



Appeal Decision

Site visit made on 3 July 2019

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2019

Appeal Ref: APP/D0840/W/19/3222381

The Old Dairy, Drummers Hill, St Austell, PL26 8XR

- 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 Loren Jenner against the decision of Cornwall Council.
 - The application Ref PA18/07844, dated 21 August 2018, was refused by notice dated 6 November 2018.
 - The development proposed is erection of two dwellings and formation of access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant's Appeal Statement referred to a decision for a new dwelling that was dismissed in May 2015 ref. APP/D0840/W/15/3002836 (2015 Appeal). Whilst no copy was provided, it became apparent that this decision related to the appeal site. However, neither the Council's Delegated Report nor its subsequent Appeal Statement referred to this decision. As it was an important material consideration, I invited additional comments, on this decision, from both parties. I have taken the comments received into account in determining the appeal.
3. Reference is made in the appeal submissions to the July 2018 National Planning Policy Framework (Framework). Whilst this has now been replaced by the February 2019 version of the Framework, the policies that are relevant to this appeal have not changed.

Main Issues

4. The main issues are:
 - whether the proposed development would be acceptable having regard to local and national planning policies on the location of housing and if so whether it would be sustainably located in relation to local services and facilities; and,
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Suitability of the location and sustainability

5. The appeal site is located to the southern side of Drummers Hill. To the east is The Old Dairy, which was previously in educational use and has recently been redeveloped to provide a large detached house. The appeal site is open and overgrown.
6. Policy 2 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP) sets out the spatial strategy for the area and confirms that strategic growth will be directed to the main towns. This is to be combined with a sustainable approach to new development that will assist in maintaining Cornwall's dispersed pattern of development and provide housing/jobs based on the role and function of each "*place*". Underpinning this strategy, is the protection and enhancement of the natural beauty and landscapes of Cornwall.
7. Policy 3 of the CLP confirms that new development will be accommodated in accordance with a hierarchy, with part 1, the delivery of housing development managed through a Site Allocations Development Plan Document or Neighbourhood Plans for the identified main towns; part 2 through specific eco-communities; and part 3, in areas outside the main towns, through Neighbourhood Plans, rounding-off of settlements, previously developed land, infill or rural exception sites.
8. Whilst there are a number of dwellings spread out along the length of Drummers Hill, they do not form part of a recognised or defined settlement, and are at best described as a loose collection of dwellings. These dwellings have no form, shape or definable boundaries and are typical of those commonly found in such rural locations. As a consequence, in visual, functional and physical terms, the appeal site is part of the open countryside. The appellant argues that the site forms part of Scredda. For the reasons given above, I disagree. My findings in this respect are consistent with those reached by the Inspector in the 2015 Appeal.
9. The appeal site is not allocated for development, it is not within an identified main town and does not form part of one of the eco-community proposals. In relation to part 3 of Policy 3, there is no current Neighbourhood Plan and the proposal is not being promoted as a rural exception site (in line with Policy 9). As the appeal site does not form part of nor does it immediately adjoin a defined settlement, it would also not fall within the definition of rounding-off or infill development. Whilst the appellant argues that Policy 3 was not referred to in the Council's reason for refusal, it was referred to and addressed in the Council's Delegated Report and in their Appeal Statement, to which the appellant has had an opportunity to respond. This policy also provides additional guidance on how the spatial strategy in Policy 2 will be implemented.
10. Policy 7 of the CLP sets out the special circumstances whereby new dwellings will be permitted in the open countryside. The latter is defined in paragraph 2.33 of the CLP, as those areas outside the physical boundaries of existing settlements. None of the exceptions in this policy apply to the appeal proposal. Whilst I agree with the appellant that the Council's reference to the appeal site being "*isolated*", in the context of paragraph 79 of the Framework, is not consistent with the interpretation provided by recent Case Law, there is no reference in Policy 7 or its supporting text to "*isolated*". Even so, the broad

aims of this policy remain consistent with those of the Framework, in seeking to restrict inappropriate development within the countryside.

