



Appeal Decision

Site visit made on 24 January 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.02.2024

Appeal Ref: APP/D0840/W/23/3318795

Land South of Cross Lanes, Lanstephan, Launceston

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Adam Davis, ALD against the decision of Cornwall Council.
 - The application Ref PA22/01116, dated 9 February 2022, sought approval of details pursuant to condition No 2 of outline planning permission Ref PA17/08162, granted on 16 January 2019.
 - The application was refused by notice dated 23 September 2022.
 - The development proposed is described as 'Reserved matters approval for 30 units'.
 - The details for which approval is sought are appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Permission is sought for reserved matters following the grant of outline planning permission. All matters other than access were reserved for future consideration as part of that permission. I have determined this appeal accordingly.

Background and Main Issues

3. The application was refused on the grounds that it fails to be within the scope of the Outline planning permission with the scale of the dwellings failing to reflect the identified local housing need, and as the public open space would be insufficient and of a poor quality.
4. The main issues are therefore:
 - whether the proposed development falls within the scope of the outline planning permission and reflects the identified local housing need; and,
 - whether the proposed development provides appropriate provision of public open space.

Reasons

Scope and local need

5. The scope of the development is defined by the terms of the outline planning permission. An application for reserved matters needs to be consistent with both the description of development on the outline planning permission and any relevant conditions imposed.

6. I acknowledge that there is no reference to storey heights in the outline planning application submission and no condition restricting the dwellings to bungalows or chalet bungalows. I also acknowledge that there are no conditions providing a maximum height, floorspace, or bedroom numbers for the dwellings. However, the description of the approved development states that it is for the erection of circa 30 age restricted (55 years +) bungalows/chalet bungalow dwellings.
7. By reason of the inclusion of the reference to bungalows/chalet bungalows in the description of the outline planning permission, the scope of that permission is restricted to the provision of bungalows and chalet bungalows. Due to the inclusion of nine houses within the reserved matters application, it is inconsistent with the outline planning permission and the details are not authorised by the outline permission. This is the case even acknowledging that occupiers of 55 years and over could occupy a two-storey house, that it may be considered to be a more efficient use of the building footprint and the Inspector dealing with the Outline submission raised no concerns regarding harm to the character and appearance of the area.
8. Furthermore, the description and scope of the outline planning permission includes provision of a warden's office/accommodation and community facilities. There is little information in relation to their provision or location within the appeal proposal. The absence of a warden's office/accommodation and community facilities would be a further inconsistency with the outline planning permission.
9. Even if I were to find that the appeal proposal is consistent with the outline planning permission, the Council raise concerns regarding the proposal failing to provide a mix of dwellings that meet the local identified need for 1, 1.5 and 2-bedroom residential accommodation.
10. Policy 6 of the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016) (LP) states that new housing development of 10 dwellings or more should include an appropriate mix of house sizes, type, price and tenure to address identified needs and market demand and to support mixed communities. Policy 6 further states that proposals should seek to use local evidence of the need and demand for specific types, tenures and sizes of housing. Paragraph 2.30 of the supporting text to Policy 6 states that the Strategic Housing Market Needs Assessment (SHMNA) shows a significant increase in single person and couple households and concludes, particularly in relation to affordable housing, that there will be a high demand for smaller one and two bed properties.
11. Following the SHMNA, Paragraph 65 of the Housing Supplementary Planning Document (February 2020) (SPD) refers to Policy 6 of the LP and states that in new developments of ten dwellings or more, the provision of 1 and 2-bedroom single-storey dwellings as affordable homes are encouraged to meet the needs of an aging and less mobile population.
12. As a result, there is an identified local affordable housing need for 1 and 2-bedroom dwellings. The Council also identify a need for three 3-bedroom affordable dwellings for the over 55's. In light of the appeal proposal comprising five 3-bedroom affordable dwellings, it would overprovide 3-bedroom dwellings at the expense of the identified need for 1 and 2-bedroom affordable dwellings. Furthermore, whilst the bedroom numbers for the Type B

dwelling is annotated on drawing number A.534.12, the Type C dwellings show two-bedrooms each with a double bed. I have limited information demonstrating why they are 3-person rather than 4-person dwellings given the annotated double beds. As accommodation for 4 persons, these dwelling types would not meet the Nationally Described Space Standards for 2-bedrooms as required by Policy 13 of the LP.

