



Appeal Decision

Site visit made on 19 September 2024 by R Dickson BSc (Hons) MSc MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2024

Appeal Ref: APP/D0840/W/24/3344206

Bugle Cricket Ground, Bugle, Cornwall, PL26 8QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mrs June Bowler against Cornwall Council.
 - The application Ref is PA23/10101.
 - The development proposed is residential development of eight dwellings and access.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The appeal follows a failure to determine the application by Cornwall Council within the statutorily prescribed 8-week timeframe. As such, following the submission of the appeal it falls to me to determine whether planning permission should be given.
4. The appeal has been submitted in outline with matters reserved for future consideration apart from access and layout. Plans submitted include a location plan and a layout plan showing the eight dwellings grouped as four pairs of semi-detached dwellings with tandem parking provided in two areas.

Main Issues

5. In consideration of the Council's statement, representations from interested parties and the evidence before me, the main issues in dispute relate to:
 - Whether the proposed development would be in an appropriate location for new housing given the effect on open space in consideration of national and local policies; and
 - Whether the proposed development would secure the provision of any required alternative community sports and recreation facilities, and provide the infrastructure requirements for future occupiers of the proposed dwellings.

Reasons for the Recommendation

Open space issues

6. The site is part of a larger grassed cricked ground which provides the necessary facilities for the community cricket club. As well as the main playable area, the wider site includes a club house and training cages. The ground is accessed by a locked gate, and I am cognisant that the cricket ground does not appear to be openly accessible to the public. That being said, I am mindful that the National Planning Policy Framework (the Framework) does not define open space as being publicly accessible at all times, and the Planning Practice Guidance (PPG)¹ identifies open space as including all open space of public value.
7. The appeal site is shown as a playing field within the Council's mapping system. The site is situated to the side of the main cricket field. During my site visit, the grass in this area was cut short, which suggests this area is in use and is closely associated with the main field. Indeed, from the comments of interested parties it appears that this area is commonly used as a practice area, to protect the grass on the main playable area. It is also used on match days as car parking area, for picnics and as a play area for children. In the consultee response from Sport England, it is noted that the existing cricket ground is constrained in terms of its size and is below the standard boundary for cricket. As such, additional parcel of land, provided by the appeal site, could make an important contribution to the functionality of the club.
8. Paragraph 103 of the Framework identifies that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless one of three criteria has been met. Criterion a) requires an assessment to clearly show that the open space is surplus to requirements. The evidence suggests that the area of land is utilised by the community both on match days and during training.
9. The appellant states that the cricket club indicated in 2008 that it was aware that the site was being proposed for residential use and the land was not required for cricket. However, such correspondence is not within the evidence before me, and I cannot be certain that the club is accurately represented by this comment. Also, this assertion is outweighed by more recent, and more compelling evidence in the form of a substantial weight of correspondence submitted in objection to the proposal identifying the constructive use of the site for sport and associated activity.
10. Furthermore, the appellant has not provided a use assessment or any other substantive evidence to counter the assertions of users of the cricket club. Consequently, the appellant has failed to clearly demonstrate that the area is surplus to requirements for the cricket ground and playing field use, and therefore the development does not meet the first criterion of paragraph 103.
11. Criterion b) identifies that existing open space should not be built on unless the loss would be replaced by equivalent or better provision in terms of quality or quantity. While the replacement of the land may be appropriate in terms of the practice area and parking, this would not resolve the loss of the land to ensure that the boundary is sufficient, or during match days as a picnic, playing and

¹ Paragraph: 001 Reference ID: 37-001-20140306

spectating area. In any case, the appellant has not advanced the direct replacement of this area of land by offering equivalent or better provision. Criterion b) may be satisfied through a financial contribution, and this point is discussed in further detail below.

12. The last Criterion deals with cases where the development is for alternative sports and recreational provisions. This is clearly not the case as the proposed development is for residential use only.
13. As such, the proposal would result in the loss of a community open space contrary to points a) and c) of Paragraph 103 of the Framework. The proposal is also contrary to Policy 16 and 25 of the Cornwall Local Plan 2010-2030 (2016) (LP) which together highlight the importance and maximise the opportunity for physical activity through the use of open space and seek to provide community open space through all developments.

