



Appeal Decision

Site Visit made on 28 July 2021

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

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/D0840/W/21/3271483

Land Off B3285, Trevellas, St Agnes, TR5 0XX

- 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 O Hawes against the decision of Cornwall Council.
 - The application Ref PA20/01197, dated 5 February 2020, was refused by notice dated 21 September 2020.
 - The development proposed is an outline application with all matters reserved for proposed residential development up to no. 11 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.
3. Outline planning permission is sought with all matters reserved. I have determined the appeal on this basis.
4. Within the appeal submissions, the Council has made reference to a costs application to be submitted at a later date. However, no application for costs has been received as at the date of the determination of this appeal.

Main Issues

5. The main issues in this appeal 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 National and Local Planning Policy,
 - The effect of the proposed development on ecology and the environment; and,
 - Whether or not the proposed development would make adequate provision for affordable housing and contributions towards education and the Penhale Dunes Special Area of Conservation (the SAC).

Reasons

Location of Development

6. The appeal site comprises a parcel of land which is accessed from the adjacent B3285 highway east of the site. Notwithstanding the existence of a very small area of what appeared to be concrete slabs which had started to blend back into the landscape, the land is agricultural in appearance. The site is surrounded to the north and west by substantially sized, predominately open agricultural fields with a very small number of dwellings bordering the site to the south.
7. There is dispute between the main parties as to whether the site forms part of Trevellas and furthermore whether the group of building located closest to the appeal site would constitute a settlement in the context of local planning policy.
8. 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, providing jobs in a proportional manner based on the role and function of each place. The supporting text to Policy 3 of the Local Plan explains that a settlement should have a form and shape and clearly definable boundaries, not just a low density straggle of dwellings, and that the settlement should be part of a network of settlements and/or be in reasonable proximity to a larger village or town with more significant community facilities.
9. In these respects, based on the submissions in this appeal and on observations made on my site visit, I find that whilst there are examples of outlying development within the wider area, the buildings which form a more concentrated group located on the southern and eastern side of the B3285 highway south of the site has a form and shape of a settlement which would be in reasonable proximity to the larger towns and villages at St Agnes and Perranporth.
10. However, the same cannot be said for the appeal site which, in my view is not sufficiently unlike the areas of adjacent countryside located to the north and west of the site, that it should be considered to primarily relate to the dwellings within Trevellas. Consequently, I find that the appeal site is not located within the settlement.
11. Policy 3 of the Local Plan seeks to control the distribution of new dwellings across Cornwall and provides that other than at the named larger settlements, housing growth will be delivered through; the identification of sites within neighbourhood plans, infill schemes, rural exceptions sites or rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining that settlement of a scale appropriate to its size and role.
12. The evidence indicates that the site has not been allocated for housing within the St Agnes Parish Neighbourhood Development Plan (the SANDP). Furthermore, being outside of the nearest settlement and given that development of the site would not fill a gap in an otherwise continuous built frontage, the proposal would not represent infill. Whilst noting the presence of some concrete slabs close to the southern boundary of the site, as noted above

these had started to blend back into the landscape. In the absence of evidence to the contrary, I conclude that the site would not constitute PDL as defined within the glossary to the Framework. The appeal scheme would not provide symmetry or completion to a settlement boundary. Consequently, the proposal could not be described as rounding off.

13. Nonetheless, it has been put to me by the Appellant that the proposed development seeks to provide affordable housing. Policy 3 of the Local Plan also confirms that housing growth can be provided by developments that accord with Policy 9 of the Local Plan which concerns rural exceptions sites located outside but adjacent to the built up area of settlements where the primary purpose is to provide affordable housing to meet identified local needs. Policy 9 of the Local Plan further confirms that this form of development should be clearly affordable led, be well related to the physical form of the settlement and be of appropriate scale, character and appearance. Furthermore, this Policy requires that the number, type, size and tenure of the affordable dwellings should reflect local needs.
14. Whilst noting the Appellant's submissions that the appeal proposal would be an affordable housing led scheme, no suitable mechanism has been provided which would secure any affordable housing at the site. Whilst I shall return to consider matters concerning planning obligations below, based on the details and express provisions of Policy 9 of the Local Plan, the appeal site, in my view, would be located outside of the nearest settlement. It is noted that the appeal site could be considered not to be located 'adjacent to the built up area' of the settlement. However, in the event that the site is situated adjacent to the built up area of Trevellas, consideration of whether the scheme would be of appropriate scale, character and appearance, is required.
15. The appeal site forms part of the Heritage Coast landscape and part of Landscape Character Area LCA14, Newlyn Downs. The Cornwall & Isles of Scilly Landscape Character Study (2008) (the LCS) describes the key landscape characteristics of this area as being open gently undulating plateau with shallow valleys, incised with minor river valleys with woodland cover more prevalent in valleys, mainly broadleaved with wet woodland with limited mixed plantations. The LCS further describes the settlement pattern for the area as being characterised by a relatively unpopulated landscape, with settlements occurring as dispersed farmsteads and small, nucleated villages and provides that the area has an intrinsic, quiet rural character where the landscape is generally uncluttered. Given the uncluttered quiet rural character of the site, I find that the appeal site makes a positive contribution to the character and appearance of the area.
16. Whilst I acknowledge that the appeal proposal is in outline with matters such as design and layout to be determined at a later stage, development of the site for housing including provision of access and by reason of the likely spread of paraphernalia associated with residential occupation, irrespective of number of units, would in my view result in additional clutter in the otherwise uncluttered rural landscape and would thereby be a harmful intrusion into the countryside. In this regard the proposal would conflict with Policy 12 of the Local Plan which seeks to ensure that local distinctiveness and the character and appearance of the area is protected. For these reasons, the proposal would also have a harmful effect on the character and appearance of the Heritage Coast.

