
Appeal Decision

Site visit made on 2 December 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2025

Appeal Ref: APP/D0840/W/25/3368365

Rosevean, Halvasso, Penryn, Cornwall TR10 9BY

- 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 Mr F Roebuck against the decision of Cornwall Council.
 - The application Ref is PA24/06879.
 - The development proposed is demolition of the agricultural barn, the erection of a replacement dwelling in lieu of a Class Q change of use (PA23/08531), the change of use of the surrounding land to garden together with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the agricultural barn, the erection of a replacement dwelling in lieu of a Class Q change of use (PA23/08531), the change of use of the surrounding land to garden together with associated works at Rosevean, Halvasso, Penryn, Cornwall TR10 9BY in accordance with the terms of the application, Ref PA24/06879, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The other appeal on the site, regarding the variation of the planning condition attached to the Class Q permission, under reference APP/D0840/W/25/3368371, is the subject of a separate decision.

Main Issues

3. The main issues are:
 - a) Whether the site is suitable for a new dwelling, bearing in mind the settlement policies of the development plan; and, if not,
 - b) Whether there are other considerations which justify the proposal, having regard to its effect on the character and appearance of the area.

Reasons

Settlement policies

4. The settlement strategy for the area is set out in Policies 2 and 3 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (the Local Plan). It seeks to direct most development to named settlements, but also makes provision for the organic growth of smaller towns and villages. The appeal site is not within or adjacent to any settlement, and it is not a matter of dispute that it is in the countryside. Consequently, the provision of a new dwelling here would not be supported by

Policies 2 and 3. The site also lies outside the settlement boundary for Mabe Burnthouse, as identified by the Mabe Neighbourhood Development Plan 2022-2030 (the Neighbourhood Plan). Policy 14 only supports residential development outside this boundary where the proposal is for affordable or low impact housing, or accords with Policy 3 or 7 of the Local Plan.

5. Policy 7 of the Local Plan states that the development of new homes in the countryside will only be permitted where there are special circumstances. The proposal is not for the subdivision of an existing dwelling, re-use of a building, or to provide accommodation for agricultural or seasonal workers. Furthermore, although there is a building on the site that benefits from a confirmed permitted development right for change of use to a dwelling, this has not been implemented. Consequently, the proposal is not for a replacement dwelling. Therefore, none of the special circumstances apply and the proposal would be contrary to Policy 7.
6. Having regard to the settlement policies of the development plan, the site is not suitable for a new dwelling. The proposal would be contrary to Policies 2, 3 and 7 of the Local Plan, and Policy 14 of the Neighbourhood Plan, which seek to direct development to settlements where services are accessible, and to limit new homes in the countryside.

Other considerations/Character and appearance

7. It is not disputed that, following an application for Prior Approval¹, there is an extant planning permission to convert the existing building on the site to a dwelling, which is granted by Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The proposal is an alternative to that planning permission, as it would involve the demolition of the building, and the construction of a new dwelling in its place. The appellant contends that the extant permission represents a fallback position as, regardless of my decision on this appeal, a new dwelling could be provided on the site, so the proposal would not undermine the spatial strategy of the development plan.
8. Case law² has held that a fallback position is a material planning consideration where there is a “real prospect” of it being implemented, and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances. More recently, it has been held that “the prospect of the fall-back position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect³. In *Gambone v SSCLG*⁴ a two-stage approach was set out, where a determination must first be made concerning whether the fallback position is a material consideration, before weight is ascribed.
9. The Council contends that the lack of progress on implementing the permitted development, including the lack of any Building Regulations application, indicates that there is no desire to pursue the fallback scheme. However, it seems entirely logical that the appellant should await the outcome of this appeal before investing in the alternative proposal. In the event that I was minded to dismiss the appeal, there would still be approximately 12 months left to complete the approved

¹ Local Planning Authority reference: PA23/08531

² *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314

³ *Schneck v SSHCLG & West Berkshire DC* [2022] EWHC 3335 (Admin)

⁴ *Raffaele Gambone v SSCLG v Wolverhampton City Council* [2014] EWHC 952 (Admin)

scheme, which would be readily achievable. The evidence indicates that the appellant intends to live on the site, and has already invested in a new access track to the building. Consequently, there is a more than theoretical prospect that the fallback scheme would be implemented if this appeal were dismissed. It is, therefore, a material consideration.

10. The outcome of either the fallback scheme or the appeal proposal would be a single new dwelling in the countryside. Consequently, I give substantial weight to the fallback position as a material consideration insofar as it relates to the appeal scheme's conflict with the settlement strategy of the development plan.
11. In assessing the impact of the appeal scheme on the character and appearance of the area, the Council compared it with the fallback scheme using the principles outlined in Policy 7 of the Local Plan for replacement dwellings. This approach accords with the Chief Planning Officer's Advice Note: Barn Conversions/ Replacement dwellings in the countryside (February 2023) (the CPOAN), which recognises a Class Q permission as a fallback position.
12. The existing building is a modest, utilitarian structure, clad in cream coloured steel sheeting. It is single storey, with a low-pitched roof, and it is set well back from the road. However, it is set in a flat, open landscape, with low hedges, so it is readily visible from the road to the east. It is not a traditional, historic agricultural building, and does not possess any locally distinctive features. It does not, therefore, contribute positively to the character and appearance of the countryside. The permitted fallback scheme would do little to change this, as the general form of the building and its external materials would be retained. The only alterations would be the addition of an assortment of windows and rooflights, which would give it a more domestic appearance, but would not result in any significant enhancement.
13. Policy 7 of the Local Plan requires replacement dwellings in the countryside to be broadly comparable to the size, scale and bulk of the dwelling being replaced and of an appropriate scale and character to their location. The CPOAN provides advice on how to interpret these requirements, and also introduces the potential for betterment in design, or in terms of being more appropriate in scale and character within its context.
14. The proposed dwelling would have a larger footprint, a higher roof, and a more extensive domestic curtilage than the fallback scheme. In terms of the footprint, however, the majority of the increase would be on the western side of the building. As the site is only readily visible from the road to the east, this increase would not be easily discernible, and the proposed structure would be perceived as being broadly comparable with the approved scheme in this respect. The roof would be considerably higher, but it would be traditionally proportioned and covered in natural slate, so it would be more appropriate within its rural context than the low-pitched steel-clad roof. Its darker colour would also be more recessive, so reducing the visual impact of the increased height and volume.
15. The east elevation of the dwelling would be faced in granite, with an oak-framed porch and traditionally proportioned windows. So, although higher, and slightly wider, the design of this most prominent elevation would represent a significant betterment over the cream-painted, steel-clad fallback scheme, with its shallow-pitched roof and ill-proportioned windows. Whilst it may have the appearance of a new-build bungalow, rather than a traditional dwelling or barn conversion, it would

be appropriate in scale and character within its context, alongside the scatter of other sporadic dwellings in the locality, some of which are of stone construction, and all of which have pitched slate roofs.

16. Unlike the fallback scheme, the proposal includes the provision of a new native hedgerow alongside the access track and to the east of the dwelling. As well as benefitting biodiversity, this feature would also help to assimilate the development into its surroundings when viewed from the road.
17. The extended garden would also be largely to the west of the building, so would be hidden from public view behind the house. It is contended that the garden area would cut across an ancient field boundary, but that feature is no longer in existence. The proposed garden area is enclosed by existing hedges and banks, so any domestic paraphernalia would be well-concealed, and would have little impact on the surrounding countryside. The enlarged area would also represent a betterment in design, as it would provide a reasonably proportioned garden for residents, unlike the fallback scheme where there would be little outdoor space around the building, resulting in it having a cramped and incongruous appearance in its otherwise open rural surroundings.
18. To conclude, whilst the proposed building would be more extensive, it would not be easily discerned as such from public viewpoints. Its increased height would result from the provision of a traditional slate roof, which would be more appropriate in its surroundings. It would be of a higher standard of design than the fallback scheme, and would use materials that are more characteristic of its rural context. Hedge planting could be secured, which would help to assimilate the building into its rural surroundings. Furthermore, the larger garden would not be harmful to the landscape. Consequently, its impact on the character and appearance of the area would be less harmful than the retention and conversion permitted under the fallback scheme.
19. Therefore, the proposal would accord with Policy 7 of the Local Plan, and with the advice in the CPOAN regarding replacement dwellings. There would also be no conflict with Policies 12 and 23 of the Local Plan and Policy 18 of the Neighbourhood Plan, which, taken together, seek to ensure high quality design and the protection of the natural environment.

Other Matters

20. Concerns have been raised in representations regarding the potential for flooding as a result of the surface water drainage proposals. However, there is no evidence from statutory consultees to indicate that a suitable scheme for drainage could not be achieved under the Building Regulations.

Conditions

21. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council has submitted a schedule of suggested conditions to cover other matters, and the appellant has not contested any of these. Nevertheless, I have considered them against the advice in the Planning Practice Guidance. Whilst I have agreed that they meet the relevant tests, I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.

22. To ensure that the dwelling has an acceptable impact on its rural surroundings, conditions securing hedge planting and appropriate external materials are reasonable and necessary. The fallback scheme would not benefit from permitted development rights under Part 1 of Schedule 2 of the GPDO. It would therefore be reasonable to impose a condition preventing the exercise of these rights, so that the proposed dwelling does not have a greater impact than the fallback scheme in the future. Conditions are also necessary to ensure that the development complies with development plan policies regarding energy and water efficiency. To ensure that biodiversity net gain is achieved it is also necessary to impose a condition to secure the installation of a bee brick, bat box, and bird box.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

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 drawing nos 23154/001 PL1 – Existing Floor Plan; 23154/002 PL1 - Existing Elevations; 23154/100 PL1 - Existing Site Plan; 23154/102 PL5 – Location and Block Plan; 23154/101 PL2 - Proposed Site Plan; 23154/010 PL2 – Proposed Floor Plan and Elevations; 23154/020 PL1 – Proposed Section.
- 3) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 4) Prior to the occupation of the dwelling hereby permitted, the new hedgerow shown on approved plan reference 23154/101 PL2 shall be planted, in accordance with the guidance for new hedgerows outlined within the submitted Preliminary Ecological Appraisal (prepared by Bright Environment and dated 6 July 2024). The hedge shall be permanently retained thereafter.
- 5) Prior to the occupation of the dwelling hereby permitted, a minimum of one bee brick, bat box and bird box shall be installed on/around the site, in accordance with the guidance outlined within section 5.5 of the submitted Preliminary Ecological Appraisal (prepared by Bright Environment and dated 6 July 2024). These features shall be permanently retained thereafter.
- 6) Prior to the occupation of the dwelling hereby permitted, the measures outlined within the submitted Energy Statement (and relevant accompanying documents), prepared by Energy Access Building Compliance Consultants

and dated 11 September 2024, shall be completed. The measures shall be permanently retained thereafter.

- 7) The dwelling hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Part 1 of Schedule 2 to the Order shall be undertaken.

END OF SCHEDULE