effect of the development on the character and appearance of the area; and,
 - b) The effect of the development on the Carbis Moor County Wildlife Site.

Reasons

Settlement policies/character and appearance

6. The site is an area of undeveloped scrubland beyond the eastern edge of the settlement of Penwithick. The extent of the existing built-up area is clearly demarked here by the road that serves the houses in Eden Way, and the rear garden boundaries of the dwellings in Penwithick Park. I am mindful that part of the site was shown to be within the settlement boundary on a previous development plan, and that planning permission for three dwellings was granted in the past¹. However, that permission has now expired, and as it pre-dated the adoption of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the Local Plan) it carries little weight in my consideration of the appeal, which must be determined under current policies.
7. The Council's settlement strategy is set out in Policies 2 and 3 of the Local Plan. The strategy seeks to maintain the dispersed development pattern of Cornwall, and provide housing based on the role and function of each place. Policy 3 says that, outside specific main towns, housing growth is to be delivered through rounding off of settlements; development of previously developed land (PDL) within or immediately adjoining settlements; infill schemes; the identification of sites through Neighbourhood Plans; and rural exception sites. In addition, Policy 7 of the Local Plan states that the development of new homes in the open countryside is only permitted in specified circumstances, none of which apply to the appeal proposal.
8. There is no Neighbourhood Plan covering the area, and the proposal is not promoted as an exception site. Furthermore, it is not argued that the site is PDL. Paragraph 1.65 of the Local Plan defines 'infilling' as the filling of a small gap in an otherwise continuously built-up frontage. As there are currently no buildings on the eastern side of the road, the proposal does not meet this definition. Consequently, the development would only be supported by Policy 3 of the Local Plan if it constitutes rounding off.
9. Rounding off is defined at paragraph 1.68 of the Local Plan as development on land that is substantially enclosed, but outside of the urban form of a settlement, and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth. Furthermore, it should not visually extend building into the open countryside. The Council also refers to guidance that is contained in the Chief Planning Officers Advice Note (the CPOAN) titled Infill/Rounding Off. However, as the CPOAN says, it provides guidance only and should not be used as a substitute for the policies of the adopted Local Plan. So, although I have noted the guidance it contains, I have based my consideration on the policy and supporting text of the Local Plan.
10. The western boundary of the appeal site abuts the built edge of the settlement. However, its other boundaries are with open countryside, and there are no distinct physical features that limit the extent of the site in these directions. The appeal site is not, therefore, substantially enclosed. The rear boundaries of the dwellings in Penwithick Park protrude a little further east than parts of the appeal site, but not to the extent that they provide any sense of enclosure. The proposed residential

¹ Local Planning Authority Ref: PA15/03871

development would, therefore, appear as an extension of built development into open countryside, with no physical barriers to further growth.

11. It is contended that, as the proposed development would use the same unnamed road as the existing dwellings to the west, there would be no opportunity for further development resulting from the proposal. However, access and layout are reserved matters. In the absence of definite proposals for containment, or any physical features on the ground, the development would not restrict opportunities for further growth into the surrounding countryside.
12. It is also argued that the development would provide symmetry with the properties on the opposite side of the access road. However, these houses seem to have been designed to take advantage of the open outlook, so the existing layout does not appear incomplete, or asymmetrical. Furthermore, the appeal site is larger than would be necessary to provide a single row of houses. It would, therefore, allow for a more expansive development that would not be symmetrical with the existing buildings.
13. I therefore conclude that, whilst the site is adjacent to the settlement, due to the above considerations, the proposal would not constitute rounding off as defined in the Local Plan.
14. The site forms part of a swathe of open countryside that provides an attractive rural setting to the east of the village. It comprises a range of scrubland, woodland, and a pond, and has a natural appearance without any significant urbanising features. The proposed buildings would intrude into this natural setting and reduce its extent. The intrusive impact would be exacerbated by the lack of any existing enclosing features to segregate it from its wider natural surroundings. As a result, it would appear as an *ad hoc* extension of built development into the countryside, which would harm its intrinsic character and beauty.
15. In coming to my conclusions on this issue, I have had regard to two appeal decisions that have been drawn to my attention. The first of these was at Bramlands Lane, Woodmancote², where the Inspector examined the range of factors to be considered when determining whether a site was open countryside. In that case, however, the Inspector found that the site had the character and appearance of developed land associated with a residential use, which is not the case with the site before me. Furthermore, paragraph 2.33 of the Local Plan defines open countryside as the area outside of the physical boundaries of existing settlements (where they have a clear form and shape). The appeal site before me falls within this definition.
16. In the second appeal, at Bickland Hill, Falmouth³, the Inspector found that a proposal for 40 houses comprised rounding off. However, in that case, the Inspector concluded that the mature boundary hedgerows would result in a contained development with clear boundaries between the site and the surrounding green buffer. That would not be the case with the proposal before me. I therefore find that neither of the cited appeal decisions are so directly comparable that they affect my decision, which I have considered on its merits having regard to the specific circumstances of the site.

