



Appeal Decision

Site visit made on 18 July 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/D0840/W/22/3309534

Land adjacent to Valley View, Callington Road, Harrowbarrow PL17 8AZ

- 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 Keith Rowe and M Scoble Construction Limited against the decision of Cornwall Council.
 - The application Ref PA21/09916, dated 20 December 2021, was refused by notice dated 17 May 2022.
 - The development proposed is 6 no new family dwellings consisting of 2no 3 bed affordable, 1no 2 bed affordable along with 2no 4 bed and 1no 3 bed open market dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development in the banner heading above from the application form, however as 'proposed' is not an act of development, I have removed this element.
3. Whilst not being specifically referenced in the Council's refusal notice, the Council has made it clear, from a very early stage (including the officer report and its Appeal Statement), that as the site is within the Zones of Influence for the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA) sites, it is necessary to consider whether the proposal would be likely to have a significant effect on the integrity of the European sites. Accordingly, it is incumbent upon me as the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the European sites. As such, it is necessary to consider this matter as a main issue in this appeal. I am satisfied that the main parties' interests would not be prejudiced by me doing so.

Main Issues

4. The main issues are the effect of the proposed development:
 - on the character and appearance of the area, including the setting of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS); and,
 - on the integrity of the European sites.

Reasons

Character and appearance

5. The Cornwall and Isles of Scilly Landscape Character Study identifies key characteristics of the surrounding area, which is within landscape character area CA26 East Cornwall and Tamar Moorland Fringe. The site lies outside but adjacent to the WHS. Paragraph 189 of the National Planning Policy Framework 2021 (Framework) states that WHS are a designated asset which are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
6. This is reinforced by Policy 24 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (CLP) that provides that all development must protect the significance of designated heritage assets, which includes World Heritage Sites. The policy also requires development that would result in harm to the authenticity and integrity of the Outstanding Universal Value (OUV) of the WHS to be wholly exceptional.
7. The WHS is an area afforded particular recognition and protection on account of the legacy of historic mining activities and the landscape in which they occurred. Harrowbarrow is a mining related village, within the surrounding area features remain of mining activity and it contributes to the OUV of the WHS.
8. The Cornwall and West Devon Mining Landscape World Heritage Site Supplementary Planning Document May 2017 provides that the setting of the WHS requires protection because it affects the way that the Site is viewed and perceived in its surrounding landscape. Moreover, it says the setting of the WHS includes physical monuments and landscape components which provide additional historical context, and a physical space in which events could affect the visual appreciation of these elements.
9. The appeal site comprises sections of two fields that lie outside, albeit adjacent to, the Harrowbarrow development boundary identified in the Calstock Parish Neighbourhood Development Plan 2021 – 2030 (NDP). The fields have access from Callington Road and are long, but narrow enclosures, which gently slope southwards towards the distant undulating landscape. An existing building occupies part of the site, and the fields are enclosed by hedgerows, with the northern hedge boundary enclosing the southern side of Callington Road.
10. East of the appeal site is Valley View, which is a bungalow of plain form and design, apparently of relatively modern construction. Residential development lies opposite alongside Callington Road and extends further west. There are areas of car parking in the front of dwellings and alongside the road, where it widens in front of Valley View. The proximity of dwellings and parking to the road, and the typically open frontages, contributes to the character and appearance of the area as appreciated from the street.
11. Whilst there are examples of more modern housing development, directly to the north east of the site and on the opposite side of Callington Road is a terrace of traditional cottages. Given their overall form, small scale, proportions and material, these cottages strongly reflect the modest rural vernacular of buildings and are likely mineworkers' cottages. There are few similarly historic properties that are prominent alongside roads in this area of the village. For

these reasons, I agree with the Inspector of the appeal¹ on the opposite side of Valley View that because of their appearance, the terrace clearly contributes to the historic integrity of the village and by consequence the OUV of the WHS.

12. The NDP refers to sinuous fields to the southern side of Harrowbarrow as ancient enclosures. However, the appeal site does not lie within this sinuous pattern of fields. In support of the appeal scheme, the appellant has submitted a Heritage Statement (HS) which identifies that the appeal site was used for agricultural purposes with no indication of a mining related use. There are relatively small straight-sided fields to the north of the appeal site that are probably nineteenth century miners' small holdings enclosing areas of former rough ground, as identified in the NDP. However, these are within the WHS boundary and there is little substantive evidence to demonstrate that the appeal site formed a component of the Cornwall and West Devon mining landscape. As such, the site contributes little to the OUV of the WHS.
13. The appeal scheme comprises a line of houses that would be set close to the road with a largely consistent building line and parking along the frontage. The dwellings would have modest proportions and scale. This together with their simple fenestration and materials would reflect the local rural vernacular of buildings.
14. The development, whilst reflecting the vernacular of the mineworkers' cottages, would also be read in the context of the more modern residential developments further along the road and would be read as a logical physical continuation of the settlement. Moreover, I acknowledge that rural exception sites, by their very nature, are likely to involve development on greenfield land adjacent to a settlement and will inevitably result in some intrusion into the countryside. In this context, it would not jar with the character that I have described, and the removal of the roadside hedge providing open frontages to the proposed dwellings would be acceptable in this context.
15. Nevertheless, the proposal would reduce the depth of the two fields and add additional development into the landscape. However, as demonstrated in the submitted Landscape and Visual Appraisal (LVA) and as observed from my site visit, views of the development would be localised. Whilst views could be achieved from higher ground to the south, the site sits low against the backdrop of the village and houses on the opposite side of the road.
16. Moreover, a new hedgerow would be formed along the southern edge of the appeal site. Whilst, having regard to Policy EBD2 of the NDP, the replacement hedge would not double the length of the hedge that would be lost, NDP Policy EBD2 does not require replacement planting as an absolute. It requires this where mitigation is necessary. As the removal of the roadside hedge would be acceptable in itself, mitigation for its loss would not be necessary. However, a new hedgerow along the southern edge would contribute to screening the development as well as contribute to mitigating the removal of the road boundary hedge in any case. Additionally, the appellant proposes that 150 metres of existing hedgerow would be planted with 500 trees.
17. The depth of housing plots would be consistent with the adjacent Valley View. Although this would reduce the length of the existing fields, it would not be to the extent that the characteristic depth of the fields would be lost, and the

¹ APP/D0840/W/17/3168774

historic field pattern would remain legible. It would not appear as distracting or incongruous development in the context of the existing development alongside the road and the built form of the settlement. Its form and appearance would not appear out of keeping with the surroundings and it would not be so significant that it would detract from the wider character and appearance of the landscape.

18. For similar reasons, it would not erode the historic form of the terrace of miners' cottages or diminish the ability to appreciate or understand the significance of Harrowbarrow as a miners' settlement. The appeal scheme would not unacceptably intrude into or mar the setting of the WHS. It would add to the varied pattern of development alongside the road and be read as part of the settlement.
19. Consequently, the proposed development would not harm the character and appearance of the area, including the setting of the WHS. It would accord with CLP Policies 12, 23 and 24, which together amongst other things, require development to be high quality, to maintain and respect local distinctiveness and special character of Cornwall, and to sustain the cultural distinctiveness and significance of Cornwall's historic environment.
20. The appeal scheme would comply with Policy LA1 of the NDP which amongst other things, requires that proposals have an acceptable impact on the characteristic landscapes of Calstock Parish and the setting and significance of heritage assets. It would also comply with NDP Policy EBD2 insofar as it requires mitigation for the removal of a Cornish hedge where this is necessary.

European sites

21. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as the SAC and SPA.
22. The submitted evidence, including the Council's European Sites Supplementary Planning Document, July 2021 (SPD), indicates that certain types of development, including all new housing, within the Zone of Influence of the SAC and SPA add to increasing recreational pressure at the designated sites, which have been identified as vulnerable to such threats. Alone and/or in combination with other relevant development in the area, the proposed development would therefore be likely to have a significant effect on it. Accordingly, under the Habitats Regulations, Appropriate Assessment of the implications of the project for the designated sites in view of their conservation objectives is required. In accordance with Policy 22 of the CLP, appropriate mitigation would, where necessary, also need to be secured.
23. The qualifying features of the SAC include Atlantic salt meadows, Alis shad, mudflats and sandflats not covered by seawater at low tide, sandbanks which are slightly covered by seawater all the time, estuaries, large shallow inlets and bays, reefs and shore dock. The qualifying features of the SPA are internationally important populations of Pied Avocet and Little Egret.
24. In this case, and taking into account the information in the SPD, it would not be possible to determine that the residential accommodation proposed would not adversely affect the integrity of the designated sites through indirect

