
Appeal Decision

Site visit made on 12 November 2024

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/D0840/W/24/3342872

Land at Chyvounder Farm, Newquay Road, Goonhaven, Truro, Cornwall TR4 9QD

- 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 Paul Clark of Legacy Properties against the decision of Cornwall Council.
 - The application Ref PA23/03373, dated 17 April 2023, was refused by notice dated 14 March 2024.
 - The development proposed is development of 40no dwellings, landscaping and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the development of 40no dwellings, landscaping and associated infrastructure on land at Chyvounder Farm, Newquay Road, Goonhaven, Truro, Cornwall TR4 9QD in accordance with the terms of the application, Ref PA23/03373 dated 17 April 2023 and the plans submitted with it, subject to the conditions set out in the Schedule at the end of this decision.

Preliminary Matters

2. In relation to reason for refusal two, a completed and signed Section 106 Legal Agreement was submitted during the appeal to address the issues raised. I have therefore dealt with the appeal on that basis.
3. A revised National Planning Policy Framework (the Framework) was published following the submission of the appeal on 12 December 2024. The references in my decision to the paragraphs in the Framework relate to this new document. I sought the views of the main parties on the implications of the revised national planning policy for their respective cases and have taken these into account in making my decision.
4. For reasons of precision and clarity, I have taken the description of development and the address of the site from the Council's Decision Notice.

Main Issues

5. The main issues in this appeal are:
 - Whether the proposed development would harm the rural character of the area; and
 - Whether the proposed development would lead to the loss of best and most versatile agricultural land.

Reasons

Character and appearance

6. Policy 9 (Rural Exception Sites) of the Cornwall Local Plan (CLP) identifies that development proposals on sites outside of, but adjacent to, the existing built-up area of smaller towns, villages and hamlets will be supported. Proposals are required to demonstrate that they would be affordable housing led and would be well related to the physical form of the settlement and appropriate in scale, character and appearance.
7. In terms of being affordable housing led, Policy 9 identifies that market housing must not represent more than 50% of the homes or 50% of the land take, excluding infrastructure and services. Furthermore, the number, type, size and tenure of the affordable dwellings should reflect identified local needs as evidenced through the Cornwall Housing Register or any specific local surveys.
8. The appeal proposal is for 40 dwellings, of which 23 are proposed to be affordable. The development would therefore comprise a mix of 57% affordable units and thereby would meet the requirements set out in Policy 9 to be considered as an affordable housing led development. Furthermore, I note that the proposal, through the submitted s106 legal agreement, would deliver a mix of size and tenure of affordable units. Accordingly, I consider the appeal proposal falls to be considered under Policy 9 of the CLP.
9. The appeal site comprises an open field, part of which was used as a construction compound for the recently completed housing development to the east. From the submissions, it appears that the land is to be re-instated to its previous agricultural use as part of the permission for the housing development. The appeal site slopes in a north-easterly direction, down towards the Treamble Stream, which is contained within a wooded area. Beyond this, the land slopes back upwards, where there are a number of residential developments and caravan parks.
10. To the south-west lies the playing fields of Goonhaven Primary School, with the school buildings located further beyond this. The south-western boundary is made up of a Cornish bank, within which are a number of mature, well-established trees. To the north-west are open fields. Due to the surrounding topography, existing mature vegetation and the recently constructed housing development, views into the appeal site from the south, south-west and south-east are limited.
11. From the north-east, due to the topography of the land, there are some views onto the appeal site, in particular from Newquay Road, the unnamed lane to the north, the entrance to Away Resorts caravan park, along with the Public Right of Way to the north-east. Whilst the appeal site is visible in these views, it is seen in the context of the existing settlement, including the recently constructed housing development. Furthermore, whilst the appeal site is located outside the settlement boundary of Goonhaven, the boundary runs along its southern boundary. As such, it lies adjacent to the existing built-up area of the settlement. On this basis, whilst there would be views of the appeal site from the north-east, due to the presence and prominence of the existing development, and its relationship with the existing settlement boundary, I find the appeal site to be well related to the physical form of the settlement.

12. In terms of the design of the proposed development, it would be similar to that of the recently constructed development in respect of the appearance of the dwellings and their materials. In this respect, I find that it would be appropriate to the character and appearance of the existing settlement.
13. Drawing all this together, I find that the appeal site lies adjacent to the existing settlement boundary and that the appeal proposal represents an affordable housing led development. Whilst the proposal would extend development into the open countryside, I consider that it would be well related to the physical form of the settlement. In relation to the scale, character and appearance of the proposed development, considering the limited views onto the appeal site, in combination with the design and layout, I find the proposed development to be acceptable in these respects. As such it is in accordance with Policy 9 of the CLP.
14. I have been referred to the Perranzabuloe Neighbourhood Development Plan (PNDP), which is presently subject to examination. As such, given the stage the PNDP has reached, I have afforded it due weight. The associated proposals map confirms the appeal site to be located outside of the settlement boundary. Policy SD1 identifies that development outside of settlement boundaries will only be supported where they satisfy Policy 9 of the CLP. Given my conclusions above in relation to Policy 9, it therefore follows that the proposed development accords with Policy SD1 of the CLP.
15. The PNDP identifies the site as lying within the Treamble Stream Goonhaven Green Buffer. Policy NE6 states that development proposals which result in adverse effects on identified settlement gaps and green buffers will not be supported. Any proposal that increases the extent and prominence of built form on the edge or adjacent to the edge of existing developed areas must include provision for the definition and enhancement of defensible boundaries to that area to avoid erosion of the Parish's open countryside or otherwise undeveloped areas. Proposals must also demonstrate no harm to or adverse impact on the character of the landscape or that such impact can be satisfactorily mitigated.
16. The proposal would result in the partial loss of the identified Green Buffer, although with the exclusion of development from the northern part of the appeal site, an element of the Buffer would be retained. The retained portion would include the existing mature tree belt that forms part of the Treamble Stream corridor and would be supplemented by the identified ecological mitigation area. However, despite this retained area, the proposal would see the most prominent parts of the appeal site developed and as such, the proposed development would have an adverse effect upon the Green Buffer.
17. That being said, the proposed development would, as well as retaining an undeveloped area along the Stream corridor, include provision for additional landscaping along its northern edge. This takes the form of a hedgebank topped with planting. Whilst I do not find that such landscaping would be suffice to entirely screen the proposed development, I do consider it, in combination with the undeveloped area and its relationship with the recently constructed development, would ensure the creation of a defensible boundary, which I find to be sufficient to mitigate the harm to the Green Buffer I have identified. Moreover, given the presence of the established tree belt within the Treamble Stream corridor, I do not find that the proposed development would

lead to any adverse visual coalescence with the existing development on the northern side of the valley. Overall, I therefore conclude that the proposed development would accord with Policy NE6 of the PNDPL.

18. In summary, I have therefore found the proposed development would comply with Policy 9 of the CLP and Policy NE6 of the PNDPL.

Loss of best and most versatile agricultural land.

19. The appellant has submitted a survey report which identifies that the appeal site is considered to be Grade 3b and as such, does not fall within the classification of best and most versatile agricultural land. On the other hand, the Council consider the land to be Grade 2, on the basis that past surveys of adjoining land shows this to be Grade 2 and therefore by extension, it is likely that the appeal site is also Grade 2. The Council also questioned the methodology and approach taken in the appellant's report and as such, do not consider it to be a true assessment of the land quality on the appeal site.
20. I see no reason to doubt the appellant's agricultural land report and, whilst it may not include any detailed assessment, I am satisfied that the walkover survey has provided the necessary evidence and detail to support its overall conclusion. In any event, I note that the Framework does not preclude development upon best and most versatile land, but that decision makers should take into account the economic and other benefits of best and most versatile land. In this instance, even if I had concluded that land was best and most versatile, I consider that the development of a number of affordable housing units, would outweigh the loss of a small area of agricultural land.
21. I therefore conclude that the proposed development would not result in the loss of best and most versatile agricultural and, in this respect, accords with Policy 21 of the CLP and the Framework.

Other Matters

22. Comments have been raised by third parties in relation to the capacity of Goonhaven Primary School having been reached, plus that it has no way of providing additional capacity, along with highlighting the amount of new residential developments that have taken place within Goonhaven recently. However, these matters do not alter the main issues which have been identified as the basis for the determination of this appeal.

Conditions

23. The suggested conditions have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. I have made a number of minor changes to the format of the conditions to improve their legibility and precision.
24. A standard implementation condition, along with a requirement to implement the scheme in accordance with the approved plans is necessary. I have however amended condition 2 to refer to a list of the approved plans.
25. In the interests of local residents, businesses and also in the interest of highway safety, it is necessary to attach a condition requiring the submission of a Construction and Environmental Method Statement.