² Appeal Ref: APP/Y9507/C/23/3327360

³ Appeal Ref: APP/D0840/W/23/3319223

17. For the reasons given above I conclude that the proposed development would not be in a suitable location, having regard to the settlement policies of the development plan, and would be harmful to the character and appearance of the countryside. It would, therefore, be in conflict with Policies 2, 3, 7 and 23 of the Local Plan and Policy C1 of the Climate Emergency Development Plan Document (February 2023) (the DPD). These policies seek, amongst other things, to direct development to appropriate locations, based on their role and function; to limit new housing in the countryside; to protect, conserve, and enhance the rural landscape and natural environment; and to sustain local distinctiveness and character.

County Wildlife Site

18. Part of the site lies within the Carbis Moor County Wildlife Site (the CWS). Policy 23 of the Local Plan says that development likely to adversely affect such sites, their features, or their function as part of the ecological network, will only be permitted where the need and benefits of the development clearly outweigh the loss, and the coherence of the local ecological network is maintained. Policy 25 requires that development proposals contribute to an enhanced connected and functional network of habitat by, amongst other things, retaining and enhancing the most important environmental infrastructure assets and connections that contribute to the functionality of networks of ecosystems. Policy C1 of the DPD seeks to protect irreplaceable habitats and the integrity of ecosystems.
19. A Preliminary Ecological Appraisal Report⁴ (the PEA) was submitted with the application. It identifies that the proposal would result in the loss of approximately 650m² of semi-improved grassland and scattered scrub habitat within the CWS. The PEA goes on to say that this loss of habitat would have the potential to negatively impact on species including reptiles, amphibians, and bats. The PEA sets out mitigation measures to reduce these impacts. Reptile Translocation⁵ and Mitigation Reports⁶ have also been submitted, which demonstrate how the translocation of reptiles from the site could be successfully achieved. Furthermore, the submitted Biodiversity Net Gain Report⁷ confirms that the proposal could achieve over 50% biodiversity net gain (BNG) through the creation and enhancements of habitats within the appeal site and at an off-site receptor site.
20. Whilst the PEA identifies measures to reduce impacts, and it has been demonstrated that reptile translocation and BNG could be achieved, all of these would take place within the existing CWS. There are no proposals for the creation of replacement habitat for the 650 square metres that would be lost to the development. Furthermore, the area to be lost lies at an already narrow stretch, which links two larger sections to the north and south. The development would also result in the loss of a buffer between built development and the CWS, so the narrow finger of linking habitat would also be more readily compromised by the close presence of residential activity. Consequently, even with the mitigating measures, translocation, and BNG proposals, the CWS would be reduced in size and more fragmented, reducing its value as a connected and functional habitat.
21. There would, therefore, be an adverse effect on the CWS. As identified in the Planning Balance below, there is an unmet need for housing in the County, and

⁴ Darwin Ecology - Preliminary Ecological Appraisal Report, Land off Eden Way, Penwithick, Cornwall - Rev 2. September 2022

⁵ Darwin Ecology - Reptile Translocation Report dated September 2022

⁶ LC Ecological Services - Reptile Mitigation Report dated June 2023

⁷ LC Ecological Services - Biodiversity Net Gain Report, Land off Eden Way dated June 2023

the proposal would make a modest contribution towards meeting the shortfall. This would be a benefit that must be considered in assessing compliance with Policy 23. In this instance, however, the small scale of the development does not clearly outweigh the loss of a substantial part of the CWS, and the potential fragmentation of the wider habitat.