Infrastructure requirements

14. The Council has indicated that a Section 106 Legal Agreement would be required in order to secure financial contributions towards the provision of education and public open space.
15. In addressing the education contributions, a contribution of £2,736 per dwelling is required to satisfy the Council's Section 106 Planning Obligations Guidance for Education Provision 2018, its Education Infrastructure Needs Assessment and guidance note. Together they indicate that both the designated Primary and Secondary Schools are nearing capacity, and that this development would contribute to the cumulative effect of increased developments within the area, and therefore the pressure for school places. I am satisfied that the figures present a clear and demonstrable justification of the need for contributions from residential development towards school places.
16. Turning to open space provision, the Council seeks a contribution of £1257 per open market dwelling towards the improvement of facilities in Bugle. The contribution towards the provision and improvement of facilities in Bugle for this site is two-fold. Firstly, Paragraph 103 point b) of the Framework identifies that existing open space should not be built on unless the loss resulting from the proposed development would be replaced by equivalent or better provision. Secondly, the Local Plan identifies that all new development will be expected to achieve either on site open space provisions, or where there is access to alternative facilities, contributions towards the ongoing maintenance and management.
17. The Council have an adopted Open Space Strategy for Larger Towns in Cornwall (2014), which identifies the required open space per dwelling in each of the larger towns. Whilst the Council state that this requirement is equally applicable to Bugle, Bugle is not included within this list of Larger Towns. A sum would need to be agreed between the parties prior to the signing of the Legal Agreement, which I have not been provided with.
18. Despite the above, the appellant has indicated a willingness to provide contributions towards both education and open space. However, neither a draft nor completed legal agreement has been provided with the appeal. In the circumstances of the appeal, there is no mechanism to delay consideration of

these fundamental issues of principle to a point further to a grant of outline permission.

19. In the absence of a planning obligation, national Planning Practice Guidance is clear that only in exceptional circumstances, such as in the case of particularly complex development schemes should a negatively worded condition be used requiring a planning obligation. On the basis of the appeal submissions, the proposed development would not meet this categorisation, and in any event neither party has suggested or provided the wording for such a condition or set out exceptional circumstances to justify this approach.
20. On the evidence before me, the need for the contributions sought by the council arises from the development, and largely satisfies the three tests in Regulation 122(2) of the CIL Regulations 2010. The proposal would fail to secure appropriate financial contributions towards the provision of education and open space. Accordingly, the proposal would conflict with LP policy 28 and the Framework. These seek, among other matters, for development to ensure the necessary physical, social, economic and green infrastructure is in place.

Other Matters

21. The Framework seeks to boost the supply of housing. Eight new dwellings would make a contribution, albeit small, to the provision of such housing. Although the Council can demonstrate that it has a five-year supply of housing, this does not place a ceiling on the delivery of further housing on suitable sites. The appellant also identifies that a range of services and infrastructure is adjacent to the appeal site and the scheme would infill and round off the established pattern of development around the site. These benefits weigh in favour of the scheme.
22. The appellant also asserts that the site is previously developed land (PDL). The Framework defines PDL as "land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed)". The majority of the playing fields are absent buildings and therefore undeveloped. Therefore, taking into consideration the largely undeveloped character of the site and whilst noting the presence of the club house, the appeal site would not be deemed to be PDL.

Planning balance, Conclusion and Recommendation

23. The scheme would provide homes that could be delivered rapidly and help boost the supply of housing as sought by the Framework. The Framework recognises that small and medium sized sites can make an important contribution towards meeting the housing requirement in an area. It requires Councils to support the delivery of windfall sites, giving great weight to the benefits of using suitable sites within existing settlements for homes.
24. However, this proposal would result in the loss of playing field land and would fail to make the necessary infrastructure contributions causing conflict with the development plan and the Framework. As a result, the benefits of the proposal do not outweigh the conflict with the development plan when taken as a whole.

25. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

R Dickson

APPEAL PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed, and planning permission is refused.

Ben Plenty

INSPECTOR