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## Appeal Decision

Site visit made on 21 June 2021

**by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 August 2021**

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**Appeal Ref: APP/D0840/W/21/3270728**

**Plot of Land between Trevennel Old Cottage and Homelands, St Just in Roseland, Cornwall TR2 5HY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Andrew Robinson against the decision of Cornwall Council.
  - The application Ref PA20/04926, dated 14 June 2020, was refused by notice dated 30 September 2020.
  - The development proposed is the removal of outbuildings and concrete hardstanding and erection of an open market infill dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the removal of outbuildings and concrete hardstanding and erection of an open market infill dwelling Plot of Land between Trevennel Old Cottage and Homelands, St Just in Roseland, Cornwall TR2 5HY, in accordance with the terms of the application, Ref: PA20/04926, dated 14 June 2020, subject to the conditions in the attached schedule.

### Application for costs

2. An application for costs was made by Mr and Mrs Andrew Robinson against Cornwall Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. In the interests of accuracy and consistency, I have amended the original description of development to reflect that as stated at section E of the appeal form and as provided for on the Council's decision notice. I have further amended the description of development to that as provided on the Council's decision notice, again in the interests of accuracy and consistency.
4. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.

### Main Issue

5. The main issue in this appeal is whether the proposed development would be in a suitable location for a new dwelling, having regard to Local and National Planning Policies.

## Reasons

### *Policy Context*

6. The development plan comprises the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan)<sup>1</sup> and the Roseland Neighbourhood Development Plan 2015-2030 (the RNDP)<sup>2</sup>.
7. The Council's settlement strategy is contained within Policy 2 of the Local Plan which sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall, providing jobs in a proportional manner based on the role and function of each place. Policy 3 of the Local Plan seeks to control the distribution of new dwellings across Cornwall and provides that other than at the named larger settlements, housing growth will be delivered through; the identification of sites within neighbourhood plans, infill schemes, rural exceptions sites or rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining that settlement of a scale appropriate to its size and role.
8. The RNDP indicates that the site is located outside of the settlement boundary of St Just in Roseland. Policy CV1 of the RNDP provides support for development, within or adjacent to settlements, which are well integrated with the character of the settlement and where there would be no adverse impacts on the living conditions of nearby residents or to the services and facilities that support community life.
9. Policy GP1 of the RNDP concerns sustainable development, with Policy GP3 of the RNDP providing support for windfall development within the settlement but which also confirms that development outside of the settlement boundary will be treated as an exception. Policy HO3 concerns the reuse of redundant buildings, with Policy HO4 of the RNDP providing support for infill affordable housing led schemes but which also provides that proposals outside of settlements should comprise 100% affordable housing.

### *Location of Development*

10. The appeal site comprises land and buildings located on the southern side of the A3078 highway. The site is bordered to the west by residential development, with a substantially scaled live/work development bordering the site to the east. Immediately to the south, the appeal site is enclosed by predominately open agricultural fields. The appeal site is located within the Cornwall Area of Outstanding Natural Beauty (the AONB).
11. Whilst noting that the appeal site is bordered by development to its north, east and west, the RNDP places the site outside of, but adjoining and adjacent to, the settlement boundary for St Just in Roseland. As described above, criterion 3 of Policy 3 of the Local Plan provides that sites located outside of but adjoining the settlement, can support housing growth through the development of PDL. The appeal site includes outbuildings and hardstanding and comprises PDL as defined within the glossary to the Framework.
12. The proposal is for a single dwelling and, in my view, would be of a scale appropriate to the size and role of St Just in Roseland. As such, and by reason

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<sup>1</sup> Adopted November 2016

<sup>2</sup> Adopted May 2015

of the site's previously developed nature and location adjoining the settlement boundary, the appeal scheme would comply with criterion 3 of Policy 3 of the Local Plan. Given that the appeal proposal would comply with Policy 3 of the Local Plan with regards to use of PDL and that the proposal is for open market housing in compliance with that policy, no assessment against Policy 9 of the Local Plan is necessary in this instance. However, given that the site represents PDL and there is no evidence before me to suggest that the land is of high environmental value or that the buildings have historic value, the proposal would also comply with Policy 21 of the Local Plan.

13. Further to the above, and subject to the use of materials that are sympathetic to the nearby dwellings within St Just in Roseland, the design and scale of the proposal would reflect local distinctiveness. Additionally, the appeal scheme would not adversely affect the amenity of local residents, and there is no evidence before me which indicates that the proposed development would have an adverse impact on local services. Additionally, the proposal does not seek to develop good quality agricultural land nor would lead to the loss of an important gap between settlements. The appeal scheme would provide safe access and, in light of the above, would comply with Policies CV1 and GP2 of the RNDP.
14. As noted above, the site is located within the AONB and the Framework requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. In terms of paragraph 176 of the Framework, by reason of the scale of the proposed development in the context of the size of the village at St Just in Roseland and given that the site makes no positive contribution to the landscape and scenic qualities of the AONB, I conclude that the scheme would not have a harmful effect on the AONB.
15. The appeal scheme does not propose the re-use of a redundant building and, accordingly, the proposal does not require assessment against Policy HO3 of the RNDP. However, and notwithstanding the above, Policy GP3 of the RNDP confirms that, outside of settlement boundaries, development will be treated as an exception, with Policy HO4 of the RNDP providing that proposals should provide 100% affordable housing only.
16. The proposal is for an open market dwelling which, for the reasons given above, is located outside of but adjacent to the settlement. As such, and acknowledging the information submitted by the Council with regards to affordable housing need and in relation to the statement of compliance concerning Policy HO4 of the RNDP, the scheme would not strictly accord with Policies GP3 and HO4 of the RNDP.
17. In summary of the above, whilst the appeal scheme is for an open market dwelling located adjacent to the settlement and would not, therefore strictly accord with Policies GP3 and HO4 of the RNDP, the proposal would comply with, and gain support from, Policies CV1 and GP2 of the RNDP. Furthermore, the proposed development would comply with the provisions, aims and objectives of Policies 2, 3 and 21 of the Local Plan and would accord with those parts of the Framework which concern rural housing.
18. It is well established that policies which comprise the development plan can often pull in different directions and while the proposal could be said to not strictly accord with Policies GP3 and HO4 of the RNDP, it is acknowledged that the proposal would accord with Policies CV1 and GP2 of the RNDP, as described

above, and would comply with the provisions of the Local Plan when taken as a whole. In this instance, I attach more weight to the appeal scheme's compliance with the policies of the Local Plan given its more recent adoption when compared to the date of adoption for the RNDP and given that Policy HO4 of the RNDP provides that sites such as this, should, provide 100% affordable housing indicating that there would be circumstances where this provision would not need to apply.

19. The appeal scheme would provide benefits in terms of an additional unit towards housing supply and would provide economic benefits during the construction of the proposed dwelling and through the spend of future residents within local businesses. The appeal site is well related to the built form of the settlement and the public transport links that the settlement provides. Whilst it is acknowledged that these benefits are limited in scope by reason of the scale of the proposal, they are nonetheless materially positive and weigh in favour of the scheme.

### **Other Matters**

20. It is noted that the appeal site is located within the zone of influence of the Fal and Helford Special Area of Conservation (the SAC). In this respect, an Appropriate Assessment has been completed with Natural England confirming that, in accordance with the Council's European Sites Mitigation Strategy Supplementary Planning Document (the SPD), the qualifying criteria for contributions as outlined in the SPD is sufficient to ensure that an adverse impact on the integrity of the SAC, and its relevant features, can be avoided. In this regard, Natural England have confirmed that proposals which result in a net gain of residential units would be liable to make a contribution to the strategic mitigation strategy.
21. In this instance the proposal would result in a net gain in residential units. Further to a request for additional details regarding the SAC, the Council have put it to me that the relevant financial contribution could be collected via a condition. However, I do not consider that a condition would be an appropriate means for securing the necessary contribution in this instance. Nonetheless, the Appellants have provided a unilateral undertaking which, the Council accepts, secures the necessary contribution towards the SAC. The submission of the unilateral undertaking which secures the necessary financial contribution, would prevent harmful effects from occurring as a result of the proposed development.

### **Conditions**

22. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. In the interests of public health and the environment, it is reasonable to include conditions requiring investigation and remediation of potential contaminated land and that details for the disposal of foul and surface water drainage be agreed with the Council.
23. Furthermore, conditions that require details of the proposed use of external materials and landscaping be provided to and agreed by the Council are

reasonable to ensure that the scheme does not adversely affect the character and appearance of the area. It is also necessary and reasonable to include conditions which require that visibility splays be provided and that the recommendations of the ecological report that was submitted in support of the proposal, be implemented.

24. Where necessary, and in the interests of clarity and precision, I have altered the wording of the conditions suggested by the Council in order to better reflect the relevant guidance. The Appellants have been provided with the opportunity to comment on the wording of the Council's suggested pre-commencement conditions and these have been agreed by the Appellants

### **Conclusions**

25. For the reasons given I conclude that the appeal should be allowed.

*A Spencer-Peet*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby approved shall in all respects accord strictly with drawing numbers: Floor Plans & Sections 2015/P1, Elevations 2015/P2 and Topographical Survey 1905/TP received by the Local Planning Authority on 16 June 2020 and drawing number: Existing Outbuildings – Elevations 2015/P3 received by the Local Planning Authority on 3 July 2020 and drawing number: Location Plan & Block Plan 2015/LP Rev B received by the Local Planning Authority on 23 July 2020.
3. The development hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of foul and surface water drainage has been completed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The details shall include a programme for maintaining the system if required. The system shall be retained and maintained thereafter in accordance with the approved details.
4. No development shall commence until details of the materials to be used in the construction of the external surfaces (doors/ windows/ lintels/ sills/rendering/cladding, roof covering and method of fixing) 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 and retained as such thereafter.
5. No development shall commence until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details prior to the occupation of any unit hereby permitted and notice shall be given to the Local Planning Authority when the approved scheme has been completed. The protection measures proposed shall be completed in accordance with the approved scheme before the development hereby permitted commences and shall thereafter be retained until it is completed.

All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner.

Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.

Notice shall be given to the Local Planning Authority when the approved scheme has been completed. The approved details shall be retained thereafter. The hard and soft landscaping details shall include:

- proposed finished ground levels or contours;
- means of enclosure;
- car parking layout;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc).

The landscaping scheme shall provide planting plans with written specifications including:

- Details of all existing trees and hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development
- Full schedule of plants
- Details of the mix, size, distribution and density of all trees/shrubs/hedges
- Cultivation proposals for the maintenance and management of the soft landscaping.

6. Before any other building or engineering works are carried out on the site, visibility splays shall be provided at the site access in accordance with a scheme which shall have been submitted to and approved in writing by the Local Planning Authority. The access shall not be brought into use until all land within the said visibility splays has been reduced to a height not exceeding 900mm; above the adjoining carriageway level and thereafter no obstruction shall be permitted within the approved visibility splays.
7. The development shall be carried out in accordance with the recommendations and mitigation measures identified within the Preliminary Ecological Appraisal dated 27 August 2020 and prepared by Cornwall Environmental Consultants.
8. No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - a) a survey of the extent, scale and nature of contamination;
  - b) the potential risks to:

- human health;
  - property (existing or proposed) including buildings, crops, livestock, pets,
  - woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems; and
  - archaeological sites and ancient monuments.
9. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
10. The approved remediation scheme in condition 9. shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.
11. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.