13. Consequently, the proposed provision fails to meet the established local affordable housing need.
14. With regard to the mix of the other non-affordable dwellings, Paragraphs 138-141 of the SPD deal with housing without care. The Inspector dealing with the Outline planning application determined that the proposal did not fall within the definition of personal care with the care provided little different from many other forms of support available to older persons living in C3 accommodation.
15. Paragraph 138 of the SPD encourages well-designed housing for occupation by older people. Paragraph 139 states that suitable accommodation may include ground floor apartments, upper floor apartments with a serviced lift and dormer bungalows (1.5 bed design with room for carer if necessary). Paragraph 140 encourages the provision of single-storey units and apartments for those aged 55 and over with 2-bedrooms rather than one. As a result, there is a clear identified need for 1 and 2-bedroom dwellings in the area with the SPD encouraging the provision of 1 and 2-bedroom dwellings for those aged over 55.
16. As the appeal proposal is for age restricted occupation for the over 55's and includes five dwellings of two bedrooms (the remaining 25 dwellings being three or four bedrooms), it fails to adequately address the identified need for 1 and 2-bedroom accommodation in the area.
17. To conclude on this main issue, due to the inclusion of the nine houses within the proposal, and lack of detailed information with regard to the provision of a warden's office/accommodation and community facilities, the development falls outside of the scope of the outline planning permission. As a result, the proposal is inconsistent with the outline planning permission and the details are not authorised by the outline permission. Furthermore, the proposal fails to adequately meet the identified local housing need for 1 and 2-bedroom affordable and age restricted dwellings contrary to Policies 1, 2, 2a, 6, 12 and 13 of the LP and paragraphs 65, 66, 138, 139 and 140 of the SPD. Amongst other things, these state that development in accordance with LP policies will be regarded as sustainable, seek the provision of a well balanced mix of economic, social and environmental benefits, provide homes where they can best meet need and sustain the role and function of local communities and that of their catchment, include an appropriate mix of house size, achieve inclusive design in all developments and the provision of sufficient internal space.

Public open space

18. The Site Layout plan¹ indicates the provision of an area of public open space to the south-west corner of the site. The Drainage Strategy shows a significant part of the open space taken up by a Highway Infiltration Basin. This part of the appeal site falls significantly in level broadly from south to north.

¹ A.534.01

19. The Unilateral Undertaking accompanying the Outline planning permission does not specify a minimum area of public open space to be provided. However, paragraph 24 of the associated Appeal Decision² states that "The requirement for a scheme of ongoing management and maintenance for the areas of public open space would ensure that these areas remained accessible, fit for purpose and would help meet the requirements of LP Policy 13, albeit that some of the matters included in the open space specification can be considered as part of the reserved matters." In light of this, the size, position, and usability of the public open space are for consideration as part of this current appeal that seeks approval of details in relation to layout.
20. Policy 13 of the LP states, amongst other things, that all new development will be expected to achieve the provision of public open space on-site, in proportion to the scale of the development and providing for different types of open space based on local need.
21. The Council have adopted (July 2014) the Open Space Strategy for Larger Towns in Cornwall – Recommendations for future provision standards (the Strategy). While I note that the document is approximately 9 years old, the Council advise that it has been updated. Moreover, I have little evidence before me indicating that the findings in relation to there being a deficiency in all types of open space provision in Launceston as a whole, and in Lanstephen in particular, no longer apply.
22. The appeal proposal fails to provide a combined open space of 3420sqm as required by the Strategy. While the extent of on-site provision could be reduced due to the topography of the site making it unusable for sports pitch provision, the space provided would be further reduced by the presence of the SUDs basin. While this basin may be dry for parts of the year, it would also be wet and unusable at other times.
23. Furthermore, the topography of the area limits its use and there would be a lack of significant surveillance from nearby dwellings. The closest dwellings to the site at plots 28 and 29 do not directly overlook the open space due to the lack of upper floor windows and limited openings in their side elevations. Surveillance from their gardens would be restricted by boundary planting or fencing. Units 17 and 18 are a considerable distance away set down and beyond a significant boundary hedge such that they would provide limited surveillance. Any surveillance from the rear of properties on Plestin Close would be restricted by existing and proposed landscaping separating them from the appeal site.
24. Finally, there are limited details on the proposed plans with regard to the accessibility to the open space from the proposed dwellings and limited details of the pedestrian connectivity to Plestin Close as required by condition number 7 to the Outline planning permission. While I recognise that details of the pedestrian link to Plestin Close could be provided separately as part of the discharge of condition number 7, these details are integral to the layout of the development with the appeal details simply stating that it will connect to the public open space. The lack of such information at this stage, given the location of the public open space and drainage basin, raises questions regarding how a suitable connection could be achieved.

