



Appeal Decision

Site Visit made on 8 October 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2021

Appeal Ref: APP/D0840/W/21/3278233

Land west of Dobwalls Primary School, Dobwalls, Liskeard 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 PA21/01932, dated 22 February 2021, was refused by notice dated 30 April 2021.
 - The development proposed is an outline application for an affordable housing led, rural exceptions development of up to 24 units, to include new access (for determination), parking and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application for an affordable housing led, rural exceptions development of up to 24 units, to include new access (for determination), parking and associated infrastructure at land west of Dobwalls Primary School, Dobwalls, Liskeard PL14 4LU in accordance with the terms of the application, Ref PA21/01932, dated 22 February 2021, and subject to the condition set out in the attached schedule.

Preliminary Matters

2. The application has been submitted in outline with the means of access for determination at this stage and matters of appearance, landscaping, layout and scale reserved for future consideration. Indicative plans have been submitted which show a possible layout of the proposed residential development and I have had regard to these plans as to what the appellant has in mind for the scheme.
3. A planning agreement under s106 of the Town and Country Planning Act 1990 (as amended) has been submitted that includes a range of obligations, including affordable housing. The Council is a party to the agreement and I consider that the signed agreement addresses the second reason for refusal. I will consider the planning agreement later.

Main Issues

4. The main issues are firstly, the effect of the development on the character and appearance of the area and on the best and most versatile agricultural land and secondly, when examining the overall planning balance, whether or not the proposed delivery of the affordable housing and any other benefits would outweigh any identified harm which would result from the scheme.

Reasons

Character and appearance

5. The appeal site is a parcel of undeveloped agricultural land at the edge of Dobwalls. It is bounded by an access drive, a footpath and an established hedge from the properties in Treheath Road and lies opposite the Dobwalls Primary School. When the site is viewed from the road, by the School, there are fairly extensive views over the site and to the wider countryside beyond. This landscape falls within Landscape Character Area 22 (LCA22) South East Cornwall Plateau, as identified within the Cornwall and Isles of Scilly Landscape Character Study. One of the key characteristics of LCA22, which is broadly typified in the views in this case, is the open, medium to large scale gently rolling plateau with pattern of low irregular Cornish hedges with hedgerows and sparse tree cover.
6. The appeal site forms a small component of these wider views, but with its open and verdant character it makes a positive contribution to the countryside setting to the edge of this part of Dobwalls. Furthermore, the Landscape Character Statement¹ explains that the views from the centre of the village of Dobwalls to the south are highly valued by local people and the view from outside the School across the fields is a key view referenced in the Statement. I have taken this information into account and appreciate that these comments have been repeated in the representations from local residents and the Parish Council. However, because of the stage of preparation of the emerging Dobwalls and Trewidland Parish Neighbourhood Development Plan 2021-2030 (the emerging NDP), I am only able to attribute the emerging NDP and the supporting landscape document limited weight.
7. The proposal would introduce a residential development of up to 24 dwellings and this would change the character of the site and reduce its openness. As a result, the scheme would form a modest but noticeable encroachment of development into undeveloped countryside and thereby harm its intrinsic character and appearance.
8. Nevertheless, the development would not extend that far along Duloe Road and beyond that there would still be open views across the countryside (albeit not from outside the School). The proposed built form would generally be experienced in the context of the existing edge of the settlement. With a suitable layout and landscaping scheme at the reserved matters stage the housing development would not appear as conspicuously out of character with the surroundings at this edge of Dobwalls.
9. Drawing all these matters together, the scheme would cause a degree of visual harm at the edge of the settlement with the loss of the open, undeveloped and rural character and with the replacement by built development. However, given the context of the site and its relationship to the built form of the settlement, I consider that the harm to the character and appearance of the area within this part of LCA22, and the related effect on views, would be moderate in extent. In this respect I agree with the Inspector who considered a similar proposal on this site in January 2021².

¹ The Landscape Character Statement has been produced as a document to support the Dobwalls and Trewidland Parish Neighbourhood Development Plan.

² APP/D0840/W/20/3260187

10. In conclusion, the scheme would cause moderate harm to the character and appearance of the area and thereby conflict with Policies 12 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) and Policies LC1 and LC2 of the emerging NDP which seek, amongst other things, that development should sustain local distinctiveness and character.

Best and most versatile agricultural land

11. The evidence indicates that the appeal site extends to about 0.8ha and is classified as Grade 3a agricultural land. The glossary to the Framework includes Grade 3a farm land within the definition of being the best and most versatile agricultural land. Policy 21 of the Local Plan explains that to ensure the best use of land, encouragement will be given to sustainably located proposals that take into account the economic and other benefits of Grade 1, 2 and 3a agricultural land. The policy explains that where significant development of agricultural land is demonstrated to be necessary, poor quality land should be used in preference.
12. I note the case made that there is no other land within the vicinity which is of a lower grade and that could be used for the proposed affordable housing scheme. Because of the size of the site, the scheme would not lead to a significant loss of the best and most versatile agricultural land. However, there would be some loss and therefore some limited harm resulting from this aspect of the proposal in respect of the intentions to retain such land. It follows that I agree with the conclusions of the previous Inspector with regard to the limited level of harm that would result from this matter.
13. Consequently, I conclude there would be limited harm in relation to this main issue. Nevertheless the scheme would lead to the loss of agricultural land which is categorised as the best and most versatile and this would be contrary to the approach set out in Policy 21 of the Local Plan.

Planning Agreement

14. A signed and dated planning agreement has been submitted which includes obligations in respect of affordable housing, biodiversity net gain, on site public open space, off site public open space, education and health care.
15. The proposal is advanced on the basis that it is an affordable housing scheme compliant with the requirements of Policy 9 of the Local Plan. The requirement is that the starting point for the consideration of a scheme is that it should deliver 100% affordable housing and any market housing that may be required should be the minimum to deliver the affordable units. Although there is no viability appraisal at this outline stage, the obligations are necessary to ensure that the development would be delivered to accord with the requirements of an affordable housing scheme pursuant to Policy 9 of the Local Plan.
16. An area in the corner of an adjoining field is proposed as a compensation habitat and would be so maintained in accordance with a maintenance and management scheme. This is required to be provided through the planning agreement as it is outside the red lined application site and requires management commitments. This biodiversity net gain area is necessary to accord with Policy 25 of the Local Plan and the Framework.
17. The indicative scheme shows an area of on-site public open space and the planning agreement requires the provision of such an area. Additionally, the

provision of off-site contributions to recreational projects as identified by the Council's Public Space Officer are also required. I consider that these obligations are necessary to meet Policies 12 and 13 of the Local Plan and to mitigate the effects of the extra residents on the local recreational facilities.

18. In terms of education, I note that Dobwalls Primary School is operating at 96% capacity and that local residents and the Parish Council raise concerns that there is no opportunity for expansion to take the extra pupils which would result from the development. I also note the associated commentary and policy in the emerging NDP. While the emerging NDP attracts only limited weight at the present time because of its stage of preparation it does raise concerns with residential development that could lead to further demands for places at the school which may not be able to be accommodated.
19. However, the Council's Education and Early Years Service has not raised objection to the scheme providing a financial contribution is paid per qualifying dwelling to offset the additional infrastructure demands created by the likely additional school age children. I attach substantial weight to this submission as it is from the Council's department that provides education services. The planning agreement would provide the required financial contribution for each qualifying dwelling and would accord with the approach in the Council's document Section 106 Planning Obligations for Education Provision. Taking all these matters into account, I am satisfied that the requirement to address the need for education infrastructure would be dealt with by the education obligation.
20. The information from NHS Kernow explains the current health care service situation and the health care impacts which would be likely to be generated. In the light of this information, the health care obligation, which is specified to accrue in relation to any open market housing and therefore would be associated with persons without a local connection, is required to mitigate this impact.
21. I am satisfied that all the obligations both individually and collectively are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The obligations, therefore, comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the Framework. These are matters which I afford full weight and would comply with Policy 28 of the Local Plan.

Other Matters

22. Objections have been received which raise a range of other matters not examined elsewhere in this decision. In terms of highway safety, I note the concerns of the Parish Council and others regarding the impact of traffic and parking problems in the locality. However, the Highway Engineer has examined the details and has commented that there would be a number of enhancements to the highway environment, including on-site parking, that would assist those dropping off and picking up children from the School. The Highway Engineer concludes that subject to appropriate conditions in any approval, no objection is raised. I place substantial weight on this advice. The application was not refused for highway reasons and I have found no reason to disagree with the Council on this matter.

23. Concerns are also raised regarding the number of applications that have been submitted on this site and the adjoining land in the past. I have had regard to the planning history and the previous refusals, including the recent refusal of the present proposal at appeal. However, each scheme needs to be determined on its merits and the earlier appeal scheme did not provide that Inspector with an effective planning agreement to secure the affordable housing and other obligations. Consequently, that scheme was contrary to the approach for the delivery of affordable housing and other policies. This is not the same situation as before me with this appeal. A completed planning agreement has been submitted which would secure the necessary obligations and therefore the planning balance is now materially different from that before the previous Inspector.
24. Concerns in relation to flooding have been raised. However, the application has been accompanied by a Drainage Design Statement and I have found no technical reason why the development would increase flooding elsewhere if constructed in accordance with best practice. The details and delivery of a drainage scheme could be secured by condition in any approval.
25. The application was accompanied by an Ecological Assessment following an investigation of the site. This concluded that no harm to biodiversity issues were identified and included recommendations for the retention and planting of hedgerows and other proposals to improve biodiversity. Based on the findings of this Assessment and its recommendations I have found no substantive reason why the scheme, if implemented accordingly, should harm biodiversity and would, in all likelihood, lead to a biodiversity net gain.

Planning Balance

26. Applications for planning permission are required to be determined in accordance with the development plan unless material considerations indicate otherwise³. This requires an assessment as to whether the scheme would comply with the policies of the development plan when considered as a whole together with an analysis of other material planning considerations.
27. A key development plan policy with this appeal is Policy 9 of the Local Plan. This policy concerns rural exceptions sites and allows development proposals outside but adjacent to the existing built up area of smaller towns, villages and hamlets, where the primary purpose is to provide affordable housing to meet local needs.
28. I note that in their appeal statement the Council seek to demonstrate that there is not the local affordable housing need for the development. The Parish Council raise similar concerns setting out the developments which have occurred in and around Dobwalls and that the village has already exceeded its housing requirements. However, the previous Inspector in January 2021 did not dispute the evidence at that appeal where he comments that the submissions from the main parties confirm there is a high level of affordable housing need in the area. The Affordable Housing Team, when the present proposal was before the Council, supported the application and advised that 62 households were registered in the Parish in need of affordable rented homes.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004.

29. At the time of the Council's appeal statement this had changed to 56 households registered in need of affordable accommodation. Even taking into account the likely effects of the Parish boundary changes and the extant permissions which have been highlighted, I consider that the information demonstrates a need for affordable housing in the local area. There is clearly strong local opposition to the proposal. However, given the information before me, I am satisfied that there is a clear need for development to meet some of the local unmet affordable housing need and that this scheme could do so and would be affordable housing led.
30. I appreciate that the housing scheme would be outside the settlement boundary for Dobwalls as proposed in the emerging NDP. However, the provision of affordable housing schemes beyond but adjacent the settlement is expressly allowed for in Policy 9 of the Local Plan.
31. In terms of the location, the housing would be positioned in proximity to the School, close to the local convenience store and within walking distance of other village amenities and the bus stops located along the main road. The site is therefore well positioned for an affordable housing led development site which would help integrate residents with the rest of the community. Additionally, the built form of the scheme would be well related to the physical form of the settlement and would be appropriate in scale and, subject to details at the reserved matters stage, also would be appropriate in character and appearance with the settlement as required by Policy 9 of the Local Plan.
32. In terms of Policy HO2 of the emerging NDP, this makes reference to compliance with Policy 9 of the Local Plan and also includes policy tests in relation to landscape character and impacts in relation to the adjacent settlement character or infrastructure. The scheme is acceptable in relation to the character of the adjoining settlement and, with the provision of the planning obligations and suitable details at the reserved matters stage, it would not unduly affect infrastructure. The development would have a moderate effect on the landscape character for the reasons explained. However, in terms of the adopted Policy 9 of the Local Plan, the scheme would meet, subject to appropriate details at the reserved matters stage, with the policy requirements in terms of scale, character and appearance. Because of this, and the stage of preparation of the emerging NDP, I attach limited weight to the conflict with Policy HO2 of the emerging NDP.
33. Drawing all these affordable housing matters together, the scheme could deliver, as a starting point, up to 24 units as affordable housing with a minimum of 50% affordable dwellings depending on viability. The delivery of such affordable housing in a community where there is an established need, on a site which is adjacent to the settlement and close to some services and facilities, would be an appropriate form of rural exception affordable housing scheme. The development would accord with Policy 9 of the Local Plan and the provision of the affordable housing would be a planning benefit to which I attach substantial weight.
34. The proposed development would meet with the policy approach for the delivery of affordable housing, which is a component of the overall spatial strategy to deliver residential development across the plan area. On this basis, and given the moderate harm to landscape that I have identified, I conclude the proposal would also accord with the overall intentions of Policies 1, 2 and 3

- of the Local Plan in respect of the location of development, including the policy to maintain the dispersed development pattern of Cornwall and to provide homes and jobs based on the role and function of each place.
35. Looking at other aspects of the scheme, the highway parking and safety components would also be beneficial, however in view of their scale and likely effect I attribute them limited weight. In terms of the other elements of the proposal which would be delivered via the planning agreement, these would largely mitigate the effects of the development and weigh to a limited extent in favour of the proposal.
36. Additionally, there would be economic and social benefits from the construction of the development and the subsequent occupation of the housing. The spend locally from the additional residents would be fairly limited but would make a worthwhile contribution and would assist with maintaining the vitality of this village community. This would accord with the Framework policy that seeks to support economic growth and productivity, but as the construction phase would be time limited I attach these benefits moderate weight in favour of the scheme.
37. Overall, I consider that the combined benefits of the development which I have outlined above, in particular because of the proposed delivery of the affordable housing, are matters which I attribute substantial weight in favour of approval.
38. The nature of exception sites are that they generally lie beyond the boundary of a settlement and involve development of agricultural land. In such cases, there is almost inevitably a change in character of the land to one with a more developed appearance. This will usually affect landscape character and that is the case with the present proposal. However, while I have carefully considered all the representations regarding the importance of this field opposite the School, my conclusion is that the harm to landscape character would be moderate in this case. Nevertheless, this change in character and the resulting harm would conflict with Policies 12 and 23 of the Local Plan and policies of the emerging NDP. I have also found that the effect resulting from the loss of the best and most versatile agricultural land would cause limited harm and, as a consequence, there would be conflict with Policy 21 of the Local Plan in this regard. These policy conflicts and related harm weigh against the scheme and are matters which I attribute moderate weight.
39. When examining whether the scheme would comply with the development plan when considered as a whole, I acknowledge that the conclusions on some of the relevant adopted planning policies pull in different directions. I place greatest weight on the compliance of the scheme with Policy 9 of the Local Plan and the policy approach of the accompanying spatial strategy because of the substantial benefits from the delivery of the affordable housing. This would outweigh the conflict with the other identified development plan policies concerning landscape character and from the loss of the best and most versatile agricultural land. It follows from this analysis that the scheme would comply with the development plan when considered as a whole.
40. Indeed, I consider that the substantial weight that I attribute to the benefits of the scheme would outweigh the harm I have identified, which I have found should be afforded moderate weight.

41. For the reasons given above, I conclude the scheme would comply with the development plan when considered as a whole and other material considerations are not of such weight that they indicate that a decision should be made other than in accordance with the development plan. Accordingly, the balance of the considerations fall in favour of approval of the scheme.

Conditions

42. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the tests in the Guidance. The statutory time limits for an outline application are required and a condition specifying the approved plans is necessary in the interests of certainty.
43. A condition is necessary to ensure details of foul and surface water drainage is agreed and implemented in the interests of flood prevention and the amenities of the area. A condition is necessary for the details of estate roads, junctions and footways to be submitted, agreed and implemented in the interests of highway safety.
44. Conditions are necessary to ensure that the footway and highway enhancements, including the drop off and pick up spaces, are agreed and implemented to secure highway benefits of the scheme. A condition is necessary to protect the hedgerows during construction in the interests of biodiversity and the character and appearance of the area.
45. Agreement and implementation of a Construction Method Statement is necessary so that the works take place with as little disruption to the adjoining highway and the amenities of local people as possible. A condition with regard to bat/bird boxes, bee bricks and hedgehog routes is necessary in the interests of protecting and encouraging biodiversity on the site. A condition with respect to a Biodiversity Management Plan is not necessary as recommended by the Council as this requirement is included within the planning agreement.
46. The conditions regarding drainage, highway construction details, hedgerow protection and the Construction Method Statement need to be pre-commencement conditions as these details need to be agreed at the outset as they form the basis of the development and the way construction works would be undertaken.

Conclusion

47. For the reasons given above, and subject to the specified conditions and planning agreement, I conclude the appeal should be allowed.

David Wyborn

INSPECTOR

Schedule of Conditions

- 1) Details of the 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) Application for approval of the 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 the following approved plans: Site Location Plan 3259-LP01, Existing Topographical Plans 8154, Proposed Access Layout 1384-0705 P4, Proposed Off Site Highways Improvements 1384-0706 P2.
- 5) The foul and surface water drainage systems shall be in accordance with the principles set out in the JRC Consulting Engineers Flood Risk Assessment and Drainage Strategy 1384w001/JRC. No development approved by this permission shall be commenced until the following details are submitted to and approved in writing by the Local Planning Authority.
 1. A description of the foul and surface water drainage systems operation;
 2. Details of the final drainage schemes including calculations and layout;
 3. Results of on-site percolation testing to BRE 365;
 4. Confirmation from South West Water Ltd that the foul network has sufficient capacity to cater for this development;
 5. A Construction Surface Water Management Plan;
 6. A Construction Quality Control Plan;
 7. A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features;
 8. A timetable of construction;
 9. Confirmation of who will maintain the drainage systems and a plan for the future maintenance and management, including responsibilities for the drainage systems and overland flow routes.

The surface water drainage systems shall fully manage surface water flows resulting from the developed site up to the 1 in 100-year peak rainfall event plus a minimum allowance of 40% for the impact of climate change. If infiltration proves to be unviable flows discharged from the site will be no greater than 4 l/sec for all rainfall events. The approved scheme shall be implemented in accordance with the timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details for the lifetime of the development.

- 6) No development shall commence until full details of all estate roads and their junctions and footways including construction, the line, level and gradients of the roads, surfacing, swept path tracking plans for RCV/Service vehicles, surface water drainage, street lighting and means of access to the proposed dwellings, have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall ensure the estate road extends to the red line boundary of the application site to offer potential future connection to the land to the south avoiding the creation of a ransom strip. Prior to the first occupation of any unit, the estates roads, accesses and footways shall be constructed in accordance with the approved plans and shall be retained as such thereafter.
- 7) No works beyond slab level shall commence in connection with the approved development until full and detailed designs of the proposed footway to the entire site frontage with Duloe Road and the proposed highways enhancements set out on approved plan 1384-0706 P2 have been submitted to and approved in writing by the Local Planning Authority. The proposed footway and the highways enhancements shall be completed in full in accordance with the agreed details prior to the first occupation of any dwelling.
- 8) No works beyond slab level shall commence in connection with the approved development until full and detailed designs of the proposed school pick up and drop off laybys have been submitted to and approved in writing by the local planning authority. The details shall include a scheme for the management of these pick up and drop off laybys. Prior to the first occupation of any dwelling hereby approved, the pickup and drop off laybys shall be provided in accordance with the agreed details and shall thereafter be retained for school pick up and drop off in accordance with the agreed management plan.
- 9) Prior to the commencement of any works associated with the development a scheme depicting the method by which hedgerows shall be protected during the course of the development shall be submitted and approved in writing by the local planning authority. The scheme shall identify a Root Protection Area (RPA) that will be enclosed by hedge protection fencing which will be erected in accordance with the specification given in the British Standard BS 5837 for tree protection. The hedge protection fencing will be erected prior to commencement of any works associated with the development and be retained and maintained until the completion of the development. At no time shall any works in connection with the development, including storage, access, cement mixing, bonfires, excavations or other level changes occur within the protected area. The development shall be implemented in strict accordance with the agreed hedge protection methods.
- 10) No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;

- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during construction;
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii. hours of working.
- 11) Any reserved matters application shall include the inclusion of bat/bird boxes, and solitary bee bricks into the fabric of the proposed dwellings together with the inclusion of hedgehog highways through garden fences. The development shall be constructed in accordance with the agreed details and the bat/bird boxes, bee bricks and hedgehog highways provided prior to the first occupation of any dwelling to which the agreed details relate. The agreed features shall be retained as such thereafter.

End of Schedule