- effects of increased recreational impacts on the interest features. I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the appeal scheme.
25. I note that Natural England, as the relevant conservation body, was involved in the preparation of the SPD and has agreed that the adverse impacts of development can be mitigated by managing access to or within the European sites, managing visitor behaviour near and within it, and making the designated sites more resilient to recreational pressures including through financial contribution toward Strategic Access Management and Monitoring.
26. In this case, I cannot conclude that the proposal would not have an adverse effect on the integrity of the protected European sites. This is because there is no mechanism in place by which the mitigation required by the SPD can be secured and controlled nor has the appellant proposed an alternative mitigation strategy. In particular, there is no mechanism in place in respect of a financial contribution per dwelling to be made in accordance with the SPD mitigation strategy. Whilst the appellant has submitted a unilateral undertaking (UU) this does not include provision for financial contribution in accordance with the SPD.
27. The Habitats Regulations require me to consider whether there are any other alternative solutions. However, no such solutions have been put forward for my consideration. I must also consider whether there are any imperative reasons of overriding public interest. The provision of six dwellings, including three affordable dwellings, would not be sufficient to amount to such overriding public interest, given the modest scale of development proposed relative to the importance of protecting such significant natural habitat.
28. It follows that I am unable to conclude the proposal, either alone or in combination with other schemes, would not have a significant and adverse effect on the integrity of the SPA through additional recreational pressure arising from the proposed development that cannot be mitigated. As a result, I am not sufficiently satisfied that the adverse effects on the integrity of the SAC and SPA can be excluded. In these circumstances, I conclude that Regulation 63(5) of the Habitats Regulations precludes the proposal from proceeding. There would also be conflict with CLP Policy 22 which requires mitigation measures within the identified Zones of Influence around European sites that are vulnerable to adverse recreational impacts. It would also be contrary to the Framework's objectives for the protection of biodiversity and the conservation of the natural environment.

Other Matters

29. A certified copy of a completed UU signed and dated 28 November 2022, was submitted by the appellants. This includes provisions including for affordable housing provisions, and financial contributions towards education and public open space. However, as I am dismissing the appeal for the substantive reason described above, it has not been necessary for me to consider this further.
30. I am familiar with case law² that has established that '*considerable importance and weight*' should be given to the desirability of preserving heritage assets. In this case I have found no harm in terms of heritage assets.

² *Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG* [2014] EWCA Civ 137

31. The proposed scheme would undoubtedly result in some benefits, including the provision of housing with access to local facilities and services within the context of what has been termed Cornwall's Housing Crisis. This would add to the stock of affordable housing and would help with the wider related supply. Given the small number of dwellings proposed this is a matter of moderate weight.

Planning Balance and Conclusion

32. The proposal would provide a small boost to the supply of housing and contribute towards meeting an identified need for affordable housing. The future occupiers would help to support local facilities and services, which would be an enduring economic benefit. The proposal would also result in short-term economic benefits throughout the construction phase. The sum of these benefits attracts modest weight in the overall planning balance.
33. I have found no harm would arise in respect of the first main issue. However, this in itself does not represent a positive benefit that weighs in favour of the development.
34. I have been unable to conclude that the proposal, either alone or in combination with other projects, would not have a significant and adverse effect on the integrity of the European sites. As such, having regard to the requirements of the Habitats Regulations, permission must not be granted. I am unable to conclude that the scheme would be acceptable, and this harm is of such significant weight that it would outweigh the benefits.
35. Whilst I have found the contribution to housing supply, including affordable housing, to be a benefit, for the reasons given above with respect to the Habitats Regulations, the appeal should be dismissed.

J White

INSPECTOR