² APP/D0840/W/18/3199163

25. Policy 13 of the LP does not reduce the need for suitable provision of public open space on the basis of the availability of private gardens that by their nature are private and have a different function to larger areas of public open space. The submission and approval of an Open Space Delivery Plan secured by a condition and presence of other open space in the area would not adequately address the lack of suitable size and relationship of the open space that would likely require a revised layout for the site.
26. It follows from the above that the proposed development would not provide an appropriate provision of public open space. As a result, the proposed development is contrary to Policies 12 and 13 of the LP and the Strategy. Amongst other things, these seek to achieve a high quality safe, sustainable and inclusive design and that all new development will be expected to achieve the provision of public open space on-site, in proportion to the scale of the development and providing for different types of open space based on local need.
27. The proposal is also contrary to the Framework that recognises the importance of access to a network of high quality open spaces and opportunities for sport and contrary to paragraphs 9.2, 9.3. 9.3.1 and 9.3.4 of Secured By Design Homes 2023 (replacing Secured By Design Homes 2019), paragraph 11.2.2 of the Cornwall Design Guide (December 2021) and paragraphs 100, 104, 105, 106 and 107 of the National Design Guide 2021. Amongst other things, these seek to ensure facilities are designed to allow natural surveillance, are inclusively designed with due regard to natural surveillance, meet the needs of new and existing occupants and are appropriate to the scale of development, create well-located, high quality and attractive public places, and state that amenity/play space to the rear of dwellings can increase the potential for crime.
28. The second reason for refusal on the decision notice also references Policy 2.b of the LP but I have not been made aware of any such policy.

Planning Balance and Conclusion

29. I have had regard to the lack of harm from the design of the dwellings, their footprints, parking provision, landscaping and to the relationships between the proposed dwellings. I have also had regard to the lack of harm from highway matters, overshadowing, overlooking, noise and disturbance. However, as these matters are requirements of national and local planning policies, they are neutral in my consideration. Also neutral in my consideration are the lack of objections from third parties during the appeal process.
30. Development of the site would boost the supply of housing, particularly for older and local people, support economic growth, provide monies from the New Homes Bonus, Council Tax and Community Infrastructure Levy and could be built out quickly. It would also provide economic benefits from construction, associated jobs and trades, and the use of local services during the construction phase and from the additional residents and provide some biodiversity net gain. A further benefit would be the provision of affordable homes. While these are significant benefits, they do not address the inconsistency with the outline planning permission.

31. The reserve matters application is inconsistent with the outline planning permission and as a result the submitted details are not authorised by the outline planning permission and the appeal fails on this basis.
32. Furthermore, the proposal fails to meet the identified local housing need for 1 and 2-bedroom affordable and age restricted dwellings or provide the appropriate level of public open space drawing it into conflict with the development plan as a whole. While significant, the considerations above, including the provisions of the Framework, do not outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR