
Appeal Decision

Site visit made on 23 March 2026

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2026

Appeal Ref: APP/D0840/W/25/3371943

Land North of Fore Street, Fore Street, Probus, Cornwall TR2 4LY

- 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 Oliver Bennett against the decision of Cornwall Council.
 - The application Ref is PA25/03940.
 - The development proposed is residential development of a minimum of 9 and a maximum of 9 dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of 9 and a maximum of 9 dwellings at Land North of Fore Street, Fore Street, Probus, Cornwall TR2 4LY, in accordance with the terms of the application, Ref PA25/03940.

Preliminary Matters and Main Issues

2. I have taken the address from the Council's decision notice as this more accurately identifies the site's location than the details entered on the application form.
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 two stages. The first stage establishes whether a site is suitable in principle with the scope of the considerations limited to location, land use and the amount of development permitted¹. All other matters are then considered as part of the second stage, via a Technical Details Consent (TDC) application, including detailed development proposals should permission in principle be granted. This appeal relates to the first of these two stages. Given the limited scope of the application, I have treated the submitted site and location plan indicating the potential layout of up to nine dwellings as being for illustrative purposes only.
4. While work on the Probus Neighbourhood Plan (PNP) has commenced and a draft prepared, no details of its contents are before me. Due to the early stage in the preparation of the emerging PNP, it is not determinative in my decision.
5. The appeal site is located within the catchment of the Fal and Helford Special Area of Conservation (SAC), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2009 (as amended). Whilst not indicated as a reason for refusal, it is incumbent upon me, as the competent authority, to consider whether the proposal would be likely to have a significant

¹ Paragraph: 012 Reference ID: 58-012-20180615

effect on the integrity of this SAC. As the main parties have addressed this as part of the application, no party would be prejudiced by this matter being dealt with as a main issue.

6. Consequently, the main issues are:

- whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, with particular regard to the local development strategy and the effect of the proposal on the character and appearance of the area; and
- whether the proposal would be likely to have a significant effect on the integrity of the Fal and Helford SAC.

Reasons

Location, land use and amount

7. Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (Local Plan) establishes the objectives which underpin the spatial strategy for the delivery of new development, emphasising that growth will be accommodated in the main towns and city where it can best support regeneration. This hierarchical approach is expanded within Policy 3 with the identification of the main settlements. Although Probus is not included in this list, Policy 3 does not restrict housing growth from areas other than at the main settlements but rather indicates the circumstances where such development would be appropriate.
8. Of relevance to the appeal site is where residential development would result in the rounding off of a settlement, within or immediately adjoining it, and of a scale that is appropriate to its size and role. While the term 'rounding off' is not defined within Policy 3 itself, its supporting text refers to it comprising 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 (or features) that also acts as a barrier to further growth.
9. The appeal site comprises a field immediately adjoining the rear of existing housing orientated towards Fore Street. Although the majority of the areas to the north, west and east of the site are largely devoid of built form, the dense hedgerows and wooded areas along these boundaries provide a clear definition and enclosure to the site. While the appeal site's boundaries may follow the medieval farmland patterns, as shown on the 1840 Tithe Map, the dense wooded areas that separate it from its immediate surroundings do not appear on this mapping. Therefore, whilst outside the existing urban form of Probus, the site has an edge that is clearly defined by physical features which provide a barrier to further growth. As such, the site's attributes meet the rounding off criteria as set out within the supporting text to Policy 3.
10. The CPOAN² elaborates upon the attributes considered to be components of a suitable site for rounding off, including that it is likely to be surrounded on at least two sides by existing built development. However, the use of the word 'likely' is not prescriptive requirement and, in any event, the contents of the CPOAN provides guidance only to the application of Policy 3. It does not form part of the adopted development plan. Indeed, the guidance note explicitly states that it should not be

² Chief Planning Officer's Advice Note: Infill/Rounding Off (December 2017) (CPOAN)

used as a reason for refusing an application. Nonetheless, I am also mindful that the CPOAN indicates that it is necessary for a judgement to be made on a case to case basis as to whether a site has the appearance of being within the physical boundaries of a settlement as well as the contribution it makes to the character and appearance of the area.

11. Fore Street itself is one of several routes through Probus, running along a gently rising ridgeline. Gaps between the built form along this linear road provide views, vistas and glimpses of the rolling landscape or the sky as the topography drops away beyond the existing buildings fronting Fore Street. Although buildings are predominantly in residential use, largely two storeys or less and most have light coloured external walls, few other features are dominant within this part of the settlement. Furthermore, in the context of Probus as a whole, both in plan form and on the ground, few features, particularly in terms of the relationship between the road and built form, building typologies and density, are consistently identifiable, with no singular character prevailing.
12. The character of the site, being enclosed on three sides, is heavily influenced by the rear elevations of properties fronting Fore Street, particularly given their siting on higher ground, proximity to the site boundary due to their shallow garden depths and the lack of natural barriers or features. Few trees are located along this boundary and the rear gardens are more open, with low level retaining walls and railings providing minimal definition to the edge of the settlement. Additionally, due to the scale of these properties, their light coloured exterior and the falling topography, this part of the built up edge of Probus is readily visible in views from the north, including from the public rights of way in this area.
13. In the wider landscape, beyond the wooded areas which bound the site, a patchwork of agricultural fields, predominantly larger than the appeal site, spreads across the rolling topography with only the occasional building or farm complex visible. The environs to the north of the site, therefore, have a distinctly open character when compared to the appeal site and is more readily appreciated as being open countryside. This change is reflected in the transition between the Fal Valley Cornwall Character Area (CCA21), within which the site is located, and the neighbouring Truro and Tresillian Valley (CCA20).
14. Due to the topography and together with the need to ensure appropriate separation from the existing properties on Fore Street, the proposed dwellings would be positioned down and back from the site's southern boundary. Subject to the approval of TDC details, I see no reason why the proposal could not be designed to maintain the visual connections between the Fore Street and the wider countryside. Additionally, the site's attributes and size provides sufficient scope for the proposal to sensitively contribute to the character of the existing built form and, via a TDC, be of an appearance acceptable to the Council. Furthermore, as no readily discernible density apparent throughout Probus, I see no reason to conclude that the nine dwellings could not be integrated into the settlement in a complementary fashion, irrespective of the method used to calculate density.
15. While only a small section of the site is located within the Probus Conservation Area (PCA), I have had regard to the statutory duty set out at section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I have also taken into account the National Planning Policy Framework's (the Framework)

requirement to assess the effect of a proposal on the setting of a designated heritage asset.

16. In the absence of an appraisal of the conservation area, based on the evidence before me and my observations during my site visit, the significance of the PCA, is largely derived from the features identified above, namely: the topography of the area which, together with the gaps between the built form, facilitates the visual connectivity between the settlement and the wider landscape. While the undeveloped nature of the appeal site enables these views, largely due to its sloping topography, as identified above, the amount of development proposed could be accommodated on the site while maintaining the visual connectivity from Fore Street. Therefore, the proposal would preserve the character or appearance of the PCA and conserve the contribution its setting makes to its significance.
17. The principle of residential development on the site is, therefore, acceptable and as it would be possible to accommodate the number of dwellings proposed, subject to the approval of a TDC, such that the proposal would not harm the character and appearance of the area. In this regard, I find that the residential development of the site would result in achieving a policy compliant rounding off of this part of Probus. The site's containment also ensures a clear distinction from the field to the west, restricting visual and physical connectivity. As a result, the proposal would not lead to the creation of a further site for rounding off.
18. Consequently, I conclude that the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development, with particular regard to the local development strategy and the effect of the proposal on the character and appearance of the area. The proposal, therefore, accords with policies 1, 2, 3, 7, 12, 21, 23 and 24 of the Local Plan. These policies, in combination and amongst other things, set out the local development strategy whilst seeking to make the best use of land and protecting the local landscape and built form character, including the historic environment. I also find no conflict with Policy C1 of the Council's Climate Emergency Development Plan Document which sets out the overarching principles for the management of natural, historic and cultural assets for future generations.
19. The decision notice indicates that the proposal conflicts with policies 6, 8 and 9 of the Local Plan. However, as Policy 6 relates to the provision of a mix of housing within developments comprising ten (10) dwellings or more and it is not the intent of the proposal to meet the definition of a rural exception site as set out in Policy 9, these policies are not determinative in my decision. Even if the proposal triggers the requirement of Policy 8 to provide an affordable housing contribution, this would be secured via a planning obligation as part of a TDC.

Fal and Helford SAC

20. The special interest of the Fal and Helford SAC relates to saltmarsh, mudflat, sandbank and reef habitats of interest that, amongst others, make up the drowned river valleys of the Fal Estuary and Helford River. The overarching objective for the management of the SAC is the ongoing protection of these internationally important habitats. One of the issues preventing this objective being met relates to the increased pressure to access the area for recreational purposes, as well as from urbanisation and damage caused by pets, resulting from a rise in the population living nearby.

21. As the proposal would lead to an increase in the number of people living in the area, it would, therefore, lead to an increase in the number of visitors to the SAC for recreational purposes. When considered alone or in combination with other plans or projects, it would have the potential to result in likely significant effects on the SAC. Consequently, it is necessary for me, as the competent authority, to conduct an Appropriate Assessment concerning the effect of the proposal on the integrity of the SAC.
22. As part of the application, the appellant submitted a signed s111 undertaking, together with a fee based on the number of dwellings proposed. This reflects the mitigation fees set out within the Council's European Sites Mitigation Supplementary Planning Document (SPD), as required by policies 22 and 23 of the Local Plan. The Council will use the fees to deliver a Strategic Access Management and Monitoring project for the SAC, so that it is more resilient to visitor pressure.
23. I conclude therefore, that, subject to mitigation, the proposal would not be likely to have a significant effect on the integrity of the SAC and accords with policies 22 and 23 of the Local Plan, and the SPD in this respect.

Other Considerations

24. While the Council's Officer Report refers to a detailed field survey which previously found the site to comprise Grade 3a agricultural land, no such survey is before me and the age, and therefore validity, of the survey is unknown. Additionally, although the Officer Report refers to the land being likely to comprise best and most versatile (BMV) agricultural land, this was not a reason against which the application was refused.
25. Furthermore, this matter is not elaborated upon within the Council's Statement of Case. Nor does it dispute the findings of the Agricultural Land Classification Report³ submitted with the appeal which concludes that the appeal site comprises Grade 3b agricultural land (moderate quality agricultural land which is capable of producing moderate yields of a narrow range of crops). Therefore, I see no reason to conclude that the proposal would lead to the loss of BMV land.
26. While my attention is drawn to other appeal decisions⁴ relating to the application of paragraph 11 of the Framework where a Council is unable to demonstrate a five-year supply of deliverable housing sites, these concern proposals where other Inspectors have found conflict with the development plan. As I have not found that the proposal conflicts with the development plan it represents a materially different circumstance to these other appeal cases.
27. Several concerns have been made by interested parties regarding the proposal. Those not already addressed in the reasoning above relate to detailed development proposals, such as the living conditions of neighbouring residents, traffic, wildlife and light pollution. As such, they fall to be considered at TDC stage, should such an application be submitted, noting that the granting of permission in principle does not mean that a TDC will automatically be approved.

³ Prepared by Phillips Rural and dated 18 August 2025

⁴ APP/D0840/W/24/3348094; APP/D0840/W/24/3343450

Conclusion

28. For the reasons set out above, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR