
Appeal Decision

Site visit made on 4 January 2021

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 26 January 2021

Appeal Ref: APP/D0840/W/20/3260187

Land West of Dobwalls Primary School, Dobwalls, Cornwall PL14 4LU

- 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 T Murphy of Ionic Consultancy Ltd against the decision of Cornwall Council.
 - The application Ref PA20/03575, dated 28 April 2020, was refused by notice dated 14 September 2020.
 - The development proposed is the outline application for an affordable housing led, rural exceptions development of up to 24 units with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of consistency, I have used the address for the appeal site and the description of development from the Council's decision notice, in the heading above.
3. Outline planning permission is sought with all matters reserved except for access. The details submitted include an indicative site layout. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site might be developed. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area having particular regard to the location of development and to Local Planning Policy; and,
 - Whether or not the proposed development would make adequate provision for affordable housing, public open space contributions, education contributions and biodiversity net gain.

Reasons

Location of Development

5. The Council's settlement strategy is contained within Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) which sets out a

sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place. Policy 12 of the Local Plan sets out that development must ensure Cornwall's distinctive natural and historic character. Policy 23 of the Local Plan similarly sets out that development proposals will need to sustain local distinctiveness and character and protect and where possible enhance Cornwall's natural environment and assets according to their international, national and local significance.

6. The appeal site is a parcel of undeveloped agricultural land located at the periphery of Dobwalls. The site is bounded to the northeast by a highway which the evidence before me indicates is known as Duloe Road. Dobwalls Primary School is situated on the opposite side of Duloe Road, filling a gap in residential development that is located on the north eastern side of the highway.
7. The site forms part of a larger agricultural field which slopes gently downhill from north to south, and away from the built form of Dobwalls which is concentrated to the north and west of the site. The land surrounding the appeal site to the south and southwest comprises open agricultural land. Whilst the appeal site is a relatively small component of the wider, undeveloped, predominately open agricultural land south of Dobwalls, the site, nonetheless, has an intrinsic attractiveness and in my view reflects the appearance of the surrounding more open countryside located south of the concentrated built form of Dobwalls. The site does not exhibit an urban or suburban quality despite the presence of development to the north and west of the site. In my assessment, it forms a part of the countryside and its undeveloped rural characteristics make a positive contribution to the pleasant rural landscape setting of Dobwalls.
8. By reason of the location of the appeal site at the periphery of Dobwalls, the proposal would result in some loss of openness in this location which marks the transition between the concentrated built up area of Dobwalls and the predominately open countryside south of the site. The appeal scheme would represent an encroachment into a currently undeveloped area of countryside. By reason of this encroachment, and the loss of what is an attractive open space forming part of the setting of Dobwalls, there would be moderate harm arising out of the proposed development with regards to the character and appearance of the surrounding area and to the setting of the settlement.
9. Notwithstanding the above, the indicative layout of the proposed development demonstrates how the scheme could be arranged to reflect the density of housing located within Dobwalls to the north and west of the site. From views south of the site, the proposal would be seen somewhat in the context of nearby residential development within Dobwalls. In this regard, the nearby developments described above provides context to the site and the appeal scheme would be seen to have some physical and visual association with the built form of Dobwalls. With appropriate landscaping as well as design, scale and layout of the proposed dwellings which would be considered at the reserved matters stage, the harm to the character and appearance of the surrounding area resulting from the encroachment described above, could be lessened with the overall impact being described as limited.
10. In light of the above, whilst the scheme would be seen somewhat in the context of nearby development, the proposal would nonetheless represent an

encroachment into the undeveloped countryside and would result in some degree of harm to the setting of Dobwalls. Whilst the harm to the character and appearance of the surrounding area, in my view, can be described as moderate, the scheme would result in some degree of harm to the intrinsic character and beauty of the countryside.

11. Policy 21 of the Local Plan concerns the best use of land and, amongst other matters, seeks to direct significant development towards use of poor quality land in preference to that of higher quality. In this regard, there is some dispute between the main parties as to the correct classification of the agricultural land, with evidence produced which indicates that the land is considered to be Grade 3a or Grade 2 agricultural land. Whilst the classification of the land is in dispute, the definition of 'best and most versatile agricultural land' as provided in the Glossary to the National Planning Policy Framework, includes land of both these grades of land.
12. The appeal scheme would result in the loss of approximately 0.8 hectares of agricultural land which, in my view, would not represent a significant loss of such land. The Appellant has put it to me that the loss of this land would not adversely affect the operations of a farming business and that there is no other land within the locality which is of a lower grade and which could be used to meet an identifiable affordable housing need within the area.
13. Whilst the Appellant's submissions are noted and that there does not appear to be land of lower grade available at Dobwalls for development, the proposal would nonetheless result in the loss of some best and most versatile agricultural land and therefore would conflict with criterion d. of Policy 21 of the Local Plan. In this regard, given that there does not appear to be land available at the locality which is classed as having a lower grade and by reason of the relatively modest size of the proposed scheme, I conclude that the level of harm caused by the proposed development with regards to loss of best and most versatile agricultural land would be very limited.
14. In summary of the above, I have found that the appeal scheme would result in moderate harm to the character and appearance of the surrounding area and to the setting of Dobwalls, and would result in some limited harm with regards to the loss of best and most versatile agricultural land. Consequently, the proposed development would conflict with Policies 2, 12, 21 and 23 of the Local Plan. The conflict with these policies of the development plan weighs against the proposal.