26. To protect existing landscape and ecology, it is necessary to attach a condition requiring the submission of a Landscape Ecology Management Plan. It is also appropriate to require the development to be carried out in accordance with the recommendations contained within the Ecological Impact Assessment, the Bat Activity Survey Report and the Protected Species Survey Report. To ensure the appropriate landscaping is provided, it is necessary to require the submission of details of a scheme of landscaping, including details of planting, along with requiring the details of all hard and paved surfaces to be approved.
27. To ensure that risks from ground water are minimised, it is necessary to require the submission of further ground investigations, followed by the details of surface water management.
28. To ensure the bio-diversity net gain is delivered, it is appropriate to require the development to be carried out in accordance with the approved details. For the same reasons, it is necessary to require details to be submitted to demonstrate the monitoring and management of the proposed bio-diversity net gain. It is also appropriate to require the submissions of details with regards to the means of controlling access into the ecological mitigation area.
29. To ensure the provision of open space within the development, it is appropriate to require details to be submitted, demonstrating where it will be provided and how it would be used. For the same reasons it is appropriate to require details of management and maintenance of the open space to be submitted.
30. To ensure the provision of a suitable system for the disposal of sewage, it is appropriate to require details to be submitted and approved.
31. To ensure suitable and safe access for pedestrians and vehicles, to ensure the provision of adequate infrastructure and the provision of appropriate car parking, it is necessary to require details to be submitted, along with materials and methods of construction. For the same reason, it is appropriate to require the provision of pedestrian footways in accordance with the approved details.
32. To protect bio-diversity and to prevent light spill, it is appropriate to require the submission of details of any proposed external lighting.
33. To protect the site and surrounding land from flooding, it is appropriate to require no storage of materials or alteration to ground levels within areas identified as being in Flood Zone 2 and 3.
34. To protect the living conditions of future occupiers, it is appropriate to identify which windows in the proposed dwellings should be fitted with obscure glazing.
35. To ensure appropriate use of sources of renewable energy, it is appropriate to require the submission of details of proposed measures to be included within the development.

Conclusion

36. I conclude, for the reasons outlined above, that the appeal should be allowed subject to the identified conditions.

Adrian Hunter

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 permitted shall be carried out in accordance with the plans listed below under the heading "Schedule of Approved Plans".
3. No development shall take place until a Construction Management Plan (CMP) and programme of works has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall be adhered to throughout the construction period.

The CMP shall provide for:

- i. Construction vehicle details (number, size and type);
 - ii. Vehicular routes and delivery hours;
 - iii. Parking of vehicles of site operatives and visitors;
 - iv. Loading and unloading of plant and materials;
 - v. Storage of plant and materials used in constructing of the development;
 - vi. Wheel washing facilities; and
 - vii. Measures to control the emission of dust and dirt during construction.
4. No works shall take place (including demolition, ground works, vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include, but is not limited to the following:
 - i. Risk assessment of potentially damaging construction activities;
 - ii. Identification of "biodiversity protection zones";
 - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including details of any lighting which may be required during construction (may be provided as a set of method statements);
 - iv. The locations and timing of sensitive works to avoid harm to biodiversity features;
 - v. The times during construction when ecological or environmental specialists need to be present on site to oversee works;
 - vi. Responsible persons and lines of communication;
 - vii. The role and responsibilities on site of an Ecological Clerk of Works (ECOW) or similar person;
 - viii. Use of protective fences, exclusion barriers and warning signs; and

- ix. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved LEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 5. No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall take account of the submitted Biodiversity Net Gain Design Stage Report, prepared by Plan for Ecology and dated 5th March 2024, as well as approved plan reference 3138-3-003 B, and shall provide:
 - i. 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;
 - ii. Full schedule of plants;
 - iii. Details of the mix, size, distribution and density of all proposed trees/shrubs/hedges;
 - iv. Cultivation proposals for the maintenance and management of the soft landscaping;
 - v. The proposed height, siting, appearance and construction of all boundary treatments (means of enclosure);
 - vi. Hard surfacing materials;
 - vii. Minor artefacts and structures (e.g. furniture, play equipment, signs); and
 - viii. Areas of pedestrian access.

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 first occupation of any dwelling hereby approved. The approved boundary treatments (means of enclosure) in relation to each plot shall be completed in accordance with the approved details prior to the first occupation of that plot.

Any trees or plants which 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. The boundary treatments (means of enclosure) shall not thereafter be altered or removed, other than by necessary replacement, unless otherwise agreed in writing by the Local Planning Authority.

- 6. No development approved by this permission shall be commenced until the Local Planning Authority has been provided with and approved the results of further ground investigations. Such investigations should:

- i. Establish the infiltration rates and peak groundwater levels. This must be targeted to the locations where surface water drainage features are to be positioned. Groundwater monitoring must be undertaken for a continuous 12-month period.
- ii. The results of the investigations must inform the surface water drainage design and construction techniques.

Following the conclusion of the ground investigations, no development approved by this permission shall further be commenced until details of a scheme for the provision of surface water management have been submitted to and been approved by the Local Planning Authority. The details shall include:

- i. Details of the final drainage schemes including calculations, layout and bespoke surface water drainage solutions which fully manage the 1 in 100-year peak rainfall event plus a minimum allowance of 50% for the impacts of climate change.
- ii. Demonstrate that flow rates discharged from the site are no greater than the greenfield rate under all rainfall events up to the 1 in 100-year peak rainfall event.
- iii. A Construction Surface Water Management Plan.
- iv. A Construction Quality Control Procedure.
- v. A plan indicating the provisions for exceedance pathways and overland flow routes.
- vi. A timetable of construction which includes a plan of the phasing of development and the implementation of drainage systems.
- vii. A maintenance manual containing a plan and schedule for the future maintenance and management of the drainage systems and any overland flow routes.

Thereafter, the approved scheme shall be implemented in accordance with the details and timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details for the lifetime of the development.

7. The development hereby permitted shall be carried out in accordance with the submitted Biodiversity Net Gain Design Stage Report, prepared by Plan for Ecology and dated 5th March 2024, to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development. The Plan shall be implemented in full. No development shall commence until a Biodiversity Monitoring Plan to ensure that there is a minimum 10% net gain in biodiversity within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The Biodiversity Management Plan shall include 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports. Monitoring reports will be submitted to the Council during years 2, 5, 10, 20 and 30 from commencement of development unless otherwise stated in the Biodiversity Management Plan, demonstrating how the biodiversity net gain is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

8. No works shall commence on site until details of the open space provision within the application site have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- i. A plan identifying the open space proposed;
- ii. The typical uses to be included within the open space; and
- iii. Any furniture or other features within the open space.

The open space areas shall be provided on site in accordance with the approved details prior to the occupation of the 30th dwelling on site.

9. No dwelling after the 30th dwelling shall be occupied until details of the management and maintenance of the public open space agreed via condition 8 of this permission has been submitted to and approved in writing by the Local Planning Authority. The details shall include a maintenance management plan including confirmation of who will maintain the area(s) of public open space, the timings of all maintenance, an associated health and safety statement and a plan for the future funding to cover the operational costs of the ongoing maintenance and management including full details of any management company proposed and how it will operate.

The approved scheme shall be implemented, managed and maintained in accordance with the approved details. Details of the maintenance schedule shall be kept up to date and be made available to the Local Planning Authority within 28 days of the receipt of a written request.

10. The development hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of sewage 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.
11. Prior to the occupation of any dwelling hereby permitted, details, including plans and sections indicating the design, layout, levels, gradients, materials and method of construction of the estate roads and their junctions, surface water drainage, street lighting and means of access to the proposed dwellings, shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of any dwelling, the estates roads and accesses serving that dwelling shall be constructed in accordance with the approved details and shall be retained as such thereafter.
12. The development hereby permitted shall not be occupied until pedestrian footways have been provided (as indicated on approved plan reference 3138-3-002), in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The details shall include but are not limited to: levels, gradient, surfacing, location of kerbs.
13. Before any dwelling hereby permitted is first occupied, the parking and turning areas serving that dwelling shall be laid out and constructed in accordance with the approved plans and the said areas shall not thereafter be obstructed or used for any other purpose.

14. There shall be no external lighting installed in relation to the development hereby permitted, other than that which accords with details within a lighting scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be designed to minimise sky glow and light overspill onto the surrounding hedgerows, trees and boundaries. The lighting scheme shall take account of advice with the submitted Bat Activity Survey Report, prepared by Plan for Ecology and dated February 2024. The development shall be carried out in accordance with the approved details and shall thereafter be retained without alteration. No further external lights shall be installed without the further written approval of the Local Planning Authority.
15. The development hereby permitted shall not be occupied until a gate has been installed across the maintenance access to the Ecological Mitigation Area (as indicated on approved plan reference 3138-3-002 H), in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.
16. There shall be no storage of excavated material or construction materials during construction of the development hereby approved, nor any alterations to the existing land levels, within Flood Zones 2 and 3, as shown in Appendix B1 on page 23 of the submitted Flood Risk Assessment (March 2023, ref. 1818-C300).
17. The following window openings shall be fitted with obscure glazing, prior to the occupation of each respective dwelling:
 - The upper floor east side elevation openings of plots 14, 16 and 20.
 - The upper floor west side elevation openings of plot 15.
 - The upper floor north side elevation openings of plots 23 and 24.
18. Prior to the construction of the dwellings hereby approved, a scheme for the incorporation of bat boxes and bird boxes and bee bricks at a minimum rate of one measure per dwelling shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the location and specific details of each feature. The approved features shall be installed prior to the occupation of the dwellings to which they relate and shall thereafter be retained and maintained as such.
19. The development shall proceed in accordance with the recommendations within sections 6.2 and 6.3 of the submitted Ecological Impact Assessment, prepared by Plan for Ecology and dated 7th March 2023.
20. The development shall proceed in accordance with the recommendations within section 5 of the submitted Bat Activity Survey Report, prepared by Plan for Ecology and dated 9th February 2024.
21. The development shall proceed in accordance with the recommendations within section 5 of the submitted Protected Species Survey Report: Badger, Dormouse and Reptiles, prepared by Plan for Ecology and dated 12th September 2022.
22. The development hereby permitted shall provide solar PV panels, air source heat pumps and electric vehicle charging points in accordance with details

which shall first have been submitted to and approved in writing by the Local Planning Authority, and as indicated on approved plan reference 3138-3-007.

Richborough

Schedule of approved plans

Location Plan	3138-3-001 REV A - Location Plan
Site Drawings	3138-3-002H Proposed Site Layout Plan REV H 3138-3-004E Schedule of Accommodation 3138-3-006A Land Take Plan 3138-3-013 Schedule of Materials 3138-3-011-C Proposed Site Sections - Sheet 1 3138-3-012-C Proposed Site Sections - Sheet 2 3138-3-003A Green Infrastructure Plan REV B 3138-3-004A Proposed Boundary Treatment Plan REV A
House Types	LH001_010 – Proposed floor plans and visualisations LH001_020 – Proposed elevations LH003_10 - Proposed floor plans and visualisations LH003_20 – Proposed elevations LH003.1_10 - Proposed floor plans and visualisations (Variation to above) LH003.1_20 – Proposed elevations (Variation to above) LH004_010 – House type LH004 Proposed floor plans and visualisations LH004_020 – House type LH004 Proposed elevations LH107_010B – Proposed floor plans and visualisations LH107_020A – Proposed elevations LH108_010A REV A - Proposed floor plans and visualisations LH108_020A REV A – Proposed elevations LH111_010 - Proposed floor plans and visualisations LH111_020 – Proposed elevations LH013_010 – House type LH013 Proposed floor plans and visualisations LH013_020 – House type LH013 Proposed elevations LH013.1_10 - Proposed floor plans and visualisations (Variation to above) LH013.1_20 – Proposed elevations (Variation to above)

	LH016_010 – House type LH016 Proposed floor plans and visualisations LH016_020 – House type LH016 Proposed elevations LH137_010 - Proposed floor plans and visualisations LH137_020 – Proposed elevations LH138_010 – Proposed floor plans and visualisations LH138_020 – Proposed elevations
Highways	1818-C-GA-200 REV P3 Highway layout 1818-C-GA-206 REV P2 Proposed service strip layout 1818-C-GA-209 REV P2 Visibility splays 1818-C-GA-210 REV P2 Highway long sections 1818-C-GA-230 REV P3 Swept path analysis, Sheet 1 - Refuse Vehicle 1818-C-GA-231 REV P3 Swept path analysis, Sheet 2 – Private Car 1818-C-GA-232 REV P3 Swept path analysis, Sheet 3 - Fire tender 1818-C-GA-250 REV P2 Overland flood exceedance route 1818-C-GA-105 REV P2 Impermeable Areas Plan
Arboricultural	3186 TCP Tree Constraints Plan