



Appeal Decision

Site visit made on 3 June 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Appeal Ref: APP/D0840/W/23/3331740

The Atlantic Hotel, Dane Road, Newquay, TR7 1EN

- 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 Mrs Lorraine Stones against the decision of Cornwall Council.
 - The application Ref is PA23/04101.
 - The development proposed is construction of up to 2 dwellinghouses.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a maximum of 2 dwellinghouses at Atlantic Hotel, Dane Road, Newquay TR7 1EN in accordance with the terms of the application, Ref PA23/04101.

Applications for costs

2. An application for costs was made by Mrs Lorraine Stones against Cornwall Council. This application is the subject of a separate Decision.

Preliminary Matters

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

Main Issue

5. 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

6. Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) seeks to maintain the dispersed development pattern of Cornwall, and to provide housing based on the role and function of each place, with LP Policy 1 reflecting

the presumption in favour of sustainable development as set out in the National Planning Policy Framework (Framework).

7. LP Policy 3 sets out a hierarchical strategy for the delivery of new housing. Newquay is a named town within LP Policy 3(1) where the policy states that the delivery of housing is to be managed through the Site Allocations Development Plan Document or Neighbourhood Plans.
8. Policy G1 of the Newquay Neighbourhood Development Plan 2019-2030 (NP) defines a settlement boundary around Newquay. This policy states that proposals outside the settlement boundaries will only be permitted to meet a clearly evidenced local need for affordable homes and treated as exception sites led by 100% affordable housing.
9. The proposal lies outside of the defined settlement boundary, although it wraps around the site on three sides. Furthermore, whilst there is a reference to 'new affordable homes' within the appellant's appeal statement, there is no other substantive evidence before me that the proposal is put forward as an affordable housing led scheme. As such there is resultant conflict with NP Policy G1.
10. However, Policy 1 of the Cornwall Sites Allocations Development Plan Document (November 2019) (CSADPD) outlines that as well as housing growth being delivered through site allocations, it will also be delivered by, amongst other things, small scale rounding off that is appropriate to the size and role of the settlement and does not physically extend development into the open countryside; and the development of previously developed land (PDL) within or adjoining the named settlements. Unlike LP Policy 3, the listed criteria to deliver housing growth does not differentiate between named towns or other settlements within the text of CSADPD Policy 1.
11. It is not unusual for development plan policies to pull in differing directions, and it is for the decision maker to decide which policy should be given greater weight in relation to the particular decision. Section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that if a policy in a development plan conflicts with another policy in the development plan, the conflict must be resolved in favour of the most recent policy.
12. The Framework further clarifies that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; *unless they are superseded by strategic or non-strategic policies that are adopted subsequently*. The CSADPD, although developed at a similar time to the NP, was nevertheless adopted after the NP. It is therefore the later document to form part of the development plan. I therefore must give significant weight to CSADPD Policy 1.
13. 'Rounding off' is defined within LP paragraph 1.68 as "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 that also acts as a barrier to further growth (such as a road). It should not visually extend building into the open countryside".
14. LP Paragraph 2.131 defines countryside as the area outside of the urban form of settlements, whilst LP paragraph 2.33 defines 'open' countryside as the area

outside of the physical boundaries of settlements (where they have a clear form and shape). Although outside of the designated settlement boundary, given the quantum and proximity of built form to the north of the appeal site at the Atlantic Hotel and Longshore apartments, close relationship with the Harvest Moon apartments and the main urban form of Newquay to the south, the appeal site is visually, physically and functionally related to the urban form of Newquay, rather than open countryside.

15. Informal guidance provided within the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (The CPOAN) also advises that rounding off should provide a symmetry or completion to a settlement boundary; it is not intended to facilitate continued incremental growth; and suitable sites for rounding off are likely to be surrounded on at least two sides by existing built development, as well as being contained within long standing and enclosing boundary features.
16. Even if the existing planted boundary between the appeal site and adjacent carpark would not physically prevent further growth in that direction, any future proposals for land to the west would need to be assessed on its own merits having consideration of its relationship with the surrounding area. Notwithstanding, given the relationship of the appeal site and settlement boundary, adjacent existing built form to the south and north, the existing use as a carpark, and that it is also clearly defined by existing boundaries and contained by steep topography to the east, I find that the proposal would constitute rounding off.
17. Moreover, given the spatial relationship with nearby built form and size of the appeal site, I see no reason why up to 2 dwellings could not be successfully introduced onto the appeal site in principle. Furthermore, there is no substantive evidence before me to indicate that the stability of the land would preclude development, or it would have an adverse effect on the Coastal Change Management Area. Detailed matters such as design and the effect of the proposal on the character and appearance of the area would be assessed at technical details stage.
18. LP Policy 21, as well as CSADPD Policy 1 encourages sustainable located proposals that, amongst other things, use PDL. The Council have not refuted that the appeal site is PDL. The appeal site is also in close proximity and easy pedestrian access to a wide range of services, facilities and public transport within Newquay. However, even if I were not to find the appeal site PDL, I have in any case found that it would constitute rounding off.
19. Accordingly, whilst there is conflict with NP Policy G1, I conclude that the proposal would constitute rounding off and the site is therefore suitable for residential development, having regard to its location, the proposed land use, and the amount of development. The proposal, at this stage, would not conflict with LP policies 1, 2 and 3 the purposes of which have previously been outlined. There would also be no conflict with LP Policy 7, which seeks to only permit housing in open countryside under certain circumstances, or Policy C1 of the Climate Emergency Development Plan Document 2023 which seeks, amongst other things, to manage Cornwall's natural, historic and cultural assets for future generations. There would also be no conflict with the provisions of the Framework in relation to rural housing.

Other Matters

20. The appeal site is within the zone of influence of the Penhale Dunes Special Area of Conservation (SAC). The Cornwall Council European Sites Mitigation-Supplementary Planning Document – July 2021 (SPD) explains that the SAC is important and has qualifying features because of the specified range of rare plant species amongst the shifting sand dunes.
21. Recreational activity within this area such as visitor trampling, erosion and dog fouling has the potential to disturb this habitat. The SPD concludes that additional residential development within the identified zone of influence, in combination with other residential development, would likely increase recreational visits and, thereby, increase disturbance to this habitat. There is, therefore, an impact pathway between additional residential development in the zone of influence and a resulting likely significant effect on the qualifying features of the SAC.
22. As recreational pressure would compromise the site's conservation objectives as detailed in the SPD, an adverse effect on integrity cannot be ruled out. In this case, without mitigation the additional residents who would occupy the proposal would be, in combination with other schemes, likely to adversely affect this European habitat site by way of increased recreational disturbance.
23. A strategic scheme is available and the European Sites SPD sets out a series of measures, which include a Strategic Access Management and Monitoring plan, to mitigate the effect of increased recreational pressure resulting from additional residential development within the zones of influence. Natural England have been consulted as part of the appeal process and have not objected to the proposal subject to securing the contribution. In this case, the appropriate financial contribution has been demonstrated to have been paid to the Council.
24. On this basis, in carrying out the Appropriate Assessment, the adverse effects of the proposal on the integrity of the SAC would be avoided. For these reasons, the proposal would not harm the integrity of the SAC and would accord with LP Policy 22 and guidance outlined in the SPD which in combination, sets out a strategic approach to the provision of mitigation.

Conditions

25. The PPG¹ indicates that it is not possible to impose conditions as the terms of any permission in principle must only include site location, type of development and amount.

Conclusion

26. For the reasons given above, whilst there is conflict with NP Policy G1, the proposal accords with the development plan, when read as a whole. The appeal is therefore allowed.

S Harrington

INSPECTOR

¹ Paragraph: 020 Reference ID: 58-020-20180615