Planning Obligation

15. Policy 9 of the Local Plan provides that development proposals on sites outside of but adjacent to the existing built up area of smaller towns, villages and hamlets, whose primary purpose is to provide affordable housing to meet local needs will be supported where they are clearly affordable housing led and would be well related to the physical form of the settlement and appropriate in scale, character and appearance. The submissions of the main parties confirm that there is a high level of affordable housing need in the area.
16. Policy 13 of the Local Plan requires new development to achieve the provision of public open space, in proportion to the scale of the development and providing for different types of open space based on local need. Policy 16 of the Local Plan concerns health and wellbeing which, amongst other matters,

requires development to provide flexible community open spaces that can be adapted to the health needs of the community and encourage social interaction. Policies 25 and 28 of the Local Plan require that green infrastructure, which is important to recreation, leisure, community use, townscape and landscape quality and visual amenity, be protected and enhanced and that developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development.

17. The appeal scheme before me has been submitted as an affordable housing led, rural exceptions development which, subject to the completion of a suitable planning obligation, would secure the delivery of affordable housing, biodiversity net gain, public open space and financial contributions in respect of education provision.
18. As part of the appeal, the Appellant has submitted a unilateral undertaking for consideration which, it is maintained, would secure the necessary delivery of affordable housing, would provide off-site biodiversity net gain and provide the appropriate level of off-site and on-site public open space contributions and the required financial contributions in relation to educational infrastructure.
19. However, the submitted unilateral undertaking upon which the Appellant has requested the appeal proposal be considered, appears to be incomplete in a number of important and required areas. In this respect, my review of the submitted unilateral undertaking found that, amongst other matters: the plans attached to the planning obligation had not been signed and, in respect of one of the signatories to the document, I have only been provided with a photocopy of another document that I cannot be sure relates to this particular undertaking and therefore is incomplete in this regard.
20. Furthermore, within the submitted document; two separate definitions had been provided for the term 'Occupation', the term 'the Secondary Area' with regards to Area Local Connection and Qualifying Person had not been defined in the interpretation section of the document and no 'Land Value' figure has been provided in Schedule 3 – Inputs into the Viability Assessment and Financial Appraisal Information. By reason of the above missing or incomplete information, I am not satisfied that the planning obligation would be capable of being enforced.
21. In light of the issues identified above, I do not have an executed mechanism before me to secure affordable housing at the site, the off-site biodiversity net gain, nor any mechanism which would provide appropriate contributions in respect of public open space or educational infrastructure. Whilst the provision of affordable homes, biodiversity net gain, public open space and financial contributions towards education would be substantial benefits which would weigh significantly in support of the proposal, as there is no appropriate and enforceable mechanism before me to secure those benefits, this is not a benefit that I am able to consider against the harm identified above in relation to the first main issue. Moreover, in the absence of an appropriate executed mechanism to secure such provisions, the proposal would be contrary to Policies 9, 13, 16, 25 and 28 of the Local Plan.
22. I have considered whether a condition could be applied for securing a completed planning obligation. The Planning Practice Guidance advises that in exceptional circumstances a negatively worded condition requiring a planning

obligation or other agreement to be entered into before certain development can commence, may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. Given the scale of the scheme, and absence of any detailed information to suggest otherwise, the proposal is not a complex or strategically important development. Consequently, the use of a planning condition would not be appropriate in this instance.

Other Matters

23. Weighed against the conflict with the identified development plan policies described above, I acknowledge that the proposal would provide benefits in terms of highway improvements and safety. Whilst it is acknowledged that the appeal scheme has been submitted as being for an affordable housing led development, for the reasons given above there is no suitable mechanism before me which would secure affordable housing at the site. Consequently, the proposal is for open market dwellings and, in this regard, while it is also noted that the proposed residential units would be located close to a range of services and facilities, I attach limited weight to the contribution of additional open market dwellings towards local housing supply due to the scale of the proposal.
24. I therefore conclude that the benefits of the proposed development would be limited in scale and scope and would not, in my view, outweigh the harm identified above in relation to the character and appearance of the surrounding area, in respect of the loss of an area of best and most versatile agricultural land and the consequent conflict with the development plan when taken as a whole. The appeal scheme would not accord with the environmental or social dimensions of sustainable development and I therefore find that the appeal proposal would be in conflict with Policy 1 of the Local Plan, which seeks to support sustainable development within Cornwall.
25. Interested parties raise additional objections to the proposal on the grounds of flooding, drainage, highway safety and potential adverse effects in relation to capacity within local services. These are important matters and I have considered all of the evidence before me. However, given my findings in relation to the main issues above, these are not matters that have been critical to my overall decision.

Conclusions

26. For the reasons given above, the scheme conflicts with the development plan when considered as a whole and there are no material considerations to outweigh the identified harm and subsequent development plan conflict. I therefore conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR