

Appeal Decision

Site visit made on 23 September 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2024

Appeal Ref: APP/D0840/W/24/3336377

Land East of Point Road, Carnon Downs

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Abraham Simpson, Kingsley Developments (SW) Limited against the decision of Cornwall Council.
 - The application Ref is PA23/06934.
 - The development proposed is up to 4 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline. Matters of access, appearance, landscaping, layout and scale are reserved for future consideration (the 'reserved matters'). I have therefore treated any references to reserved matters in documentation as illustrative.
3. I have taken the description of development in the banner heading above from the application form. However as 'Outline permission for' is not an act of development, I have removed this element.

Main Issue

4. The main issue is whether the appeal site would be a suitable location for the proposal, with particular regard to the Council's development strategy and the need for homes for older people.

Reasons

5. Policy 1 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) outlines the Council's approach to sustainable development whilst the Council's spatial strategy is provided within LP Policy 2. This seeks to maintain the dispersed development pattern of Cornwall, and to provide housing based on the role and function of each place. LP Policy 3 sets out a hierarchical strategy for the delivery of new housing. Carnon Downs is not a location named within LP Policy 3(1). However, LP Policy 3(3) provides criteria for housing growth outside the larger named towns.

6. the Feock Neighbourhood Development Plan 2017-2030 (NP) also forms part of the development plan and sets out housing policies and identifies settlement boundaries, with the appeal site being located outside of the defined Carnon Downs settlement boundary.
7. NP Policy H1 sets out the approach to small scale infill and rounding off housing development and is permissive of schemes 'within' settlement boundaries. Notwithstanding, LP Policy 3 specifically refers to rounding off on land 'immediately adjoining' the settlement as well as infill schemes that do not physically extend the settlement into the open countryside, and rural exception sites.
8. LP Paragraph 1.68 defines rounding off as 'development on land that is substantially enclosed, but outside of the urban form of a settlement, and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). It should not visually extend building into the open countryside'.
9. The Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (CPOAN) does not form part of the development plan and is to be regarded as informal guidance. However, it does provide some clarity on the locally adopted approach in relation to matters such as rounding off. The CPOAN indicates that 'Rounding off provides a symmetry or completion to a settlement boundary' and 'suitable sites for rounding off must be contained within long standing boundary features (such as a road or Cornish Hedge) and are likely to be surrounded on at least two sides by existing built development'. The CPOAN continues that 'a judgement will be required on a case-by-case basis whether a site has the appearance of being within the physical boundaries of that settlement'.
10. The appeal site is not directly adjacent the settlement boundary and is beyond the 'sensitive edge' as defined within the NP. Moreover, the proposal would not fill a small gap in an otherwise continuously built-up frontage and therefore would not constitute infill. However, although being of lower density than that found within the settlement boundary, there are dwellings and their associated gardens to three sides of the appeal site. Furthermore, the appeal site is substantially enclosed by Cornish hedge boundaries and highways, a public footpath and a dwelling.
11. Notwithstanding, other factors must also be considered in assessing whether a proposal constitutes rounding off, including whether the proposal would visually extend development into the open countryside. In this regard, LP para 2.33 states that 'open countryside is defined as the area outside of the physical boundaries of existing settlements'. The CPOAN also adds that open countryside is part of an expansive area before the next settlement, although notes that the countryside may include areas containing groups of dwellings.
12. When travelling towards the site from the north, a distinct change in character is experienced from the more urban character found within the settlement boundary, to that of a rural character found from the junction of Point Road and Tresithick Lane. The built development and associated residential gardens which are adjacent the appeal site, are more akin to sporadic rural development in character than that of the urban form of the settlement.