17. Furthermore, given that the proposal, irrespective of number of residential units, would represent such a harmful intrusion into the undeveloped countryside, the appeal scheme would not be of an appropriate scale, character and appearance. Even in the event that the appeal site could be considered to be 'adjacent to the built up area' of Trevellas, the appeal site could not be considered to be a rural exceptions site in terms of Policy 9 of the Local Plan. Consequently, and given the above conclusions regarding rounding off of settlements and use of PDL, the proposal would fail to accord with any of the exceptions to new development outside of the main settlements as provided under Policy 3 of the Local Plan and, therefore, the proposal would conflict with this policy of the development plan.
18. In summary of the above, the appeal site is not located within a recognised settlement and would not be of an appropriate scale, character and appearance. The site is located within the countryside for planning purposes and would not satisfy any of the criteria for exceptions to development outside of settlements as provided under Policy 3 of the Local Plan.
19. Irrespective of the scale, design, layout or number of residential units, the proposal would represent a harmful intrusion in the countryside, being harmful to both the intrinsic character and beauty of the countryside and to the Heritage Coast. Consequently, the appeal proposal would also conflict with Policies 2 and 12 of the Local Plan.
20. For the same reasons, the scheme would conflict with Policy 10 of the SANDP which requires that development does not detract from, or have an adverse impact on, and where possible enhance, the characteristics identified as important to the character of the local area in the LCS. The proposed development would be harmful to the intrinsic character of the countryside and would be harmful to the character and appearance of the Heritage Coast and, in these regards, would fail to accord with those paragraphs of the Framework which concern conserving and enhancing the natural environment.

Ecology and the Environment

21. The Appellant acknowledges that following the submission of a Phase 1 Ecological Assessment in support of the planning application, it was recommended that further surveys relating to badgers and reptiles at the site were carried out. The Appellant further acknowledges that, whilst such details would be provided in relation to the final scheme, no such surveys have been provided in support of the appeal proposal.
22. In the absence of these surveys, it would not be possible to assess the impact of the proposed development or assess any proposed mitigation in respect of the impacts on protected species. Consequently, the proposal would conflict with Policy 23 of the Local Plan, would be contrary to Policy 12 of the SANDP which requires that development should be planned and designed to protect and enhance local wildlife species and would fail to accord with paragraph 180 of the Framework.
23. The Council's decision notice also included reference to insufficient information with regards to potential land contamination. However, since the appeal has been submitted, further information in respect of potential contamination has been provided to the Council with the conclusion that further requirements with regards to land contamination could be secured by condition in the event that

the appeal was allowed. I have therefore not considered this matter further in the determination of this appeal.

Planning Obligation

24. Paragraphs 34 and 57 of the Framework provides that plans should set out the contributions expected from development and that planning obligations must only be sought where a number of tests are met. It is noted from the submissions of the main parties that no planning obligation has been provided in association with the appeal proposal.
25. It has been put to me that the proposal would be an affordable housing scheme that would meet an identified local need. In this respect, Policy 8 of the Local Plan concerns affordable housing provision and sets out the requirements for affordable housing in terms of mixture and levels of housing. The proposal is in outline and subject to the submission of a suitable mechanism could provide affordable housing in accordance with the provisions of Policy 8 of the Local Plan.
26. However, and notwithstanding the above, Policy 28 of the Local Plan provides that developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development. The evidence before me indicates that relevant schools are operating at or above capacity and consequently contributions would be necessary towards construction and extension of education facilities. In the absence of a suitable mechanism to secure the required level of contribution in respect of education provision, the appeal scheme would conflict with Policy 28 of the Local Plan and would fail to accord with those parts of the Framework which concern planning conditions and obligations.
27. Further to the above, the appeal site is located within the zone of influence of the SAC. Policy 22 of the Local Plan concerns European Protected Sites and provides that for residential development, appropriate management, mitigation and monitoring on site, and/ or financial contributions towards off site mitigation and management, will be required.
28. In this instance, no appropriate management, mitigation and monitoring on site, nor any financial contributions towards off site mitigation and management have been provided. The proposal would therefore conflict with Policy 22 of the Local Plan and would fail to accord with those parts of the Framework which concern planning conditions and obligations as well as failing to accord with paragraphs 180 and 181 of the Framework which concern habitats and biodiversity.

Planning Balance and Conclusion

29. The appeal proposal would provide limited economic benefits in terms of employment opportunities during construction and in terms of future spend of residents within local businesses. Whilst the proposal would make a contribution towards housing supply, in the absence of a suitable mechanism to secure appropriate levels and mixture of affordable housing at the site, the weight that can be attached to the proposed provision of affordable housing would be limited.
30. Weighed against these benefits, the appeal proposal would conflict with the development plan and the Framework when taken as a whole. The identified

harm resulting from the conflict with the development plan weighs significantly against the proposal. Consequently, I find that the harm that would result from the appeal scheme as identified in the main issues above, would collectively outweigh the benefits of the appeal scheme.

31. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR