
Appeal Decision

Site visit made on 1 November 2016

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2016

Appeal Ref: APP/D0840/W/16/3156575

Land between Stanhill and Kimberleigh, Rosudgeon, Cornwall TR20 9PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr H Bryant against the decision of Cornwall Council.
 - The application Ref PA15/11524, dated 9 December 2015, was refused by notice dated 23 February 2016.
 - The development proposed is residential development of five dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of five dwellings on land between Stanhill and Kimberleigh, Rosudgeon, Cornwall TR20 9PA in accordance with the terms of the application, Ref PA/15/11524, dated 9 December 2015 and subject to the conditions attached in the schedule.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. I have determined the appeal on the same basis and treated the block plan and suggested house design as indicative only.
3. Since the application was refused planning permission, the Council has granted outline permission on the appeal site for up to three dwellings¹.
4. Also, since the application was refused planning permission and following the granting of planning permission for up to three dwellings, the Council has adopted the Cornwall Local Plan (CLP). As such, there is now a suite of new policies relevant to the determination of this appeal. Both parties have been given the opportunity to comment and therefore neither party has been prejudiced by this change in the development plan.

Main Issue

5. The main issue is whether the proposal is consistent with the current development plan policies relating to the location of new housing development and the presumption in the National Planning Policy Framework (the 'Framework') concerning sustainable development.

¹ Planning application Reference PA/16/05821

Reasons

6. The appeal site comprises a small agricultural field fronting the A394 at Rosudgeon with existing housing to the east, west and south. The settlement contains a mix of linear development dispersed in small pockets on both sides of the main road.
7. The Council's settlement strategy is contained within Policy 2 of the CLP which sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing homes and jobs in a proportional manner based on the role and function of each place. Policy 2a establishes key targets for the delivery of 52,500 new homes during the Plan period and Policy 3 establishes a hierarchy in which new development will be accommodated up to 2030.
8. CLP Policy 3 explains that outside the main towns identified, housing growth is to be delivered through identification of sites where required through Neighbourhood Plans, through rounding off of settlements and previously developed land or immediately adjoining settlements and, through infill developments defined as schemes that fill a small gap in an otherwise continuous built frontage. It is stated that infill developments should not physically extend the settlement into the open countryside while proposals should consider the significance or importance of large gaps can make to the setting of the settlement.
9. In granting planning permission for up to three dwellings, the Council acknowledge that the site lies within a sustainable location where the principle of development can be supported. I agree. Subject to the provision of a footpath across the site frontage, which the appellant has agreed to provide and I agree as being necessary to enhance the sustainability of the development and for highway safety reasons, the site is within reasonable walking distance of the village services and facilities, which includes a garage, shop, hot food takeaway, public house and bus stops. The provision of five family dwellings would also make a material contribution towards the continued vibrancy of the local community and I attach considerable weight to these positive social aspects of sustainable development.
10. The proposal would provide employment in the construction industry locally during the building of the houses, whilst later on, occupiers would utilise services and facilities within the village. I attach moderate weight to the contribution that five houses would make towards the economic role of sustainable development.
11. In terms of the environmental dimension of sustainable development, the approval of up to three dwellings at the site represents a significant fall-back consideration in planning terms. In this respect it is difficult to reconcile the Council's on-going concerns in its statement that the three dwellings permitted would not lead to an encroachment into the open countryside but that a further two dwellings would 'tip the balance'. Having effectively set aside its concerns that the site should be protected for its importance as a "large gap" for the purposes of Policy 3 of the CLP, the remaining question is whether five dwellings at this location by comparison would be harmful to qualities of openness.

12. The appellant has identified that five dwellings within the appeal site would result in a density of 13 dwellings per hectare (dph), which compares favourably with the adjoining two groups of houses fronting the A394 of an average of 18.5 dph. The Council does not provide evidence to dispute these figures and from the illustrative layout provided, I consider that the site would be able to accommodate the numbers proposed whilst at the same time being able to incorporate effective landscaping. I attach considerable weight to these environmental aspects of the proposal. Moreover, I am also satisfied that the outline proposal would be capable of complying with CLP Policy 2 in terms of requiring the design of new development to be of high quality. This would also satisfy the core planning principles of paragraph 17 and section 7 of the Framework in terms of design.
13. Whilst the Council state that the proposal cannot amount to an exceptions site within the context of Policy 9 of the CLP, as it is not affordable housing led, the principle of developing the site for open market housing has already been established by the aforementioned recent planning permission. In terms of a requirement of affordable housing from the development itself, Planning Practice Guidance (PPG) makes clear that there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 and should be taken into account. These circumstances include that contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floor space of no more than 1000sqm.
14. I therefore conclude that the proposal would be consistent with CLP Policy 3 relating to the location of new housing development and would accord with the principles of sustainable development having regard to the advice at paragraph 7 of the Framework.

Other matters

15. The appeal site is located adjacent to the South Coast Western Area of Outstanding Natural Beauty (AONB). Paragraph 115 of the Framework states that great weight should be given to conserving landscape and scenic beauty in an AONB and that in such areas, landscape and scenic beauty have the highest status of protection. I note that no response to the application was received from the Cornwall AONB Unit and I consider that an appropriately designed scheme at reserved matters stage would preserve the landscape and scenic beauty of the AONB, thus satisfying Policy 3 of the CLP and paragraphs 17 and 115 of the Framework.
16. The appeal site is also situated within the World Heritage Site (WHS) for Tregonning and Gwinear Mining Districts. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. In response to the application, the Cornish Mining World Heritage Site Office has stated that taking into consideration the sites current configuration and the developments nearby it is apparent that this housing development would not in itself reduce the legibility of the features within its immediate setting, given that they are not readily discernible from public viewpoints. From my own observations I find no reason to disagree with this position and I consider that a reserved matters scheme

could be designed such that it would not harm the heritage significance of the WHS. In doing so, the development would accord with the provisions of CLP Policy 24 and paragraph 132 of the Framework.

17. Although concerns are raised by neighbours in terms of access, I find no reason to disagree with the response of the Council's Highway Development Management that the proposal will be able to deliver emerging visibility from the proposed access point. Moreover, I do not consider that the additional vehicles generated from the proposal would materially affect access to existing properties.
18. Having regard to the size of the site and the number of dwellings proposed, as well as the layout of neighbouring properties, I am also satisfied that a reserved matters scheme could be designed without causing undue harm to the living conditions of neighbouring properties in terms of sunlight, outlook and overlooking.
19. Whilst I appreciate that concerns have been raised regarding previous mining activity in and around the site, I have no evidence that the development of the site would be unacceptably constrained by the same, particularly as the Council has already approved up to three dwellings on the site.
20. I am also satisfied that matters relating to landscaping, boundary walls, drainage, asbestos, noise, dust and pest control can be controlled at reserved matters stage or under relevant environmental legislation.

Conditions

21. The Council has suggested 4 conditions that it would seek in the event of the appeal being upheld. I have considered these against the advice contained within the PPG. I have imposed the usual requirements in relation to reserved matters and a condition specifying the relevant drawings, in order to provide certainty. Finally a pre-commencement condition requiring the provision of a footway along the site frontage is necessary to improve sustainability and in the interests of highway safety.

Conclusion

22. For the reasons given above and, having regard to all other matters raised, I conclude that the appeal should be allowed, subject to conditions detailed in the attached schedule.

Richard S Jones

Inspector

SCHEDULE

CONDITIONS

1. Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. An application for approval of reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with plan reference: 23 RS.BL 000.
5. The reserved matters to be submitted pursuant to Condition 1 shall include details of a footway along the entire length of the site's frontage with the A394, apart from where the means of vehicular access is created. This pavement shall be constructed and suitably surfaced in accordance with the approved details prior to the first occupation of any of the dwellings hereby permitted and shall thereafter be retained.