



## Appeal Decision

Site visit made on 4 December 2025

by **T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12<sup>th</sup> January 2026

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### **Appeal Ref: APP/D0840/W/25/3363813**

#### **Field north of Gwel an Golowji, Lower Boscaswell, Pendeen, Cornwall TR19 7FA**

- 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 Jonathan Manser against the decision of Cornwall Council.
  - The application Ref is PA24/04171.
  - The development proposed is Construction of five new long term residential units including three family homes and two single bedroom apartments.
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### **Decision**

1. The appeal is allowed and planning permission is granted for Construction of five new long term residential units including three family homes and two single bedroom apartments at Field north of Gwel an Golowji, Lower Boscaswell, Pendeen, Cornwall TR19 7FA in accordance with the terms of the application, Ref PA24/04171, and subject to the conditions set out in the schedule to this decision.

### **Preliminary Matters**

2. The application was submitted in outline with matters of access, layout and scale for consideration at this stage. Appearance and landscaping are reserved for subsequent consideration. I have assessed the proposal on this basis.
3. The appeal site is within the Cornwall National Landscape (CNL). Section 85 of the Countryside and Rights of Way Act 2000 (as amended) therefore places a duty on me to seek to further the purpose of conserving and enhancing the natural beauty of the area. Although most of the site is outwith the Boscaswell Conservation Area (CA), part of the redline boundary (where the site access meets the highway) is within it. I have therefore paid special attention to the desirability of preserving or enhancing its character or appearance, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
4. My attention has been drawn to the previous appeal decision regarding the construction of four dwellings on the site. Whilst it is a relevant consideration with regards to my determination of this appeal, there are some notable differences between that scheme and this appeal proposal. This includes a different number and mix of residential units, the introduction of a gap between the proposed buildings, and additional heritage-related details. With a significant change in the Council's housing land supply position since that decision was made, the wider circumstances have also evolved. Consequently, although I have had regard to that decision, I have determined the appeal proposal on its own merits, based on the submitted evidence. In addition, despite what has been suggested, that previous appeal decision neither results in an in-principle objection to residential development of the site nor indicates that any harm cannot be overcome.

5. The planning application form indicated that the appellant considered the appeal proposal would not be subject to the general Biodiversity Gain Condition (as set out in Paragraph 13 of Schedule 7A of the Act) based on the self-build and custom build exemption. Nevertheless, the application form also identified that the proposed units would provide market (rather than self/custom build) housing and it was confirmed during the appeal that this is the intention. As such, the proposed development is not exempt from delivering mandatory Biodiversity Net Gain (BNG). However, the submitted BNG Assessment and metric are sufficient with respect to the BNG requirements at this stage, whilst paragraph 13 of Schedule 7A of the Act requires that a biodiversity gain plan be submitted to and approved by the local planning authority before the development can commence.

### **Main Issues**

6. The main issues are:
- whether the proposed development would be in an appropriate location, having regard to the character and appearance of the area and the CNL; and
  - the effect of the proposed development on designated heritage assets.

### **Reasons**

#### *Character and appearance*

7. Forming part of a field, the site is on the edge of Lower Boscaswell. Although it is outside of the urban form and defined settlement boundary, development surrounds the site on three sides; and its remaining edge broadly aligns with the extent of the plot containing the new terrace and the buildings at the end of the row of properties on the other side. These features would function as a barrier to further growth into the remainder of the field and ensure that the proposal would not create a further site for rounding off. The site's enclosed position also means that the development proposed would read as completing the settlement boundary and not visually extending building beyond it and into the open countryside. With the proposed five residential units being of an appropriate scale to the size and role of the settlement, the appeal proposal therefore meets the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP) definition of rounding off. Irrespective of whether it cannot be described as infill development, it therefore accords with part 3 of CLP Policy 3 and thus CLP Policy 7 is not applicable in this instance.
8. Although the site has built form on three sides, it has a verdant character and open appearance and, as a relic, forms part of the exposed coastal farmland surrounds. Providing an undeveloped break, the site offers views out to the landscape and seascape and views from there back into the settlement. It therefore also allows appreciation of the landscape and townscape setting; and such views help to connect the older part of the settlement to its surroundings. However, the adjacent new terrace has undoubtedly changed the settlement's connection with the landscape. In addition, the site's visual and physical contribution to the settlement's open landscape setting is limited by it being largely surrounded by development. It also now reads from the nearby (gold priority) public footpath and from Carn Ros as a rather marooned finger of undeveloped land within Lower Boscaswell and is viewed in conjunction with its developed backdrop.

9. Despite the site's size and position, it forms part of the undeveloped coastal strip plateau which slopes toward the cliffs of the West Penwith section of the CNL. This settled pastoral landscape, which is also within a defined Heritage coast, is described within the Cornwall Area of Outstanding Beauty Management Plan 2022-2027 (MP) as having a unique character shaped by granite geology and exposed to the Atlantic Ocean. Part of the special qualities of this section of the CNL which are relevant to the appeal also include traditional granite buildings; and the intricate network of small, prehistoric and irregularly shaped fields bound by distinctive granite Cornish hedges.
10. Given the site's situation, the development proposed would not read as extending built form into the open countryside. With there being a gap between the proposed buildings, the development would also allow views out to the exposed coastal landscape. Although the views would be limited to glimpses, the gap provided would not reduce the current extent of public views available from Carn Ros. Accordingly, the remaining visual link to the landscape and seascape from the public realm within the village would continue. In coming to this view, I have taken account of the likely domestic paraphernalia associated with the properties.
11. Much of the traditional built form in the locality is finished in granite and has a relatively simple appearance and diminutive character. The proposed buildings would not be as small as some of the neighbouring traditional cottages. However, there is variety in the size of local vernacular and other more modern properties, whilst the height and footprint of the proposed buildings would not be so significant so as to read as incongruous or unacceptable. In addition, with appearance not being considered now, the development could be designed at reserved matters stage to suitably reflect the locality's strong vernacular architecture. On this basis, the appeal proposal would accord with Policy BD1 of the St Just-in-Penwith Parish Neighbourhood Plan 2021-2030 (NP). Amongst other aspects, this sets out that developments should reflect traditional styles and features; and respond to the proportions of local vernacular buildings.
12. However, developing the site would result in the loss of open land that extends the landscape into the settlement. The relationship between the townscape and landscape in this part of the village would therefore be reduced and the open undeveloped setting would be pushed back and the field pattern altered. As such, it cannot be described as adopting a "landscape-led" approach and contributing to the sense of place as sought by MP Policies PD-P1 and PD-P11. The layout of the proposed development would also be at odds with surrounding built form. The appeal proposal would therefore harm the character and appearance of the area and the CNL. However, the overall effect would be limited and localised given the site's size and its position now squeezed between existing built form.
13. Nevertheless, for the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area and the special qualities of the CNL. I therefore find that it would not accord with CLP Policies 2, 3, 12, 21 and 23 and NP Policies AD1 and AH6. Amongst other aspects, these expect development to sustain local distinctiveness, respect quality of place, conserve and enhance the natural beauty of the CNL and maintain the landscape character and distinctive qualities of Heritage Coasts; seek to make best use of land taking into account the character of the surrounding area; and support development that conforms to AONB guidance and conserves and enhances the CNL's landscape character and natural beauty.

### *Designated heritage assets*

14. In addition to the site being within and adjacent to the Boscaswell CA, it is also within Area 1 of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS). The significance of the CA stems from, amongst other aspects, its strong local vernacular architecture and modest mineworkers' cottages set out in cohesive parallel lines and forming a coherent group. The CA's setting, which includes its exposed coastal position, Anciently Enclosed Land, the presence of former mineworkers' smallholdings directly linked to the locality's mining heritage and scattered mining artefacts, also contribute to its significance.
15. The Outstanding Universal Value (OUV) of the WHS stems from several aspects related to the area's rich mining heritage, which had a profound impact on the growth of industrialisation in the UK and on mining worldwide; and the WHS is an asset of the highest significance and a place of significance to the whole of humanity. As identified in the Supplementary Planning Document (SPD), 'Cornwall and West Devon Mining Landscape World Heritage Site', the extent and scope of the remains of copper and tin mining, and the associated transformation of the landscape presents a vivid and legible testimony to this. In this respect, and of most relevance to the appeal site are the mineworkers' smallholdings associated with Lower Boscaswell, which was a pre-industrial agricultural village and subsequently a former mining settlement. Identified as one of the attribute types of the WHS, mineworkers' smallholdings contribute directly to its significance.
16. The available evidence indicates that the surrounding area was once in use as mineworkers' smallholdings. The removal of field boundaries over the years has altered the area, whilst the new terrace has also urbanised part of the historic landscape and reduced views into the site from within the village. Nevertheless, the site still reads as forming part of a historic smallholding and open landscape; and views from the public footpath (and surrounding area) back to the site and mineworkers' cottages allow an appreciation of the village's historic nature, pattern and setting, including with landscape extending into parts of it. Consequently, the site positively contributes to the setting of the CA and the OUV of the WHS.
17. The proposed development would infill land associated with a historic smallholding. Although the gap would allow views through the site, the proposed residential units would also erode the relationship and transition between the CA's historic settlement pattern and its open landscape setting. In addition, whilst their scale would be acceptable, the development would limit public views of the adjoining historic cottages and the layout would be at odds with the largely intact historic linear form of the settlement. The presence of other more modern development, such as the adjoining terrace, and the effect of them, does not change this with respect to heritage considerations.
18. The appeal proposal would therefore interrupt and diminish the village's historic character and its relationship with its setting, to the detriment of the significance of the CA. By overwriting part of a mineworker's smallholding, it would also erode the area's legible historic landscape to the detriment of the authenticity and integrity of the WHS. Accordingly, I conclude that the proposed development would harm the significance of designated heritage assets, in conflict with CLP Policies 2, 12 and 24 and NP Policies AD2 and AD4. Amongst other aspects, these expect development to protect the historic landscape and character; sustain designated heritage assets, including preserving or enhancing the CA's character and not

negatively impacting on components of the WHS which contribute to its OUV; and accord with the WHS Management Plan and SPD (which itself seeks to protect the special features that make the area worthy of being a WHS). With Policies P3, C2, C7 and C9 of the WHS Management Plan seeking to achieve similar aims to the above policies, the proposed development would also not accord with them.

19. Given the position, scale and nature of the proposed development, the harm would be relatively limited and localised. Accordingly, it would constitute less than substantial harm to the significance of the designated assets, at the lower end of the spectrum. Nevertheless, the Framework sets out that the harm should still be weighed against the public benefits.
20. In this instance, the development would provide five residential units in an accessible location, with a mix of three family-sized dwellings and two smaller (so-called 'starter') apartments. Given the district's shortfall in housing supply, such windfall units are clearly needed and the NP sets out that recent small-scale developments have demonstrated a demand for open market housing for local families. As it would constitute rounding off development, the proposal would also avoid isolated or piecemeal development in the open countryside. In addition, the proposed development would deliver a net gain in biodiversity, provide some construction employment opportunities and support the local economy and community through future occupiers' use of services and facilities.
21. Whilst the benefits would be limited by the scale of the development, in my view they nevertheless collectively amount to a weighty level of public benefit. Accordingly, despite the considerable importance and very great weight that I afford to the designated heritage assets, the public benefits of the proposal provide clear and convincing justification and outweigh the less than substantial harm to the significance of the designated heritage assets.

### **Other matters**

22. The Council also alleges a conflict with CLP Policies 1 and 13. However, my attention has not been drawn to any words in them that are directly relevant to the main issues. The policies have therefore not been determinative in my decision.
23. A number of other matters have been raised by various parties and I have taken them all into account. This includes: the effect on the living conditions and mental health of existing residents, including with respect to noise and light pollution, overshadowing, and loss of privacy and daylight; the effect on wildlife and biodiversity; highway safety concerns with regards to increased vehicle movements and parking demand; impact on archaeological and other heritage features; loss of coastal views from existing properties; the lack of affordable housing provision which is needed locally and is supported (and sought) by NP Policies AH1 and AH2; the proposed open market homes likely being unaffordable to local people; parish housing targets being on track to be met; artificial lighting reducing the ability to appreciate the dark sky; loss of tranquillity; local residents not being sufficiently informed about the planning application; previous applications on the site being refused permission and dismissed at appeal; the NP being undermined if the proposal were allowed; the main benefit being profit for the developer; and the new terrace remaining unfinished.
24. However, whilst I take these representations seriously and I recognise the strength of local concern, I have not been presented with compelling evidence to

demonstrate that the proposal would result in unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. Some of the issues raised, such as regarding archaeology and biodiversity can also be covered by conditions.

### **Planning Balance**

25. The proposed development would harm the character and appearance of the surrounding area and the special qualities of the CNL; and result in less than substantial harm to the significance of designated heritage assets. The resulting conflict with various policies leads me to conclude that the proposed development conflicts with the development plan as a whole. However, with the latest housing requirement for the district having risen to 4,421 per year, the Council is unable to demonstrate a sufficient supply of housing land. From other recent casework in the Council's area, I am aware that the figure of approximately 3.8 years supply for the district has been identified, which is a relatively significant shortfall. This means the approach set out in paragraph 11d) of the Framework applies.
26. The Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes, which have the highest status of protection in relation to these issues, and the conservation of designated heritage assets. The harm to both, and to the character and appearance of the area in general, therefore attract very great weight. However, the harm to the area's character and appearance and the CNL would be limited and localised whilst the public benefits are sufficient to outweigh the less than substantial harm to the CA and WHS. Accordingly, the application of Framework policies that protect areas or assets of particular importance do not provide a strong reason for refusing the development proposed.
27. Given the scale of the proposed development, its benefits (as detailed above) would not be trivial. The appeal proposal, which could be built out relatively quickly, would also make a small but nevertheless important contribution to housing supply in an area with a relatively significant shortfall and an identified housing crisis. These are substantial aspects which weigh in favour of the appeal proposal and align with what various local and national policies seek to achieve, including delivering a sufficient supply of homes; supporting a prosperous rural economy; and avoiding isolated and inaccessible homes and those which visually extend building into the open countryside.
28. The available evidence also indicates that, with the imposition of condition 5, the appeal proposal would not harm the post-medieval crow, which is a non-designated heritage asset. Whilst this is not a benefit, it indicates that the appeal proposal would result in less harm to heritage assets than the previous scheme, which also proposed one less residential unit.
29. Consequently, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, including having particular regard to its key policies for directing development to sustainable locations, making effective use of land and securing well-designed places. The presumption in favour of sustainable development therefore now applies.

## Conditions

30. I have had regard to the various suggested planning conditions and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
31. Conditions 1-3 covering reserved matters are necessary to secure details of the outstanding matters prior to the development proceeding. In the interests of certainty, the plans condition (4) is necessary. Condition 5 is necessary in the interests of protecting heritage assets. However, having regard to the comments from Historic Environment Planning (Archaeology) on the planning application, I have amended the condition from that suggested by the Council so as to broaden its focus beyond just the Crow.
32. Condition 7 is necessary in the interests of highway safety. Condition 8 is necessary in the interests of visual and residential amenity. Because such details are not covered by the reserved matters, and having taken into account the consultation response from South West Water and the limited details contained in the 'green infrastructure form', I have also imposed an additional condition (6) in the interests of drainage and flooding. However, I have not imposed the Council's suggested condition regarding external materials/finishes of the dwellings because appearance is a reserved matter and thus such details are covered by condition 1.

## Conclusion

33. Although the proposed development would conflict with various development plan policies and result in some harm, including to a protected landscape and designated heritage assets, there is a clear need for housing in the district given the shortfall in supply. The proposal would also be in an accessible location and support the local economy and facilities, whilst the harm would not be significant. Accordingly, despite the great weight afforded to the conservation of such landscapes and assets, material considerations outweigh the harm that would arise and indicate that the development proposed should be permitted notwithstanding its conflict with the development plan as a whole. The appeal is therefore allowed.

*T Gethin*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) Details of the appearance and landscaping ("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 three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two 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: Location map (2104/PL/001, Rev D); Proposed site plan (2104/PL/003, Rev E); Relative massing and roof heights (2104/PL/004, Rev D); Relative massing and roof heights (2104/PL/005, Rev D); and Carn Ros viewing corridors (2104/PL/013, Rev D).
- 5) No development shall take place until: (i) An archaeological Written Scheme of Investigation (WSI) been submitted to and approved in writing by the local planning authority; and (ii) Any necessary safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the WSI have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.  
The development should be carried out in full accordance with the approved details within the WSI.
- 6) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development. The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 7) Before any other building or engineering works are carried out on site, the access shall be laid out and constructed in accordance with plan Ref 2104/PL/003E; with its gradient, surfacing, drainage and sight lines having first been approved in writing by the Local Planning Authority. The access shall be retained as approved thereafter.
- 8) Prior to installation, details of the proposed height, siting, appearance and construction of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details prior to the first occupation of the development and shall not thereafter be altered or removed, other than by necessary replacement.

## **END OF SCHEDULE**