11. The appellant contends that the appeal site falls within the definition of previously developed land and as such its development to provide two new dwellings would be acceptable. I note that the Inspector in the 2015 Appeal found that the site was previously developed land due to its association with the former educational use at The Old Dairy, but concluded that the adverse environmental impacts of that development outweighed any benefits of the scheme when assessed against the policies of the Framework as a whole. There is no evidence before me that would lead me to reach a different finding. Moreover, part 3 of Policy 3 of the CLP confirms that development of previously developed land will only be permitted on sites within or immediately adjoining existing settlements. As I have found, the appeal site does not form part of nor does it immediately adjoin a recognised settlement.
12. The appellant has questioned the relevance of some of the policies referred to by the Council and suggests that they point to a 'muddled' approach. However, these policies outline the spatial housing strategy of the CLP, which is focused on guiding new development to existing urban areas and settlements, thus minimising the need to consider greenfield sites. In my view, there is nothing 'muddled' about this strategy.
13. The appellant has also questioned the weight to be attached to some of the supporting text within the CLP, but, in my view, it is consistent with and expands on the provisions of those policies. The appellant also questions the relevance and weight to be attached to the Chief Planning Officer's Advice Note: Infill/Rounding-off (December 2017) (CPO Note), and argues that its existence implies that the corresponding policies of the CLP are unclear. I do not agree. Whilst I recognise that the CPO Note is not a statutory document, its purpose is to provide a consistent approach to interpreting the housing policies of the CLP. It is a helpful guide, expanding on the criteria that will be taken into consideration when assessing whether new development falls within those definitions.
14. Policy 21 of the CLP seeks to promote the best use of land, including previously developed land, by giving encouragement to "*sustainably located proposals*." Whilst there is some disagreement between the parties over the distance to nearby facilities and services, the closest facilities, providing for day to day needs, are some distance from the appeal site. Moreover, there are no bus services on Drummers Hill and the only direct access is along this road, which has no footpaths or lighting. It would not, therefore, be safe or convenient for those wishing to access local facilities on foot or by cycle. For these reasons, I consider it likely that a large proportion of the trips generated by the proposed development would be undertaken by car. The proposed occupants would also be likely to be reliant on the private car to access employment. These findings are again consistent with those of the Inspector in the 2015 Appeal.
15. The appellant refers to Cornwall being a rural county where the use of the private car is inevitable and that existing residents are likely, in reality, to be travelling further than St Austell for their shopping needs. That may be so, but the spatial strategy of the CLP seeks to promote a more sustainable pattern of development, which reduces car journeys and thus harmful emissions. That approach is consistent with the Framework.

16. Whilst the appellant argues that the sustainability of the appeal site is the same as a development at Kaolin Heights in Scredda or the proposed eco-community development to the north, and that an Inspector's comments on an appeal in Devon are also material, none of these affect my findings on this issue. I have, as required, considered the appeal proposal on its individual merits, having regard to the particular circumstances of the case and the prevailing planning policies. Even so, I do not know the full planning circumstances of these cases. I also note that the proposed eco-community involves the development of a site allocated in the CLP, whose detailed layout has not yet been agreed, and that Kaolin Heights is located within or immediately adjoining Scredda.
17. The appellant has also referred to the dwelling recently built on The Old Dairy, which was allowed on appeal in March 2013 (ref. APP/D0840/A/12/2185396). However, the Inspector in that case found that whilst the proposed dwelling conflicted with policies on the location of new housing, this conflict was outweighed by the environmental benefits that would result, including the removal of a collection of school buildings and large areas of hardstanding, and the significant reduction in vehicle movements compared to its lawful educational use. No such benefits would arise from the current appeal proposal.
18. The appellant's additional comments, received in relation to the 2015 Appeal, contend that this decision preceded the current Framework, local plan and relevant Case Law. However, the previous Inspector found the appeal site to be outside and unrelated to any defined settlement, which remains the case. The Inspector also found the proposed development to be contrary to Policy 76 of the Restormel Local Plan, in that it did not fall within any of the exceptions for new housing outside a defined settlement. That policy has now been replaced by Policies 3 and 7 of the CLP, the aims and objectives of which remain broadly the same. Furthermore, as Policies 3 and 7 form part of the recently adopted spatial strategy of the CLP and are consistent with the Framework, I accord them significant weight.
19. Accordingly, I find that the appeal proposal would not be suitably located having regard to the spatial strategy of the CLP and that there are no exceptional circumstances to justify development in the countryside. In addition, the appeal proposal would not be sited in a sustainable location and would lead to an over reliance on the use of the private car. As a consequence, the appeal proposal would be contrary to Policies 1, 2, 3, 7 and 21 of the CLP and the corresponding policies of the Framework.

