



Appeal Decision

Site visit made on 26 July 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/D0840/W/22/3292504

Florence Mews, Florence Hill, Callington, Cornwall PL17 8DZ

- 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 Mrs S Abell against the decision of Cornwall Council.
 - The application Ref PA20/05162, dated 9 June 2020, was refused by notice dated 13 August 2021.
 - The development proposed is residential development of up to 9 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all detailed matters reserved for separate consideration. As such, the proposed site plan and site access plan are submitted on an illustrative basis. In determining the appeal, I have been mindful that there may be alternative ways of developing the site to the illustrative scheme.
3. The second refusal reason on the Council's decision letter relates to the absence of a mechanism to secure the provision of off-site financial contributions towards educational infrastructure and European habitat sites mitigation respectively. The Council accepts that a suitably signed unilateral undertaking (UU) would overcome refusal reason two. The appellant has provided a signed UU dated 14 July 2022. This includes obligations requiring the payment of index linked amounts towards education provision and mitigation in the Plymouth Sound and Estuaries Special Area of Conservation and Tamar Estuaries Complex Special Protection Area. The amounts specified would be payable prior to the commencement of development. The Council has not raised any objections in relation to the UU provided, which I shall consider later in this decision.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area, including having regard to the setting of the Tamar Valley Area of Outstanding Natural Beauty (AONB), and;
 - Whether the site is a suitable location for residential development having regard to local planning policies.

Reasons

Character and appearance

5. The appeal site lies to the north of Callington and is accessed off Florence Hill, a relatively narrow lane. I observed the presence of both countryside and sub-urban components close to the site. The residential development in evidence comprises a mix of modern suburban housing as well as established vernacular dwellings. The latter tend towards a sporadic, informal arrangement with a form and appearance redolent of a rural context. This is reinforced by the narrow lane and proximity of fields, hedgerows and trees. Overall, this gives the area a peripheral quality.
6. The appeal site comprises former agricultural land and is grassed or scrubland for the most part, extending considerably eastwards of the nearest dwellings fronting Florence Hill. The absence of built form and presence of vegetation including boundary hedgerows, results in a natural, verdant and spacious appearance. These attributes reinforce and contribute positively to the countryside elements of the area contrasting abruptly with the domestic character of Florence Mews adjacent. Accordingly, the site is at a sensitive transitional point at the edge of Callington and provides part of the setting for the town.
7. Whilst alternative layouts would be possible, the permutations of how up to nine dwellings and an access could be configured at the site is not unlimited. As such, the illustrative layout showing mostly semi-detached units, stated to be arranged at an optimum orientation for passive solar gain, appears broadly realistic. The proposal would likely introduce a considerable amount of built volume together with associated hardstanding for access, parking and turning facilities onto land where there is an absence of built form. The amount and likely dispersal of buildings, gardens, boundary treatments, domestic paraphernalia, activity and lighting associated with up to 9 dwellings would displace the countryside character of the site with an overtly domestic one.
8. In addition, there would be limited opportunities to provide a suitable vehicular access onto Florence Hill. Given the curving alignment of the road, it is likely that using the existing access, as illustrated on the proposed site access and visibility splays drawing, presents the most feasible option. At present this field access is an unobtrusive gap with a field gate in the boundary hedgerow. The proposal would likely necessitate widening the gap and repositioning a notable section of hedgerow in order to improve visibility. This would make the access point much more conspicuous resulting in an incongruous suburban feature at this point on Florence Hill. In turn, the widened access would provide views into the proposed development from the road thereby exacerbating its presence.
9. Given the sensitive transitional position of the appeal site relative to existing dwellings and fields, the scale of development proposed would be very likely to appear as an extension of the built form of Callington north-eastwards, visually intruding into the countryside. Such encroachment would be detrimental to the existing positive rural qualities of the appeal site and surrounding area.
10. Notwithstanding the appellant's assertion that the AONB lies 3km away, the evidence before me indicates it is around 300 metres to the north east on higher land the other side of Florence Road. Paragraph 176 of the National Planning Policy Framework (the Framework) stipulates that development within

the setting of AONBs should be sensitively located. The AONB's special qualities include the combination of an attractive river estuary landscape, steeply wooded valleys, a historic mining landscape and an underlying medieval structure of small fields, high hedges and deep narrow lanes to the farmed countryside.

11. Despite the appeal site lying outside of the AONB, some of the rural attributes of its context resonate with the special qualities of the AONB. This is reinforced by the description contained in the Cornwall and Isles of Scilly, Landscape Character Study (LCS) covering the appeal site. Amongst other things, this mentions the pattern of small fields as a key landscape characteristic, which was consistent with my observations of the appeal site and nearby fields. Although my attention is drawn to the reference to Callington having a 20th Century edge, the LCS goes on to set out visions and objectives for the Landscape Character Area. In this respect it states that the more developed southern area (which includes Callington) should be protected from further urban influence.
12. For the reasons already outlined, the proposal would diminish the rural qualities of the appeal site and intrude into the countryside. Cognisant of the relatively modest scale of the development and the potential to retain boundary trees and hedgerows, this would result in localised landscape harm. Notwithstanding that the nearest part of the AONB is on higher land, to my mind the presence of the proposed development would have some impact on the surroundings in which the AONB is experienced. Consequently, it would result in a minor but negative impact on the setting of the AONB.
13. In coming to my view, I have had regard to the position of the site relative to Florence Mews, Florence Cottage and Strathmore, as well as other residential development in the vicinity. However, I cannot agree that the prevailing character of the appeal site is residential. My observations led me to find that development on the majority of the appeal site would not be contained by existing built form. I accept that if hedgerows were retained along the boundaries this would be likely to reduce the extent of visual intrusion due to screening. Moreover, although the details of materials are reserved, sympathetic choices could further assist in limiting an adverse impact. However, these factors would not fully surmount the likely degree of harm I have identified, particularly at times of the year when trees and hedgerows are not in full leaf.
14. Accordingly, I find that the proposal would be harmful to the character and appearance of the area at a sensitive peripheral point within the setting of the AONB, which would detract from its special qualities. Therefore, the proposal would be contrary to policies 12 and 23 of the Cornwall Local Plan, Strategic Policies 2010-2030, November 2016 (CLP) that taken together, amongst other matters, require development to be of an appropriate scale and design that respects the distinctive landscape character, including the setting of the AONB.

Location

15. There is no dispute between the parties that Callington is a main town for the purposes of the CLP with a specific housing apportionment identified. Policy 3 of the CLP seeks to advance the spatial strategy in the CLP by setting out a hierarchy as to how new development will be accommodated based on the role and function of places. Policy 3(1) stipulates that Callington is one of the

settlements whereby the delivery of housing will be managed through a Site Allocations DPD or a Neighbourhood Plan. The Council confirm that the Site Allocations DPD does not identify residential development sites for Callington. Neither is there any immediate prospect of a neighbourhood plan for the town being made.

16. Policy 3(3) of the CLP goes on to specify how housing growth will be delivered other than at the main towns. Amongst other things, reference is made in this context to (1) rounding off of settlements and development of previously developed land within or immediately adjoining that settlement of a scale appropriate to its size and role and (2) infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside. Hence, policy 3 of the CLP does not give explicit support to rounding off or infill occurring at or adjacent to main towns.
17. However, the Chief Planning Officer's Advice Note on Infill/Rounding Off (CPOAN) produced by the Council provides relevant guidance, albeit that this does not have the status of, nor form part of, the CLP. With reference to main towns, it states that in order to deliver the housing targets in the CLP there is an expectation that unplanned windfall development will come forward. It expressly states that this is anticipated to include appropriate scaled infilling, re-use of previously developed land and rounding off opportunities.
18. On this basis, the appellant contends that the proposal is rounding off development, or alternatively infill, and that this would be consistent with the spatial strategy of the CLP. It is generally stated that this approach has been taken by the Council elsewhere in support of development at main towns.
19. Even so, the CPOAN goes on to say that a judgement will be required as to whether a specific proposal would constitute acceptable rounding off, and that this will largely be dependent on factors on the ground including the nature of the land, physical boundaries and the relationship with existing built development. It explicitly advises that rounding off development should not visually extend development into the open countryside.
20. Accordingly, in making such a judgement there is considerable cross over with the matters considered in relation to the first main issue. For similar reasons to those outlined in that part of my decision, I find that the proposal would directly conflict with the guidance in the CPOAN. Therefore, even if I were to accept the appellant's contention that the development could amount to rounding off of Callington, due to the resulting harmful visual intrusion it would fail to present an appropriate opportunity within the provisions of the CPOAN. Neither, given the scale and likely extent of the built form of the proposal would it be confined to filling a small gap in an otherwise continuous frontage.
21. Consequently, I cannot agree that the proposal would derive support from either policy 3 of the CLP, or the supplementary guidance contained in the CPOAN. Rather, the proposal would conflict with policy 7 of the CLP which generally seeks to limit housing development in the countryside to special circumstances, none of which are shown to apply in this case. There must come a point for the purposes of the CLP where a settlement ends and such countryside commences. In the absence of an identified boundary in the CLP and in areas of transition, where there may be a combination of different characteristics, that will necessitate a judgement to be made. The countryside aspects of the appeal site described earlier in my decision lead me to find that

development would amount to the provision of new homes in the open countryside for the purposes of the CLP.

22. The appellant contends that the proposal would not result in isolated dwellings within the meaning of the Framework. Moreover, due to its proximity to Callington, future residents would not be entirely dependent upon the private car to access local facilities and would have reasonable access to bus services. Be that as it may, policy 7 forms part of the wider spatial approach to residential development in the CLP and is not confined to development concerning isolated dwellings. Hence, these factors would not prevent the appeal site from constituting open countryside for the purposes of policy 7.
23. I have taken account of the reference to a housing crisis highlighted in the committee report for a current housing proposal at Helston¹. Nevertheless, that description is made with explicit reference to the housing targets within the CLP. If anything, it reinforces the need to consider the proposal against the development plan and I do not consider it lends any notable weight in favour of the proposal before me.
24. Therefore, I find that the appeal site would not provide a suitable location for residential development having regard to the spatial strategy outlined in the CLP as it would conflict with policies 3 and 7.

Other Matters

Plymouth Sound and Estuaries Special Area of Conservation (SAC) & Tamar Estuaries Complex Special Protection Area (SPA)

25. The appeal site is located within 12.3km of the SAC and SPA, habitats recognised under the Conservation of Habitats and Species Regulations 2017 as being of international importance for rare estuarine and reef habitats and the associated flora and fauna they support.
26. Given the proximity to the SAC and SPA it is reasonable to suppose that future residents of the proposal would potentially visit the European Sites for recreational purposes. Intensification of such activities would be likely to cause disturbance to the habitats and birds. There is little to suggest that such visits, in combination with other residential development within the zone of influence identified would not have a significant effect on the internationally important interest features of the SAC and SPA. Neither party has disputed this point.
27. Policy 22 of the CLP requires mitigation measures for such recreational impacts and refers to financial contributions towards on-site access and management and off-site provision of suitable alternative recreational facilities. The required level of contributions is set out in the Council's European Sites Mitigation Supplementary Planning Document, July 2021.
28. By way of mitigation, the appellant has submitted a completed UU under Section 106 of the Town and Country Planning Act 1990. This would ensure the provision of £371 per dwelling (index linked). The contents of the UU are not contested by the Council. However, given my substantive concerns in relation to the main issues, it is unlikely that a finding on this matter would affect the outcome of my decision. Therefore, it is not necessary for me to reach a finding in relation to the planning obligations in the UU with regards to

¹ Planning reference PA22/03372, Appellant's letter dated 13.7.22

the statutory tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).

Educational Infrastructure

29. Policy 28 of the CLP states that developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development. In respect of education infrastructure further guidance is contained in the Council's s106 Planning Obligations Guidance for Education Provision 2018. Specific to this proposal, the Council's Education, Health and Social Care Directorate have undertaken a needs assessment. It states that in the absence of mitigation the development would have an adverse effect on the provision of school places at Callington Primary School. On that basis, they consider that the minimum mitigation to address this would be a financial contribution of £2,736 per dwelling of 2 or more bedrooms.
30. This is not disputed by the appellant and provision is made in the submitted UU that would meet the requirement outlined. However, in light of the harm I have found in relation to the main issues, this matter is unlikely to be determinative. Hence, it is not necessary for me to consider this matter further.

Other matters

31. Reference is made to the absence of an objection from the Highway Authority on safety grounds. However, this would be required to make the development policy compliant, and therefore, it is a neutral factor in the overall balance.

Planning balance and conclusion

32. The proposal would provide up to nine additional dwellings in a reasonably accessible location that would assist in boosting the supply of housing in the area. Furthermore, there would be some economic benefits associated with the construction, as well as the probable economic and spending activity of future occupants. Future occupants may also support the provision of local facilities and services. Even so, the extent of such benefits accruing from the relatively modest scale of development proposed would be limited. Therefore, overall, I attribute a commensurate degree of weight to these benefits.
33. Balanced against that would be harm arising from the conflict with the spatial strategy for residential development outlined in the CLP, as well as to the character and appearance of the area, including the setting of the AONB. The Framework stipulates that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, and the proposal would fail to do so.
34. Although I did not reach a specific finding on the undisputed planning obligations proposed, even if I had found them to meet the necessary tests and provide appropriate mitigation, on that basis they would have been neutral factors in the overall balance and would not have led me to a different overall conclusion.
35. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations

indicate otherwise². In this instance, the sum of favourable material considerations would not justify determining the proposal other than in accordance with the policies of the development plan.

36. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

² Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.