



Appeal Decision

Site visit made on 27 September 2023

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 05 March 2024

Appeal Ref: APP/D0840/W/23/3315520

CUDDRA AQUATICS, HOLMBUSH ROAD, ST AUSTELL, CORNWALL, PL25 3RQ

- 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 Rob Charman against the decision of Cornwall Council.
 - The application Ref PA22/05533, dated 13 June 2022, was refused by notice dated 17 October 2022.
 - The development proposed is Erection of 8no. residential park homes, including external terraces and internal access track.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the site is an appropriate location for the proposed development, having regard to local and national policies for the provision of housing, and (ii) whether the proposal would provide necessary infrastructure provisions.

Reasons

Location of development

3. The appeal site is an open area, it has some planting and an historical large pond which is shielded by a significant amount of shrubbery. Whilst there are a small number of dwellings set into the wooded area near the appeal site, and accessed from the same road, the appeal site simply appears as a large green space, with Cuddra Aquatics located beyond the appeal site.
4. In either direction of the appeal site are the settlements of St Austell and St Blazey and Par. It is outside the settlement and urban extent of St Austell and bears no relation to the urban development. Whilst there is some sporadic development within the immediate vicinity, being the dwellings historically associated with Cuddra, the appeal site establishes a clear break when travelling between settlements.
5. The appeal site is typical of those areas on the outlying sections beyond Cornish settlements, where small clusters of development are clearly beyond the settlement, and not sufficient to form a separate settlement. This reflects the historic growth and evolution of this part of the countryside, as depicted in the 1908 ordnance survey plan where it is clear that the site was a simple farmstead. Accordingly, the site appears to be visually, functionally, and for policy purposes, within open countryside.

6. The appeal site and immediate area retain several of the characteristics of Landscape CCA30, including irregular field patterns, diverse woodland composition, and dispersed farmsteads. The appeal site has more characteristics of the open countryside than it does with any built-up area and is seen and experienced as being part of the open countryside. When travelling along the adjacent highway park homes on the site would physically extend built development into the open countryside.
7. The strategy set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (adopted 2016) (the Local Plan) seeks to maintain the dispersed development pattern of Cornwall, and to provide housing based on the role and function of each place.
8. Policy 3 defines how development will be accommodated, based on a hierarchy, with growth focussed on identified main towns. Outside the main towns, housing growth is to be delivered through the identification of sites through Neighbourhood Plans; rounding off of settlements; development of previously developed land within or immediately adjoining settlements; infill schemes; or rural exception sites. The appeal site is not allocated or recognised for development in either the Site Allocations DPD associated with Policy 3, nor the emerging Neighbourhood Plan for the Carlyon Parish Neighbourhood Plan.
9. The Chief Planning Officer's Advice Note (CPOAN) addresses the possibility of 'rounding off'. It requires an assessment of whether the proposal physically relates to a recognisable settlement. In cases where one is seeking to rely on a smaller village or hamlet, it should have a form and shape with clearly identifiable boundaries. The appeal site is separated from the closest extent of the built form of St Austell. Whilst the site was historically associated with the Cuddra Estate and disused Cuddra Mine, development in the immediate area is sporadic and has no cohesive form or pattern such to suggest that the appeal site is part of a settlement. For the purposes of the CPOAN it would not suffice to rely on a low density straggle of development, such as the small number of loosely linked properties within the vicinity of the appeal. When standing within the appeal site, and experiencing it from beyond the appeal site boundaries, I find that it does not take the form of a settlement.
10. Moreover, I have identified that the appeal site does not sit adjacent to existing development such to comply with the CPOAN. The boundary features include Holmbush Road and the Sandy River. However the interaction of the appeal site with Pinetum Grandes and Cuddra Aquatics is separated by more engineered boundaries, and the proposal would involve further partitioning of the land. Spatially the proposal would not appear to satisfy the concept of rounding off, it would in fact appear as incremental sprawl encroaching separate to, but beyond the settlement, of St Austell.
11. The evidence refers to use of the appeal site for polytunnel development, growing plants in the 1980s, and a 1987 ancillary retail use to the nursery. Whilst part of the site may have been used in association with Cuddra Aquatics, aerial images clearly depict the appeal site devoid of development for a number of years prior to this appeal, and physically separated from Cuddra Aquatics by an access track. When viewing the appeal site it appears visually as a separate parcel of land from Cuddra Aquatics, with no interconnectivity and does not appear to function as part of the site physically or visually. Accordingly, I consider that the appeal site is a separate planning unit.

12. Even if I were to accept that the appeal site continued to function as a plant nursery, the site would not fall within the definition of previously developed land as set out in the National Planning Policy Framework (the Framework) for it would be necessary for it to have last been occupied by agricultural or forestry buildings. Moreover, whilst reference is made to the polytunnels being permanent in the 1980s, it is clear from the aerial photographs provided that the structures were not permanent, and did not remain on the site. At the time of my site visit there were no remains of a permanent structure or fixed surface structure that may have blended into the landscape.
13. The proposed development would introduce a permanent physical and visually prominent urbanising form of development, particularly given its close proximity to the A390, into a currently undeveloped parcel of land that is a component part of the countryside. The insertion of a number of tightly packed park homes with associated hardstanding would not represent appropriate scaled infilling, nor would it not comply with the Local Plan expectation of windfall development.
14. In respect of the appeal site within the countryside, Policy 7 of the Local Plan identifies a set of criteria to establish the appropriateness of new homes in the countryside. Policy 7 sets out a range of 5 criteria, none of which would apply to the proposal before me.
15. My attention has been drawn to appeal APP/D0840/W/21/3285995 and it has been suggested that Policies 3 and 7 of the Local Plan should be considered out of date. In respect of that appeal, the site related to a different settlement which was not subject to the Site Allocations DPD. The Inspector found policy 3 to be out of date, and given his findings in that respect also found policy 7 to be out of date. However, the Inspector was precise in his findings in that those policies were out of date in respect of the particular proposal before him. The proposal before me is fundamentally different. It is assessed in respect of its relationship, or lack of, with a different settlement. Accordingly, I do not consider bound to find policies 3 and 7 out of date.
16. I find that the proposal would locate development in an unsuitable location, and in doing so it would cause significant harm to the countryside. It would conflict with Policies 2 and 3 of the Local Plan which set out a clear strategic approach for accommodating development in accordance with the Framework. It would not meet the criteria set out in policy 7 to justify development within the countryside. It would conflict with policy 21 of the Local Plan which requires any development proposal to take into account the character of the surrounding area and only increase building density where appropriate. It would also conflict with policy 23 of the Local Plan which seeks to protect and enhance the intrinsic character and openness of the countryside.

Whether the proposed units would be restricted in terms of occupancy

17. The description of the application specified residential park homes, it did not suggest any restriction on occupancy. Within the evidence the appellant's case has stated that occupancy of the homes would be for those over the age of 55.
18. The Council has suggested a condition should the appeal be allowed to restrict the occupancy of the development. I have considered the condition having regard to the Framework which advises that conditions must be necessary,

relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

19. The proposed condition would allow for occupancy for those over 55, however it would then provide a broad scope to allow occupancy by other residents, a number of which would be likely to be younger than 55. I consider that the condition would be too broad to be precise, rendering it unenforceable. As a result, it would not meet the tests set out in the Framework or the Planning Practice Guidance.
20. Accordingly I consider that it would not be possible to impose a condition restricting the occupancy. Despite reassurances that the appellant intends to use the housing for those over 55, a planning permission endures for the benefit of the land. Without a restriction it is entirely possible that over time the nature of occupancy would change.

The provision of necessary infrastructure

21. In order to address the second reason for refusal an executed S106 Planning Obligation was submitted with the appeal. There is no provision within the S106 planning obligation to secure the housing for those over 55 years of age.
22. The planning obligation would provide a financial contribution of £1457 per dwelling to be used for the creation or improvement of open space within accessibility limits of the development, namely towards the improvements at Cuddra Road or within the wider Carlyon Parish.
23. The proposal would secure a financial contribution of £2736 per qualifying dwelling required towards improvements in education infrastructure facilities at Charlestown School and Penrice Academy. These schools are currently operating at 97% and 106% capacity respectively. Having regard to my findings in respect of future occupancy of the dwellings, I consider that such a contribution would be necessary.
24. The S106 agreement is a material consideration. I am satisfied that the financial contributions meet the three tests of the 2010 Regulations, in that they 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 Council's CIL programme sets out the detailed background and justification for each of the obligations. I have therefore taken it into account in determining the appeal.
25. Contributions towards open space and education provisions are necessary in order to make the development acceptable in planning terms. Having regard to the planning obligation I find that the proposal would comply with policy 28 of the Local Plan.

Other appeals

26. In respect of appeal APP/W0530/X/17/3183811, I note that park homes by their very nature command a lower value. However, the park homes in this proposal are bound by no restrictions in respect of sales and would be open to the market. Accordingly, I do not consider that the appeal is directly relevant.
27. In respect of appeal APP/D0840/A/14/2223630, the appeal predated the adoption of the Local Plan, and the Council was unable to demonstrate a 5 year

supply of housing land. Accordingly, the proposal before me is to be considered against a different policy and factual background.

Planning Balance and Conclusion

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires decisions on applications for planning permission and appeals to be taken in accordance with the Development Plan, unless there are material considerations that indicate otherwise.
29. I have found that the proposal would not be in a suitable location and would conflict with policies in the Local Plan which seek to distribute housing according to a hierarchy that has previously been examined and functions as part of a plan led system. The proposal would result in development within the countryside, and whilst the site visually may make a small contribution to the character of the countryside, it nevertheless provides an open break between settlements and the proposal would harm the character of the appeal site and thus the countryside. Accordingly, I find that the proposal would conflict with the Local Plan as a whole.
30. Turning then to whether there are material considerations that outweigh this conflict. Cornwall is experiencing a housing crisis, and many households are priced out of the market. A condition could be imposed to ensure that the proposed residential park homes were not sub-let as holiday accommodation, thus ensuring that they were available to those looking within the local market. However, whilst park homes are generally less expensive than bricks and mortar, there are no other controls within the evidence to ensure that the development would be affordable, and the proposal was not submitted as an affordable housing scheme. The Council can demonstrate a supply of land for housing, and whilst this is not a maximum figure and additional homes should be provided where possible, this should be done in accordance with the Local Plan in the first instance to reinforce the plan led system. Accordingly, I attach moderate weight to the provision of 8 additional park homes.
31. The appeal site is located outside the settlement of St Austell. However, it is possible to access St Austell by bus, bicycle or indeed for some by foot. Accordingly, whilst I find that the proposal would conflict with the Local Plan when assessing suitable locations for development, the site is in principle in an accessible location. However, taking account the appellant's statement that the development would be for older people, it is possible that they would not seek to utilise other forms of transport, and would be more dependent on car travel. Accordingly, I attach moderate weight to this benefit.
32. The proposal would create employment during the development phase, although having regard to the nature of the development this would be minimal. Some economic benefits would be derived from occupancy of the appeal site in respect of use of facilities and services in the nearby town, however having regard to the size of the development, these would be moderate at best.
33. A slight biodiversity net gain could be achieved through the development, however this would be minimal. In any event in its present form the site could allow for biodiversity to flourish. The proposal would benefit from an existing access and would therefore not result in harm to highway safety. However, this would be necessary to comply with the development plan in any event.

34. Whilst I attach moderate weight to these benefits, I do not consider that they outweigh the conflict with the development plan when taken as a whole. Accordingly, I conclude that the appeal is dismissed.

J Ayres BA Hons, Solicitor

INSPECTOR