Character and appearance

20. Despite the proximity of the appeal site to St Austell and Scredda, the character of Drummers Hill remains rural. Moreover, notwithstanding the existing properties spread along the length of the Hill, large parts of the road are still characterised by extensive mounding, hedging and mature trees, giving it a distinct rural feel.
21. Within this context, the appeal proposal would increase and consolidate existing built development in this location, which would harm its rural setting and the landscape character of the area. It would result in development encroaching further into the open countryside and the harmful urbanisation of the area.

22. Whilst the appeal site does not benefit from any designated landscape policy protection, it is situated within the St Austell or Hensbarrow China Clay Landscape Character Area, LCA 17, in the Cornwall & Isles of Scilly Landscape Character Study (2008). The key characteristics of this area include small areas of rough grazing and pastoral farmland, fragmented areas of heathland, scrub and woodland, that contrast with the extensive china clay workings.
23. Policy 23 of the CLP seeks to protect the local distinctiveness and open character of the Landscape Character Area's from new development. Where new development is to be permitted, the policy confirms that it should protect and where possible enhance the natural environment. A similar approach is set out in Policy 2 which, amongst other requirements, says that rural landscapes, whether designated or undesignated, are important and should, where possible, be protected and conserved.
24. The proposal would involve the construction of two substantial dwellings on the rear part of the appeal site, together with a long shared drive and large areas of hardstanding, for parking and turning. A section of the mature boundary to the road would also be removed to provide access and visibility splays. Whilst I appreciate that the latter would be replaced by a new earth and stone wall and landscaping, no specific details have been provided. On the basis of the evidence before me, the proposed development would, therefore, have a harmful impact on the rural setting of the area and its established landscape character.
25. The appellant argues that the new wall and access would add to the varied character of the area. For the reasons given above, I do not agree. The appellant also argues that the ecological assessment, undertaken following the decision to refuse permission, addresses the concern raised by the Council in this respect, and that the proposal accords with Policy 12 of the CLP. The submission of the ecological assessment does not affect my findings on this issue. Moreover, given that I have found that the appeal proposal would not maintain or enhance the rural setting and landscape character of the area, it would fail, in these respects, to accord with Policy 12.
26. Furthermore, any comparisons with the alleged impact of other approved developments or appeal decisions, referred to by the appellant, do not affect my findings. As well as not having the full planning information on these cases, as I confirmed earlier, I have considered the appeal proposal on its individual merits and on the basis of the particular circumstances of this case.
27. Accordingly, I find that the proposed development would result in harm to the character and appearance of the area contrary to Policies 2, 12 and 23 of the CLP. Combined, these seek to maintain and enhance the quality of the natural environment, with the emphasis on protecting, conserving and enhancing natural landscapes. This approach is consistent with the paragraphs 127 and 170 of the Framework.

Other Matters

28. The appellant argues that there are benefits to the appeal in terms of boosting the supply of housing, contributing to St Austell's needs for balanced housing provision and generating more income in the area.

29. I accept that the appeal proposal would make a contribution to meeting future housing provision and generate more income locally, benefits that are supported by other policies in the development plan and the Framework. However, the contribution to future housing provision would be very small, as would the economic benefit of increased spending in the area. The Council indicate that they are able to demonstrate a 5 year supply of housing land, which has not been challenged. There is also no evidence before me to indicate that the housing requirements of the area cannot be met through commitments, allocations and windfall sites, the latter in locations that comply with the CLP's spatial strategy. In view of this, I have attached only limited weight to these benefits and they are not sufficient, either individually or cumulatively, to outweigh the significant harm that I have identified.
30. In relation to the presumption in favour of sustainable development, as paragraph 11 c) of the Framework confirms, that only applies to development that accords with an up to date development plan. As I have found, the proposed development would be contrary to the CLP, which is up to date and consistent with the policies in the Framework.
31. The Council's Delegated Report refers to a consultation response confirming that the appeal site is located within a Mineral Consultation Area, St Austell China Clay Area, as well as an Operational Area, OA25 Penhale. Whilst there are no current workings in the area, clay could be extracted in the future and the consultation response indicates that any future residents should be made aware of this likelihood. It concludes, however, that the proposal would not be contrary to Policy S1 of the Cornwall Minerals Local Plan. I have not been provided with copies of any of these documents, but in view of the conclusions to the consultation response and as the Council have not raised this as an issue, I have not considered the matter further.

Conclusions

32. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR