



Appeal Decision

Site visit made on 4 December 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2024

Appeal Ref: APP/D0840/W/23/3322561

Land North of Windwhistle, Road from junction with Eden access road to Trethurgy, Trethurgy, St Austell PL26 8YQ

- 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 Jonathan Allen against the decision of Cornwall Council.
 - The application Ref is PA22/08581.
 - The development proposed is affordable housing-led residential development of 7 dwellings and formation of a new access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development in the banner heading above from the application form. However as 'at land at Trethurgy, St Austell' is not an act of development, I have removed this element.
3. Some of the works required to facilitate the formation of a new access have commenced, and this is confirmed on the application form. I was able to see these works during my site visit. I note that the Council have opened an enforcement case on this matter. However, any enforcement action is a separate issue to my considerations in this appeal.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. I have consulted the main parties on the changes and have had regard to the representations received.

Background and Main Issue

5. There is a considerable planning history at this site. Of particular relevance, outline planning permission¹ (with all matters reserved) was granted in 2018 for an affordable led scheme for the construction of 5 new dwellings. This consent has now expired. In 2021, pre-application advice was sought² which outlined the Council's informal view that to bring the site forward for development, it would need to be considered as a rural exception site.
6. During the appeal, the appellant submitted an Agreement made in pursuance of section 106 of the Town and Country Planning Act 1990, dated 24 October 2023 (the s106). It contains obligations that would require four of the seven dwellings to be affordable, and would secure a financial contribution towards off-site Public Open Space provision.

¹ Application ref. PA17/03232, approved on 19 June 2018

² PA21/00263/PREAPP

7. Neither of the matters addressed through the completed s106 formed part of the reason for refusal. I therefore consider the main issue to be whether the site is suitable for the development proposed, having regard to the settlement policies of the development plan and the effect of the proposal on the character and appearance of the area.

Reasons

8. The main settlement policies of the development plan are Policies 2 and 3 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the Local Plan). The strategy set out in Policy 2 seeks to maintain the dispersed development pattern of Cornwall, and provide housing based on the role and function of each place. Policy 3 establishes a hierarchy of locations for development, and in the first instance development is directed to the main towns.
9. Outside the main towns, Policy 3 states that housing growth will 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 site is not identified for development within a Neighbourhood Plan, nor is it previously developed land. Moreover, the appellant does not argue that the proposal would constitute the rounding off of a settlement or an infill scheme. Consequently, it is not disputed that the suitability of the site for housing is dependent on it meeting the policy criteria for a rural exception site, which are set out in Policy 9 of the Local Plan.
10. Policy 9 establishes that development proposals on sites outside of, but adjacent to, the existing built-up area of smaller towns, villages and hamlets, whose primary purpose is to provide affordable housing to meet local needs, will be supported where they are clearly affordable housing led; well related to the physical form of the settlement; and would be appropriate in scale, character, and appearance.
11. The parties are in agreement that the site lies outside of but adjacent to the built-up area of Trethurgy. However, the level of local need and the degree to which this has been met is a matter of some dispute. The Council's delegated report states that, at the time of the application, there were 388 registered households seeking affordable housing within the parish. The evidence indicates that the number of households in the parish in need of affordable housing has increased since the application was determined, and now stands at 439.
12. My attention has been drawn to several schemes in the parish delivering affordable housing against this need. In particular, West Carclaze Garden Village³ will deliver 450 affordable homes, effectively meeting the affordable housing need as it stands today. I have had regard to the Council's Housing Supplementary Planning Document (SPD) (2020). This sets out that typically, the number of existing permitted affordable dwellings will be subtracted from the level of identified housing need to identify the level of extant housing need in an area. However, the Housing SPD discounts sites which are not deliverable within a reasonable period, or which have only secured outline consent.

³ Application ref. PA14/12186, approved on 21 September 2018

13. The evidence does not indicate that either of these criteria specifically apply to the Garden Village site, nor does it appear to be stalled. Nevertheless, it is a large, phased development delivering a very high proportion of the affordable dwellings needed within the parish. It is therefore likely that a proportion of the dwellings meeting the need in the parish will be delivered over a considerable time period. Moreover, during this time, it is possible that the affordable housing need will increase further. In its delegated report the Council accepts that the proposed tenure mix at the appeal site is acceptable, and I see no reason to disagree. Accordingly, I find that at this time there is a level of unmet need for affordable housing in the parish, and that the appeal site would contribute to meeting that need in the short term.
14. The development is described as being affordable housing led, but the Council has raised concern over the high level (43%) of market housing proposed. Policy 9 allows for the inclusion of a maximum of 50% market housing where a financial appraisal demonstrates it to be essential for the successful delivery of the development. Paragraph 82 of the Framework also recognises the inclusion of some market housing where necessary to help facilitate delivery. The Council's delegated report concludes that the inclusion of market dwellings is justified by a robust viability assessment. No contrary evidence has been provided to demonstrate that the level of affordable housing proposed is not the maximum viable amount. Accordingly, the site would be affordable housing led in accordance with Policy 9.
15. My attention has been drawn to the Council's Chief Planning Officer's Advice Note (CPOAN) on Infill/Rounding Off, which provides guidance for considering unplanned 'organic' growth adjacent to existing settlements. The document is clear that it only provides guidance, however, I have had regard to it in so far as it demonstrates the Council's approach to interpreting the settlement policies of the Local Plan. In relation to Policy 9, it clarifies that a site will be well related to the settlement if it is reasonably close and within a short and safe walk. On this basis I find that the appeal site is well related to the physical form of the settlement.
16. In light of the above, the proposal's compliance with Policy 9 is therefore dependant on it being appropriate in scale, character and appearance.
17. Trethurgy is a rural village with a relatively dispersed pattern. It is nestled in a small plateau in a broadly undulating landscape, with land notably rising to the north and west, and falling to the south. The surrounding landscape is characterised by small-scale fields bound by Cornish hedges, which follow the gently sloping topography. The intimate character of this field pattern contrasts with the large-scale open landscape of the clay works further west. From the north, a narrow and heavily vegetated lane drops into the village. Despite a large infrastructure site north of the village, this approach is deeply rural. The appeal site is one of the small-scale fields located on this approach. As an open field on rising ground, it makes an important and consistent contribution to the rural edge of the settlement and the countryside setting of the village.
18. Within the village, predominantly detached properties follow narrow country lanes which are bound by stone walls or Cornish hedges. Properties are generally set back from the road behind front gardens and driveways, and the individual access points through the walled and often well-vegetated road boundaries create an attractive and organic rural character. There is no

particular architectural style, though properties are typically of a traditional form, each with an individual character.

19. I have had regard to the Cornwall Design Guide, along with the accompanying CPOAN on Good Design in Cornwall. Although both guidance documents encourage innovation without imposing an artificial vernacular, they both express a clear expectation that development will reflect and respect the character of the site and its context.
20. The primary built context of the appeal site is the group of bungalows on the opposite side of the road. Although there are two-storey properties present nearby, these are generally set down into the sloping ground, or are located well-within the built-up area of the village. On elevated and rising ground, there would therefore be a significant height difference between the two-storey buildings proposed at the appeal site and the neighbouring dwellings. I accept that efforts have been made to reduce the ground levels within the site, and that slightly lower ridgelines are proposed on the more elevated plots to the north. However, in this context, the proposal would be of an inappropriate scale, resulting in an unduly prominent and imposing addition to the area.
21. I acknowledge that reference has been made to the local materials palette. However, the repetitive pattern of full-width gabled frontages present on six of the seven proposed dwellings would not reflect the local pattern of individual and characterful dwellings, and would appear incongruous against the organic form of the village.
22. The overall site layout would also conflict with the prevailing settlement pattern. Internally, a regimented line of parking would run a significant length of the site behind a large expanse of tarmac surfacing. Even with a condition controlling landscaping to soften and break up the paving shown on the plans, there would be limited space to provide meaningful front gardens or much in the way of frontage enclosure. The resulting urban character of the site would be emphasised by the repeated close boarded fencing enclosing the northern and southern site boundaries, the long rear gardens, and the entire length of the eastern boundary.
23. The natural stone wall detailing to the site entrance is noted. However, the entrance to the site and the necessary visibility splays would introduce a further urbanising effect, creating an engineered access point some 6m wide; considerably wider than the serving lane. I also note that excavations to accommodate reduced ground levels within the site would create a highly engineered internal site configuration, and would also appear to leave two incongruous 'islands' of higher ground to either side of the entrance.
24. The appellant indicates that the boundary vegetation would be retained, the roadside hedgerow reinstated, and further planting introduced. However, the plans show that existing boundary vegetation would frequently be separated from the site by tall close boarded fencing. Internal planting, particularly at the southern end of the site, would also likely be limited by conflicts with surfacing and drainage channels indicated on the drainage plan. Although a hedgerow would be reintroduced to the western boundary, it would take many years for a robust hedgerow to establish and provide meaningful enclosure and softening of the development. In any event, the site and dwellings would be readily visible through the widened access point. Overall therefore, the opportunity to

mitigate the harmful effects of the proposal with retained and new planting would be limited.

25. I am mindful that the surrounding landscape is not protected by any particular designations, but that does not diminish its important contribution to the rural edge of the settlement and the setting of the village. Moreover, I note from the evidence, including my site visit, that the adjacent road is part of a network of marked recreational walking and cycling trails, and thus users of the route would have particular regard to their surroundings. For all of the reasons described above, the proposed development would not reflect or respect the built form of the village or its rural setting, and would appear as an incongruous intrusion into the countryside.
26. The appellant highlights that any harm would be localised and viewed in the context of the surrounding village. I accept that there would not be far-reaching harm, and that there is a clear built context for development at the site. I also acknowledge that exception sites, by their very nature, are likely to involve development on greenfield land adjacent to a settlement, so will involve some intrusion into the countryside. However, in this case, the urban form of the development would result in a particularly stark and uncharacteristic transition between the edge of the settlement and the open countryside beyond.
27. I have had regard to the expired outline planning permission, which granted approval for five dwellings on the site. Although I do not have full details of this scheme, this was a smaller site area that appeared to follow the local plot pattern. Moreover, with all matters reserved, the layout, scale, and appearance of the dwellings was not approved. Therefore, the previous acceptability of that outline scheme does not justify the harm resulting from the current proposals.
28. Policy 21 of the Local Plan states, amongst other things, that encouragement will be given to sustainably located proposals that increase building density where appropriate, taking into account the character of the surrounding area. The policy also establishes a preference for lower quality agricultural land. Whether or not the proposal would be 'sustainably located' in the context of this policy, and despite its lower grading of agricultural land, given the harm that I have found to local character, the proposal would not benefit from the encouragement offered by Policy 21.
29. Taking all of the above into account, I therefore conclude that the site would not be suitable for the development proposed, and would result in significant harm to the character and appearance of the area. This would conflict with Policies 2, 9, 12, 21 and 23 of the Local Plan. Amongst other things, these policies seek to ensure that exception sites are appropriate in scale, character and appearance; that all proposals maintain and respect the special character of Cornwall; are of an appropriate layout, height and mass; and that they have a clear understanding and response to their landscape setting.
30. Though not included in the reason for refusal, the Council has cited several policies of the Climate Change Development Plan Document (adopted February 2023) (the DPD). A number of these policies are not directly applicable to the development proposal, either due to the date of the planning application, or the type of development proposed. However, Policy C1 (Climate Change Principles) is determinative to my considerations. For the reasons given above, I also find conflict with this policy where it seeks to conserve and enhance the natural

environment; and increase built and natural environment distinctiveness through locally distinctive, high quality and sustainable design. There would also be conflict with the Framework where it seeks to ensure that developments are sympathetic to local character, and contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

31. The effect of the proposal on biodiversity interest does not form part of the reason for refusal, and in its delegated report the Council considered that a condition securing compliance with the submitted ecological appraisal would satisfy the development plan policies. An additional condition relating to biodiversity has now been suggested by the Council. As I am dismissing the appeal on other substantive grounds, it is not necessary for me to consider the suitability or otherwise of any biodiversity conditions.
32. The Council indicates that the proposal would not conflict with other policies of the development plan, in some cases subject to conditions, on matters including highway safety, privacy, drainage, archaeology, and minerals safeguarding. There is also no disagreement over the s106 contribution necessary for off-site Public Open Space provision. Though I note a number of local objections relating to highway safety and drainage in particular, I have not been presented with any substantive evidence to lead me to reach a different conclusion to the Council on any of these points. However, the absence of harm in these matters is neutral in the planning balance, and does not alter or outweigh my finding on the harm that would be caused by the proposed development.

Planning Balance

33. The appellant highlights the housing crisis in Cornwall, and I have carefully reviewed the Housing Strategy for Cornwall (2030), and the accompanying plan. In the context of a national housing crisis, it is clear that Cornwall faces particular challenges in relation to the availability and affordability of homes. The scheme would make a small but important contribution towards much needed affordable housing in Cornwall, and this would be secured through a completed s106 agreement. However, the emphasis of the development plan is to seek affordable housing to meet local needs, and this echoes paragraph 82 of the Framework which supports housing developments in rural areas that reflect local needs. The particular circumstances of the parish mean that, while I accept there remains a need for affordable housing that the site would help to meet in the short term, this need is less acute than elsewhere in the county. Accordingly, this benefit carries moderate weight.
34. The scheme would also contribute to Cornwall's open market housing supply, and would assist the Government's objective to significantly boost the supply of homes. However, as Cornwall is able to demonstrate a 5 year supply of deliverable housing sites, and the scheme would only deliver three open market dwellings, I therefore afford these benefits limited weight. There would also be some short-term economic benefits associated with the construction of the dwellings, and the growth of the village would likely support local services. Thus, with a modest overall quantum of development the social and economic benefits of the development carry moderate weight.

35. These benefits must be weighed against the harm to the character and appearance of the area. Paragraph 135 of the Framework says that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting. I have found that the proposal would be significantly harmful in these regards, resulting in conflict with development plan policy, and the development plan when read as a whole.
36. In the absence of any circumstances taking me to paragraphs 11 c) or 11 d) of the Framework, paragraph 12 says that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Consequently, in the overall planning balance, I conclude that the material considerations outlined above do not outweigh the proposal's conflict with the development plan.

Conclusion

37. For the reasons given, I conclude that the appeal should be dismissed.

K Jones

INSPECTOR