22. In coming to this conclusion, I have considered the planning permission for three dwellings that was previously granted and has now expired. That permission covered a much smaller area, and it appears from the evidence to have been outside the designated CWS. Consequently, I see no clear inconsistency between the Council's decision on that application in the past, and the decision that led to the appeal.
23. I therefore conclude on this issue that there would be an adverse impact on the CWS that is not clearly outweighed by the need and benefits of the development. Consequently, the proposal would conflict with Policies 1, 23, and 25 of the Local Plan, and Policy C1 of the DPD. Taken together, these policies seek to ensure that development protects and where possible enhances Cornwall's natural environment, protects the integrity of ecosystems, and contributes to an enhanced connected and functional network of habitat.

Planning Balance

24. The proposal conflicts with the spatial strategy of the Local Plan, would be harmful to the character and appearance of the countryside, and would have an adverse impact on the CWS. This results in conflict with development plan policies as identified above, and with the development plan as a whole. However, it is not disputed that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. The most recent evidence indicates that the supply is 3.8 years, so the shortfall is considerable. In these circumstances, the approach to decision-making set out at Paragraph 11d) of the Framework applies.
25. Paragraph 232 of the Framework says that due weight should be given to existing development plan policies according to their degree of consistency with the Framework. The spatial strategy set out in Policies 2, 3 and 7 of the Local Plan is consistent with the Framework's aims to direct development to accessible locations, and to restrict new housing in the countryside. However, it is not delivering a sufficient supply of homes in accordance with another aim of the Framework, and the shortfall is considerable, with no early prospect of recovery. Consequently, I can only afford moderate weight to the conflict with the development plan policies that govern the spatial location of housing.
26. Policies 23 and 25 of the Local Plan and Policy C1 of the DPD are generally consistent with the Framework's aims at Chapter 15 to conserve and enhance the natural environment. The conflict between the proposal and these development plan policies should, therefore, be given significant weight in this appeal.
27. Set against the adverse impacts and policy conflict that I have identified, there would be benefits associated with the development. It would support the Framework's objective of significantly boosting the supply of homes as set out at paragraph 61. Paragraph 73 identifies that small sites can make an important contribution to meeting the housing requirement of an area, and are often built out quickly. However, as I have found that the site does not lie within a settlement, this benefit does not carry the great weight ascribed in subparagraph d). Nevertheless,

in view of the current shortfall in housing land supply, and despite the modest scale of the proposal, this benefit does weigh significantly in favour of the proposal.

28. There would also be economic benefits associated with the development, through the creation of jobs during the construction phase. Thereafter, residents would contribute to the local economy through ongoing spending and support for local services. The small scale of the development means that these benefits carry modest weight.
29. The appellant has cited BNG as a benefit of the proposal. However, this needs to be set in the context of the loss of a portion of the CWS in a strategic location, resulting in a fragmentation of the site, which would have an adverse impact on its value as a connected and functional habitat. I therefore give little weight to the BNG benefits.
30. The UU would secure financial contributions to off-site open space and education facilities. However, these would mitigate the increased impact of the development on the existing infrastructure, so would not constitute a benefit.
31. In the overall balance, therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal through the harm to the character and appearance of the countryside, the harmful impact on the CWS, and the conflict with the settlement strategy, significantly and demonstrably outweigh the benefits of additional housing, economic growth and BNG. Therefore, the proposal does not benefit from the presumption in favour of sustainable development set out in paragraph 11d).

Conclusion

32. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR