
Appeal Decision

Site visit made on 1 April 2026

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2026

Appeal Ref: APP/D0840/W/25/3372038

Land South West Of Rubys Retreat, Trehaddle, Cusgarne, Truro, Cornwall TR4 8RN

- 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 Ms. Manners against the decision of Cornwall Council.
 - The application Ref is PA25/04873.
 - The development proposed is a proposed housing scheme of up to 2 dwellings. (minimum of 1, maximum of 2).
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of one and a maximum of two dwellings, at land south west of Rubys Retreat, Trehaddle, Cusgarne, Truro, Cornwall TR4 8RN in accordance with the terms of the application, Ref PA25/04873.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle (PIP) consent route has two stages: the first establishes whether a site is suitable in-principle and the second (technical details consent - TDC) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. 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 TDC application, if permission in principle is granted. I have determined the appeal on this basis.

Procedural Issues

4. Certain types of development are excluded from the grant of permission in principle. Habitat development is one such exclusion¹ which is defined by Article 5B(5) of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) (hereafter referred to as the Order) as including development, which discounting mitigation measures, is likely to have a significant effect on a qualifying European site under the Conservation of Habitats and Species Regulations 2017 (as amended) (hereafter referred to as the Habitats Regulations).

¹ Article 5B(1)(b) of the Town and Country Planning (Permission in Principle) Order 2017 (as amended).

5. Having regard to my duties as competent authority under the Habitats Regulations, for the purposes of this appeal, an appropriate assessment should be undertaken at the outset to establish whether the development would adversely affect the integrity of the protected site. If the outcome of the appropriate assessment is unfavourable, it would preclude the grant of permission in principle.
6. The appeal site is within the buffer zone of the Fal and Helford Special Area of Conservation (SAC). The SAC covers a wide area of a ria (drowned river valley) system, which includes several component Sites of Special Scientific Interest (SSSI). The Habitat site is recognised for its national and international importance for nature conservation. Its qualifying features are its subtidal sandbanks, estuaries, intertidal mudflats and sandflats, its large shallow inlets and bays, reefs, and Atlantic salt meadows with important populations of Shore dock.
7. It has been established that residential development within the buffer zone would likely result in harm to the SAC through additional recreational disturbance. The proposal would create a net gain of between one and two dwellings and, in combination with other developments permitted in the area, there would be a likely significant adverse effect on the Habitat sites, without mitigation.
8. Policy 22 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the CLP), requires mitigation of recreational impacts from residential development on European Protected Sites. This is implemented by the European Sites Mitigation - Supplementary Planning Document 2021 (ESM-SPD), agreed by the Council with Natural England (NE). This sets out a strategic approach to mitigation by implementation of a tariff style financial contribution made per dwelling, towards a range of mitigation and avoidance measures.
9. The main parties agree that a tariff style contribution towards the above-mentioned mitigation measures would be appropriate and would accord with the ESM-SPD. The Council has confirmed that the appellant has submitted a completed Appropriate Assessment template, has paid the required contribution which is detailed in an undertaking pursuant to Section 111 of the Local Government Act 1972 (as amended). I have no reason to find otherwise.
10. Natural England has been consulted as part of this appropriate assessment and has confirmed it is content that the financial contribution secured by the S111 Agreement, which aligns with the Council's adopted strategy, would address the adverse effects associated with the proposed development and would thereby relieve pressure on the Habitat site. Given their specialist knowledge, this attracts considerable weight.
11. As competent authority, I am satisfied that the S111 Agreement would secure and ensure delivery of mitigation, sufficient to address the harm likely to be caused by the development. I therefore find that, subject to the proposed mitigation, the proposal would not have an adverse effect on the integrity of the Habitat site, in accordance with both regulation 63 of the Conservation of Habitats and Species Regulations 2017 and Policy 22 of the CLP.
12. Therefore, having undertaken a favourable appropriate assessment, and noting there is sufficient certainty that adequate mitigation is secured, the proposal would not constitute habitats development. Consequently, it can be considered under the permission in principle procedure.

Main Issue

13. 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

14. The appeal site comprises a roughly triangular shaped parcel of land described as being around 0.10 hectares in area. It is located to the north side of the road which runs through Trehaddle. To the south side of the road are several detached properties, which sit in elevated positions relative to the highway, and which continue in an unbroken line of development, from a position around 150 metres east of the appeal site, to a position around 150 metres west of the appeal site. To the immediate east of the appeal site, on the northern side of the road, is a property known as 'Ruby's Retreat' together with a further property known as 'Chy Gover' to its east.
15. The appeal site's southern boundary with the road has a dense belt of substantially evergreen trees running along much of its length, save for a section where a field gate provides access from the highway to the land. The site's northern boundary is defined by a dense Cornish hedge with interspersed trees, and beyond this, is a stream which separates the appeal site from the open landscape beyond. This stream defines the triangular shape of the site, the stream continuing immediately alongside the highway from the western-most end of the site, as it travels west out of the hamlet. The site's eastern boundary with Ruby's Retreat is a mix of hedges, trees and fences. The site was significantly overgrown at my visit, though two small caravans, of some age, were visible within the site.
16. Policy 2 of the Local Plan defines the spatial strategy for development. It seeks to maintain the dispersed development pattern of Cornwall, providing homes and jobs relative to the function of each place. Policy 3 outlines how development will be accommodated, with growth focussed primarily on main towns identified within the policy. However, it also supports housing growth through identification of sites within Neighbourhood Plans, within or adjoining smaller settlements through infill schemes; through development of previously developed land (PDL); through rounding off; or through rural exception sites.
17. The appeal site is within Trehaddle, a hamlet whose development boundary is identified as the western area of development on 'Map 4 – Cusgarne Development Boundary' in the Gwenapp Neighbourhood Development Plan 2019 – 2030 (2020) (the NDP). The appeal site sits outside the development boundary defined on Map 4, though it adjoins the boundary to its east and south. The site occupies a location which is central to the extent of development in the Trehaddle section of the Cusgarne development boundary. However, in policy terms, the site is classed as being open countryside.
18. Whilst the appellant notes the previous siting of caravans for recreational use of the site, which were still present at my visit, and to someone previously residing there for a short while, the main parties agree that it is not PDL. The site is not being advanced as a rural exception site under Policy 9 of the CLP, nor does it seek to comply with the exceptions to housing in the countryside which would have gained support from Policy 7 of the CLP.

19. Policy 3 of the CLP provides support for 'infill' sites for one to two dwellings in smaller villages and hamlets, together with 'rounding off' development via paragraph 1.68. Infill development is defined in paragraph 1.65 as the filling of a small gap in an otherwise continuously built-up frontage that does not physically extend the settlement into the open countryside. A Chief Planning Officer's Advice Note (CPOAN) also gives further guidance in relation to infilling and rounding off, as an aid to decision making.
20. Having examined the appeal site, I find it would not represent infill development, owing to the lack of development to its west, and would, therefore, not be a gap within a continuously built-up frontage, and would conflict with advice within the CPOAN and with Policy 3 of the CLP in this regard.
21. It is therefore necessary to establish whether the proposal would represent 'rounding off' development under Policy 3 of the CLP. Rounding off is defined in paragraph 1.68 as development on land that is substantially enclosed but outside of the urban form of a settlement. The CPOAN advises that proposals must be adjacent to existing development and be contained within long standing and enclosing boundary features, for example a road, Cornish hedge or stream. Suitable sites are likely to be surrounded on at least two sides by existing built development. Development resulting in the creation of a further site for rounding off is unlikely to be rounding off in itself.
22. The appeal site is outside the defined settlement boundary. However, it sits at the centre of the hamlet, with built residential development to two of its sides. The site is substantially enclosed to all three of its boundaries, by a road and mature evergreen tree belt to its southern boundary, by a Devon hedge, trees and fence to its eastern boundary, and by a dense Devon hedge with a stream immediately adjacent to the Devon hedge, on its north western boundary, which both defines the triangular shape of the site, and restricts any possibility of further rounding off to the west, which would otherwise extend development into open countryside. I therefore find that the appeal site would meet with the definitions of rounding off development in paragraph 1.68 of the CLP, Policy H4 of the NDP and the CPOAN. It would, therefore, accord with Policy 3 of the CLP and Policy H4 of the NDP.
23. Despite its spatial policy definition, the site is not in an isolated location but is proximate to the developed area of the hamlet. Whilst the hamlet itself has no facilities, it is located within 600 metres walking distance of Cusgarne, a village which has a primary school and farm shop, and further facilities are available at Frogpool, which lies 750 metres south-east of the appeal site. The towns of Redruth and Truro are within 5km and 7km respectively, for access to further facilities, services and employment opportunities. It would therefore meet the requirements of paragraph 1.68 of Policy 3 of the CLP, for development to be acceptable within smaller villages and hamlets, as confirmed by the CPOAN.
24. Whilst the location of the proposal will result in the reliance of future occupiers of the site on the private motor car, the CPOAN acknowledges that within a rural place like Cornwall, other than in its city or its towns, it is unrealistic for public transport, walking and cycling to meet all of resident's transport needs alone. This is also acknowledged by paragraph 110 of the National Planning Policy Framework (the Framework).

25. There is no dispute between the parties, that the site is of a sufficient size to accommodate between one and two dwellings, whilst maintaining acceptable separation from adjacent properties to safeguard privacy and outlook. It would also provide sufficient space for vehicular access, turning and parking, together with acceptable external amenity space for future occupiers, and for landscaping to meet the required minimum 10% Biodiversity Net Gains. These are all elements that would be dealt with at the TDC stage, were permission in principle to be granted. Therefore, I find that the amount of development would be acceptable.

Other Matters

26. There were a number of representations made to the application, most in objection, including the Gwenapp Parish Council. I have addressed a number of these concerns already. However, those relating to the potential effects of future development on drainage and flood risk, on vehicular access and highway safety, on contaminated land and instability are all matters that would be addressed at the TDC application stage, were the appeal to be allowed.

Planning Balance

27. The Council have identified they have a 5-year housing land supply (5YHLS) deficit at 3.9 years. Accordingly, paragraph 11(d) of the Framework is engaged for decision making purposes. As I have found that any effects of the proposal on Habitat sites can be satisfactorily mitigated, there are no assets as referenced in paragraph 11(d)(i) and footnote 7 of the Framework that would provide a strong reason for refusal.
28. Accordingly, the test set out in paragraph 11(d)(ii) applies, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, including the key policies cited.
29. The proposal would make a small but positive contribution to the Council's housing land supply shortfall through a windfall site. There would be some limited economic benefit during the construction phase of development, and longer-term benefits in support of local services and businesses from its future occupants.
30. In policy terms, the site conflicts with the spatial strategy of the development plan. However, in circumstances where the Council's housing delivery policies have acted to restrict the supply of homes, I do not find the site's position, technically in open countryside, to be decisive to the outcome of this appeal. The site is within a hamlet setting, with residential development to two sides. I have found it would accord with the rounding off settlements policy of the development plan.
31. The site has significant screening from well-defined mature boundaries, together with a stream adjacent to its northern boundary, which would act to restrict further development. I do not find that developing the site for a minimum of one and a maximum of two dwellings, would harmfully encroach into open countryside.
32. Consequently, the adverse impacts of the proposal associated with its location in open countryside and conflict with some policies of the CLP, would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable

development applies, which is a significant material consideration that weighs heavily in favour of allowing the appeal.

Conditions

33. The PPG makes clear that conditions cannot be attached to a grant of permission in principle, and its terms may only include the site location, the land use and amount of development. Where permission in principle is granted by application, the default duration of that permission is 3 years. Applications for technical details consent must be determined within the duration of the permission granted. Therefore, no conditions have been imposed.

Conclusion

34. The proposed development would conflict with the development plan. However, material considerations indicate that a decision should be made other than in accordance with it. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

D R Kay

INSPECTOR