

Kate Kennally Chief Executive

Cornwall Council

County Hall

Truro

TR1 3AY

19.02.2024

Appeal Ref:APP/D0840/W/23/3319223

Land at Bickland Hill, Eve Parc,Falmouth TR10 8WZ

Dear Chief Executive

Budock Parish Council write to request that Cornwall Council facilitate a judicial review of the Appeal Decision delivered by The Planning Inspectorate pertaining to the Appeal referenced above. We believe that the Appeal Decision demonstrates a deception and resultant bias in favour of the Appellant, lacks transparency and perpetuates factual inaccuracies.

Persimmon Homes Cornwall and West Devon have from the very outset of this process presented this development site as part of Falmouth, attempting to incorporate it into a neighboring development which is indeed in Falmouth (subsequent to the boundary changes of 2019) and named Eve Parc. Hence the title attributed to the land in the Inspectors heading above. When the initial Planning Application was presented to yourselves at Cornwall Council it was described as OS Field 4569 Bickland Hill **Falmouth Cornwall**. Budock Parish Council objected then and continue to request correction; this land is in **Budock** Parish and lies in the nearest village Budock Water. The ownership up to date has not changed since the initial application. But the addition of the suffix Eve Parc during the Appeal process by the Appellant distorts the truth and its further incorporation into the Appeal Title creates a bias. Indeed in her Appeal Decision before us today the Planning Inspector acknowledges the planning truth; the site is immediately adjacent to Eve Parc. Budock Parish has a ratified Neighbourhood Plan incorporated into the Cornwall Local Plan and therefore the statutory development plan. This to give local populations a chance to be heard when decisions are made involving their parish. We as Parish Councilors, and many Parishioners, attended the Public Appeal proceedings, and had expected the Inspector to see through this deviation from the accurate historical description of this land and to clarify the simple factual truth regarding its location. We would also point out that the postcode applied to this Application on Appeal is redundant.

We move on to address the issue of fairness and transparency in the decision-making process. All stakeholders should have equal opportunities to present their evidence and arguments, ensuring a level playing field for all parties involved. At the end of the site visit off Bickland Hill in Budock on 29th September 23, all parties were told in a group summing -up that no further comments or influence regarding the Appeal would be allowed. The process was concluded and the Inspector told all present that her decision might be slightly delayed by a backlog and protracted to a full month rather than an average two weeks. So the end of October .The Appeal decision was released on 6th February 2024,some three months later, and in para 2 on the front page the Inspector writes**A revised National Planning Policy Framework was published in December2023. The parties have been given the opportunity to comment on the revised Framework, and I have had consideration of these comments in reaching my**

decision. None of these comments have been published whereas every comment of the September Appeal was made in the Public arena. The Inspector listed *Appearances and Interested Parties* at the end of her report and none of the Parish Councilors listed as Parties present at the Appeal have been contacted. Charles Banner, Kings Counsel, appeared for the Appellant with his team. He received a peerage in the Prime Ministers Honours list released on 9th February 2024 becoming Lord Banner with Ministerial responsibility for National Planning. We are left to deduce that he or members of his team were contacted. We are not aware of any contact with Cornwall Council. So we ask why was evidence (Dec 2023 change in policy) allowed to inform the decision when all other stakeholders were constrained from submitting any further supporting evidence to refute at the close of the initial hearing? The inclusion of new evidence, particularly significant policy changes, after the initial hearing could potentially disadvantage other stakeholders who were not given the opportunity to respond or provide counter-evidence.

Furthermore, various documents circulated nationally in the late autumn of 2023 in both national and local media suggested that the revisions to the NPPF would add greater weight to local voices and strengthen existing Neighbourhood Plans. Given that the Inspector had consideration of comments regarding the revised framework we must ask again why we were not informed of those comments and why she subsequently produced a report that attempts to downgrade and, we feel, dilute the one and only FUNDAMENTAL clause in the Budock Parish Neighbourhood Plan that renders this decision UNJUST.

It pertains to the provision of Affordable Housing to meet local need by Residential development on Rural Exception Sites. This Policy (H2) in the Budock Parish Neighbourhood Plan was discussed at length in the 2 day Public hearing in September. The Appellant wishes to build 65% Market housing and 35% Affordable. But policy H2 directs that consideration be restricted to 100% Affordable to meet local need—a point that was made strongly by Cornwall Councilors back in 2022 when they dismissed the Application for the first time. And indeed the Cornwall Planning Officer report signed off by the Council Legal Team 02.09.2022 states...

23 The site is not allocated for development in either the Budock Neighbourhood Plan (BNP) or Allocations DPD. As the outline planning permission expired in 2019 it is not shown as a site with planning permission within the adopted Allocations DPD. The BNP limits new housing to sites within the development boundaries of Budock Water, Treverva and Lamanva or to rural exception sites. The application site is not within a development boundary, and it is not a rural exception scheme. As such there would be a conflict with the Neighbourhood Plan.

Despite this clear interpretation in 2022 and an even more definitive explanation by Cornwall Council in their refusal notice in September 2022 we are now presented with the following statement by the Planning Inspector in February 2024 in her conclusions;

54. Furthermore, whilst the previous permission has lapsed, it is a material consideration. At the time the NP evolved, the community was aware that the site had been considered suitable for development. It was not allocated for development within the NP, however it already had the benefit of permission. I am also mindful that policy H2 of the NP was not stated as a reason for refusal. I do not consider that the previous permission would in itself justify a scheme that would, due to the effluxion of time, now conflict with policies in the LP and NP. However I do consider the history of the site and the development of policy in the area generally to be a material consideration

We also find issue with her interpretation of representations from Interested Parties regarding the Falmouth Charter given the Royal Seal by King Charles2 in 1661.

She writes; 51. Interested parties also raised a parliamentary restriction on the coalescence of Falmouth and Budock Water. Having regard to my conclusion in relation to the green buffer, which actively provides a green buffer zone and would continue to function with the proposal, I am satisfied that the historical legislative position would be protected. There were no green buffers or NPPF NP etc. in 1662 but there were stone wall boundaries and they exist to this day. In the case in point they are Budock Parish boundaries. The Inspector is effectively allowing Persimmon to punch holes through them in the realization of a plot that commenced with a contract between themselves and the owner of these fields on 26th March 2021. There was never an intention to maintain them as high grade agricultural land but how does that develop into a material fact for consideration in favour of the Appellant?

Budock Parish Council consider this Appeal process and subsequent decision to be flawed and unjust. Given that the Appeal found against both the NDP and the Local Plan we would expect to be fully supported by Cornwall County Council in seeking Judicial Review.

Phil Hart

Chairman

Budock Parish Council