The Planning Inspectorate

Appeal Decision

Site visit made on 9 August 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 23 August 2017

Appeal Ref: APP/D0840/W/17/3171048
Land north west of the field, Woodbine Hill, Carnmarth, Carharrack, Cornwall TR16 5SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Daniel Newman against the decision of Cornwall Council.
- The application Ref PA16/03350, dated 30 March 2016, was refused by notice dated 26 August 2016.
- The development proposed is described on the application form as the 'use of land for stationing of a chalet as an affordable dwelling'.

Decision

1. The appeal is allowed and planning permission is granted for the use of land for stationing of a chalet as an affordable dwelling at land north west of the field, Woodbine Hill, Carnmarth, Carharrack, Cornwall TR16 5SA, in accordance with the terms of the application Ref PA16/03350, dated 30 March 2016, subject to the schedule of this conditions in this decision.

Preliminary matters

2. The Cornwall Local Plan Strategic Policies 2010-2030 (adopted 22 November 2016, the 'LP') was emerging at the time the Council determined application Ref PA16/03350. However the substance of the policies cited in the Council's decision notice and those of the adopted LP is little altered, and all parties have had the opportunity to comment on this changing policy context at appeal.

3. I have referred to the planning history of the appeal site as necessary.[1] In contrast to the most recent previous appeal, the '2013 appeal',[2] the proposal is accompanied by a signed unilateral undertaking dated 31 July 2017 (the 'UU').[3] The Council explain that the UU would secure the dwelling proposed as affordable housing, and there is nothing before me to indicate otherwise.[4]

[1] As set out in section 3 of the Council's appeal statement.
[2] Ref APP/D0840/A/12/2185587.
[3] Pursuant to Section 106 of the Town and Country Planning Act 1990 as amended.
[4] Affordable housing as defined in the glossary to the National Planning Policy Framework, and having had regard to the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended. Whilst the plan within the UU differs from that in the plans accompanying application Ref PA16/03350, this does not nullify its effectiveness, nor enable different development to that of the scheme before me.

Main issue

4. The main issue is whether or not the appeal site would be an appropriate location for the development proposed, with particular regard to the character and appearance of the area. The appellants do not contend that the proposal would be supported other than by policy 9 'Rural Exception Sites' of the LP.[5]

Reasons

5. The appeal site is part of a field used as a smallholding.[6] Aside from a rubble vehicular access, shed, and several low-lying agricultural structures, it is essentially natural in character. As noted by the inspector in the 2013 appeal, the site abuts a single track lane leading upwards from the main built form of the village of Carharrack.

6. The inspector in appeal Ref APP/D0840/W/15/3135344 (which relates to a dwelling named Myloria nearby, the '2016 appeal') accurately describes this track as serving 'a short finger of residential properties', and that the area nearby is characterised by 'loose-knit' residential development.

7. The site also abuts a bridleway. Broadly to the south thereof are outbuildings associated with dwellings named the Field and the Hack Shack. The appellant explains that these dwellings are approximately 55 metres away from the appeal site.[7] Upalong Lodge adjacent to Woodbine Farm is on the opposite side of the track, at a distance from the appeal site specified by the appellant as approximately 35 metres.[8] The land around the appeal site otherwise comprises a patchwork of agricultural fields.

8. Policy 9 of the LP enables affordable housing led rural housing provided that it is 'adjacent to the existing built up area' of settlements and where it would be 'well related to the physical form of the settlement'. The National Planning Policy Framework (the 'Framework') similarly supports the use of rural exception sites in respect of land that would not normally be used for housing,[9] notwithstanding that no one element of the Framework overrides any other.

9. As established above, the UU makes the proposal affordable housing led. I accept that the appeal site is essentially natural in character, falls outside of the main built form of Carharrack, and that there is no defined settlement boundary here.[10] Nevertheless there are several properties in reasonably close proximity to the appeal site, Upalong Lodge and Woodbine Farm in particular. Although somewhat dispersed, properties nearby run more or less continuously from Woodbine Farm to the B3298, the principal route through the settlement. As such, nearby properties and their plots effectively demarcate the extent of the built up area of the village.

[5] Appellant statement of case, page 4.
[6] Within their supporting Planning Design and Access Statement.
[7] Whilst a figure of 70 metres is given in the 2013 appeal (paragraph 5).
[8] Upalong Lodge permitted within the plot of Woodbine Farm via permission Ref PA12/07080.
[9] Paragraph 54 of the Framework, as defined in Annex 2 thereof.
[10] With reference to the LP, emerging Site Allocations Development Plan Document, and to the draft Kerrier District Local Plan.

10. The Council refer to the adjacent bridleway as a 'distinct physical boundary' beyond which the character of the land changes to countryside.[11] This accords with my site visit observations. Falling directly opposite the bridleway, however, the appeal site can therefore reasonably be said to be adjacent to the existing built up area of Carharrack.

11. I would further note that the inspector in the 2013 appeal explained that the various services and facilities of Carharrack are within reasonable walking distance of the site, an observation with which I concur. The Council explain that Carharrack is well served by such. Accordingly the appeal site is relatively well related functionally to the village.[12]

12. The appeal site falls within the Carnmarth Area of Great Landscape Value ('AGLV').[13] The Cornwall and Isles of Scilly Landscape Character Study released in 2008 (the 'LCS') identifies the site as falling within character area CA10, Carnmenellis. The LCS describes this area as characterised by an undulating plateau of predominantly agricultural land demarcated by traditional hedgerows. These features are reflected by the appeal site in its present state.