13. Furthermore, the appeal site has the appearance of a small field with its rural appearance being distinct from the nearby built form of the settlement. Whilst it is enclosed, given the low density of surrounding built form, it is seen in conjunction with other open fields in the area, particularly to the northeast and west. Therefore, the appeal site has a greater affinity with adjoining fields and open countryside, than with the urban form of Carnon Downs.
14. Moreover, even if, due to its size, the appeal site itself cannot be described as 'expansive', it is seen as part of the expansive surrounding countryside landscape. I consequently find that the proposal would, notwithstanding reserved matters, inevitably visually extend development into the open countryside where LP Policy 7 seeks to only permit new homes in special circumstances, none of which relate to the proposal before me. Accordingly, the proposal would not constitute rounding off. Furthermore, the proposal is not put forward as a small scale affordable rural exception scheme.
15. Nevertheless, it is also put to me that the proposal would meet an established need for older people. The Cornwall Supported and Specialist Housing Strategy 2023-2050 (the Strategy), whilst not part of the development plan, provides further information on the estimated additional need for specialist housing and accommodation for older people (55+). The Strategy suggests that by 2033, around 17200 homes would be required for open market sale/shared ownership. The Strategy assumes, based on qualitative evidence about older peoples housing preferences, that up to 50% of this estimated need could be met through the provision of mainstream housing, even if not 'technically' designed for older people.
16. The NP, Housing Strategy 2030 and Securing Homes for All: A Plan to respond to Cornwall's Housing Crisis also recognise the need for homes. The NP evidence base indicates that 33% of the population is aged 65+ with Feock having a significantly higher proportion of population aged 65+ compared to the rest of Cornwall. Moreover, I am informed that the appellant has carried out a nearby development¹ (Treheath Meadows) of new homes to meet the needs of older people which was supported by the Council, and I am told was in demand. Given the substantive evidence before me, it is clear that there is significant need for specialist housing for older people in the area.
17. The National Planning Policy Framework (Framework) identifies that it is important that the needs of groups (including those for older people) with specific housing requirements are addressed and reflected in policies. In addition, the Planning Policy Guidance (PPG) states that the need to provide housing for older people is critical, and where there is an identified unmet need for specialist housing, Councils should take a positive approach to schemes that propose to address this need.
18. It is put to me that there are no relevant planning policies for the delivery of older persons homes beyond the 50% that are assumed to be provided through 'mainstream housing'. Furthermore, a report² provided by the appellant appears to provide a grade for the LP of -3 (A to D grade) based on its approach to housing for seniors. Notwithstanding, the full report, its context or scoring criteria is not before me within the substantive evidence.

¹ PA16/06449

² Unlocking Potential for Seniors Housing Development (Irwin Mitchell and Knight Frank 2024)

19. However, LP Policy 6 concerns housing mix, with the supporting text to this policy at LP paragraph 2.25 relating specifically to housing of older people. LP Policy 6 seeks to respond to the requirements of a changing population and of particular groups in the community, by increasing the supply of accessible and specialist housing which is able to meet people's needs throughout their lifetimes based on locally derived evidence of need and demand. Indeed, the Council referred to LP Policy 6 within the officer report (OR) associated with the permission at Treheath Meadows.
20. The planning system allows for local discretion in devising policies. Even if LP Policy 6 has not been successful in meeting an identified need for specialist homes and there is now an additional need within the LP plan period, given the intent of the policy and despite being directed towards schemes of 10 dwellings or more, I find its approach broadly aligns with the provisions of the Framework. Whilst there is a clear need for housing for older people that is unmet, for the purposes of determining this appeal, I consider the LP is not out of date.
21. Furthermore, NP Policy H3 supports schemes where they provide accommodation sizes, types and affordability and tenure as appropriate to meet local needs. Supporting text at NP paragraph 3.6.16 notes that the NP supports the approach of LP Policy 6, and NP Policy H3 is designed to address specific needs identified through community consultation, including the elderly (to enable downsizing within the parish).
22. However, NP Policy H3 is clear that it provides support for 'affordable' housing led rural exception schemes, notwithstanding matters including size, type and tenure. LP Policy 9 and NP Policy H2 outlines that proposals for affordable housing led schemes to meet local housing needs, amongst other criteria, should comprise affordable housing, unless it can be clearly shown that a scheme will not be viable without the inclusion of market housing to cross-subsidise.
23. In this regard, the Council have highlighted local affordable housing need, indicating a current affordable housing need for 47 households, with 11 of those relating to a 1 or 2 bedroom need for households aged 55+. The proposal before me is not affordable housing led, and whilst it would contribute to a need for older persons housing, wouldn't contribute to an evidenced affordable housing need for the Parish and therefore neither accords with NP Policies H2 or H3.
24. While the Council's reason for refusal states that there is no care element of the scheme or its design, there is nevertheless a requirement for homes for older people without care, and in any case the care could be provided by a live in or visiting carer. Furthermore, the design of the properties, acknowledging the needs of their intended occupiers, could be considered within reserved matters. Moreover, a planning condition could be imposed in order to ensure that the proposal is occupied by older people.
25. Nonetheless for the reasons provided above, I find that the appeal site would not provide a suitable location for the proposal, with particular regard to the Council's development strategy and the need for homes for older people. There would be conflict with LP Policies 1, 2.3b, 3, 7, 9 and 23, and NP policies H2 and H3, the purposes of which have previously been outlined

above. Furthermore, the proposal would also be contrary with the provisions of the Framework in relation to supporting opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs and conserving and enhancing the natural and local environment.

Other Matters

26. The appeal site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC). The appellant has made a financial contribution to the Council towards mitigation of the recreational impact of the proposal on the SAC. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal.
27. Given my conclusions on the main issue above, it is not necessary for me to consider this matter any further as the proposal would not take place and would not affect the habitat sites. Moreover, even if I were to find that suitable mitigation had been appropriately secured, a lack of harm would only be a neutral factor.
28. It is argued that the Council's refusal of the proposal is inconsistent with their approach to granting permission at Treheath Meadows which was determined following the NP being made. Although the OR for that permission acknowledges that it was not promoted as a rural exception site, it identifies conflict with LP Policy 9 and NP Policy H2. It is also pertinent that the OR concludes that 'the conflict with development plan policies in this instance is considered to be outweighed'. Full details of this permission are not before me, however although nearby, that scheme was of a greater scale than that before me providing differing benefits in scale and type, thereby limiting the equivalence.

Planning Balance

29. Planning law³ requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. I am satisfied for the purposes of determining this appeal, the LP is not out of date, and it is not disputed that the Council is able to demonstrate a five-year supply of housing land.
30. Given the proximity of footpaths, I observed that the appeal site has reasonable access to services and facilities, and this is not disputed by the Council. However as previously discussed, I have found the proposal conflicts with the Council's development strategy due to the location of the site beyond the settlement boundary, not constituting infill or rounding off, and not being affordable housing led. There is resultant conflict with the development plan to which I afford significant weight.
31. The PPG outlines that Councils should take a positive approach to schemes that propose to address a need for older people and that the need to provide housing for older people is critical. Furthermore, making specific provision for older people has the potential to assist the wider housing market through the

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

release of existing under occupied housing stock and is therefore a valuable benefit.

32. The benefits of specialised housing for the elderly were also outlined by an Inspector in an appeal decision⁴ cited by the appellant. While the Inspector in that decision afforded significant weight on the provision of older persons given the extent of demand, it is not clear from the substantive evidence before me what the shortfall was within that particular area. Furthermore, that proposal related to 53 apartments, whereas the scheme before me is significantly more limited in scale, being for only up to 4 properties.
33. In this case, acknowledging the demonstrable need for such housing in the area, I afford the benefits of the specialised housing to the areas housing supply moderate weight given its limited scale.
34. The proposal would also provide some employment opportunities during the construction phase. Future occupiers would also provide further economic and social benefits in terms of future spend within local businesses and use of local services and facilities. Notwithstanding, these benefits would be limited given the scope and scale of the development.

Conclusion

35. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations individually or cumulatively are of such weight that indicate a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR

⁴ APP/W1850/W/23/3334961