13. Policy 12 'Design' and 23 'Natural Environment', in summary, require that all development sustains Cornwall's distinctive natural character and landscape qualities, including within AGLVs. Similarly the Framework sets out that planning should recognise the intrinsic character and beauty of the countryside and that valued landscapes should be protected.[14]

14. The proposal would inevitably result in the introduction of a built form in what is presently an essentially natural site. However the dwelling proposed would be modest in height, 3 metres as annotated on the relevant plans, and overall scale, limiting its visual prominence. The materials proposed, including timber cladding and a green roof, would result in the dwelling blending in with the surrounding environment to some degree.

15. Whilst the appeal site is at a higher level than the adjacent track and bridleway, it is nevertheless bounded by substantial hedgerows and trees. These features would serve to screen all but partial glimpses of the dwelling proposed from nearby public vantage points, and could be protected and augmented via a suitably-worded condition.

16. Where partially visible, the dwelling would not in my view appear incongruous, not only on account of its modest form, external materials and boundary screening, but as it would reflect the dispersed pattern of residential development nearby. I also observed that, on account of the topography and presence of intervening hedgerows there are few vantage points in the wider landscape from which the dwelling proposed would be appreciable.

[11] Council statement of case paragraph 5.3.
[12] Whilst consistency of decision-taking is important for the integrity of the planning system, the 2013 appeal was not accompanied by an obligation that would secure the use of the dwelling proposed as affordable housing. Therefore different planning considerations applied in that case compared to this appeal.
[13] The site is also within the Cornwall and West Devon Mining Landscape World Heritage Site (the 'WHS'). However given the absence of remnants of mining heritage in this particular location the Council are not of the view that adverse effects would result in respect of the WHS, a position with which I concur.
[14] Including at paragraphs 17 and 109.

17. For the above reasons I conclude that the appeal site would be an appropriate location for the development proposed, with particular regard to the character and appearance of the area. By virtue of its location the proposal complies with the relevant provisions of policy 9 of the LP. I also conclude that the effects of the development proposed on the character and appearance of the area would be sufficiently limited such that the proposal would sustain the natural qualities of the surrounding landscape in compliance with the relevant provisions of policies 12 and 23 of the LP and relevant elements of the Framework.

Other matters

18. I have set out above that it is the particular nature of the development proposed and its surrounding context that renders it acceptable. As such, and given that each proposal must be determined on its particular merits, allowing the appeal would not set an undue precedent.

19. There is no robust evidence before me to counter the Council's position that they are presently able to demonstrate a five year land supply of deliverable housing sites relative to needs. However the housing target set via policy 2a 'Key targets' of the LP is expressed as a minimum level, and no substantive conflict would arise from the development proposed with the relevant provisions of the LP or Framework. Accordingly neither this, nor any other matter, is sufficient to outweigh or alter my reasoning as above.

Conclusion

20. For the above reasons, and having taken all other matters raised into account, the proposal accords with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be allowed subject to the conditions below and the UU.

Conditions

21. I have imposed a condition requiring that development proceeds in accordance with the plans supporting application Ref PA16/03350 in the interests of certainty. To ensure that the proposal integrates appropriately with the character and appearance of its surroundings, and to avoid adverse effects to those nearby resulting from construction (in particular given the constrained nature of access) I have imposed conditions requiring that agreed external materials are used, a landscaping scheme implemented, and a construction method statement adhered to (conditions 3, 4 and 5).

22. Condition 3 need not apply to building operations that have no bearing on external materials (i.e. site preparation and groundworks). Conditions 4 and 5 must, however, apply before any development takes place; any construction activity has the potential to affect the natural character and appearance of the appeal site, and by extension that of the surrounding area, or to cause inconvenience to those nearby. In imposing conditions I have had regard to the tests within the Framework, the Planning Practice Guidance and relevant

statute,[15] and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with approved plans numbered 1, 2, 3 and 4.

3) No development hereby permitted, other than site preparation and groundworks, shall take place until details of the external materials to be used have been agreed in writing by the local planning authority. Development shall be carried out in accordance with the details thus agreed.

4) No development hereby permitted shall take place until a landscaping scheme has been agreed in writing by the local planning authority (which shall include details of all existing trees and hedgerows that may be affected by the development hereby permitted and details of their retention and measures for their protection during construction, a schedule of plants, trees, shrubs and hedges proposed along with details of their mix, size, distribution and density, and details of the implementation, maintenance and management of the landscaping scheme).

   The landscaping scheme shall be implemented and maintained in accordance with the details thus agreed, with all planting and seeding carried out in the first planting season following the occupation of the building hereby permitted or the completion of the development (whichever is the sooner).

   Any trees or plants which within a period of five years from the implementation of the landscaping scheme 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.

5) No development hereby permitted shall take place until a construction method statement has been agreed in writing by the local planning authority (which shall include details of the parking of vehicles of site operatives and visitors, the loading and unloading of plant and materials, the storage of plant and materials, the erection of any security hoarding including decorative displays as appropriate, wheel washing facilities, measures to control the emission of dust and dirt during construction, a scheme for recycling or disposing of waste resulting from demolition or construction, and hours of working). Development shall be carried out in accordance with the details thus agreed.

[15] Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.