



Appeal Decision

Site visit made on 18 February 2025

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/D0840/W/23/3335156

Land adjacent to Valley View, Callington Road, Harrowbarrow PL17 8AZ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Graham Richards, Apartment 39 against the decision of Cornwall Council.
 - The application Ref is PA23/02456.
 - The development proposed is 6 new family dwellings consisting of 2 x 3 bed affordable, 1 x 2 bed affordable with 2 x 4 bed and 1 x 3 bed open market dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 6 new family dwellings consisting of 2 x 3 bed affordable, 1 x 2 bed affordable with 2 x 4 bed and 1 x 3 bed open market dwellings at Land adjacent to Valley View, Callington Road, Harrowbarrow PL17 8AZ, in accordance with the terms of the application Ref PA23/02456, and subject to the Schedule of Conditions attached to this Decision.

Applications for costs

2. An application for costs was made by Mr Graham Richards against Cornwall Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Since the application was determined, the revised version of the National Planning Policy Framework (as amended) ('the Framework') was published in December 2024. The main parties were given an opportunity to comment on the appeal in light of the Framework. Based on this consultation, the main conclusion I draw is that the Council cannot demonstrate a 5-year supply of housing land, which stands at about 3.8 years.

Main Issue

4. The main issue is whether the proposed accommodation reflects local housing need.

Reasons

5. The submitted scheme is advanced as a proposal for a rural exception site. Policy 9 of the Cornwall Local Plan ('LP') provides a starting point of 100% affordable housing on rural exception sites. Nevertheless, this Policy clearly acknowledges support for the inclusion of up to 50% market housing where it is essential for the successful delivery of the affordable homes.
6. The appellant has provided viability information, which sets out that it is viable to provide 50% affordable housing if cross-subsidised by 50% open market housing. This approach is also accepted and supported by the Council's Affordable Housing

Officer. I have also reviewed the viability information provided with the scheme and agree that the 50/50 split of market and affordable dwellings is necessary in this instance to secure the delivery of the affordable housing.

7. The submitted Unilateral Undertaking includes an obligation ensuring the provision of 50% affordable housing. The obligation also includes provisions to ensure that the first and future occupation of the affordable homes, would be in accordance with the Council's adopted local connection policies, which is also a requirement of Policy 9 of the LP.
8. Based on the evidence before me, it has been demonstrated that this obligation is necessary in order to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. This accords with the tests that are set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended). I have taken this into account when determining the appeal.
9. Policy 9 of the LP, also says that the number, type, size and tenure of dwellings brought forward under these rural exceptions policies must reflect identified local needs as evidenced through the Cornwall housing register or any specific local surveys completed using an approved methodology. Policy HP4 of the Calstock Neighbourhood Development Plan ('NDP') also requires that the housing mix reflects the nature of the identified local housing need.
10. The Council advises that based on its most updated information regarding the need for affordable housing in the area, that there is a need for 171 dwellings and that 1 bedroom dwellings make up about 58% of this overall need. Therefore, I acknowledge that the overall quantum of need for 1 bed dwellings for the area is greater.
11. The Council asserts that the requirement for housing to reflect local need has been endorsed by other planning appeal decisions in the County. Whilst in the Launceston appeal, the Inspector found that the scheme fails to meet the established local affordable housing need, the proposal was for 30 units and for age restricted occupation for the over 55's. In the Padstow appeal the appellant had not provided substantive information on the types of dwellings proposed and how they would respond to the latest housing needs assessment. Moreover, neither of these schemes was for rural exception sites. As such, these are not directly comparable to the proposal before me. Therefore, I attach limited weight to these examples.
12. Irrespective of the above, on the information available to me, there is also a need for 2 and 3 bed affordable dwellings in the area. Cumulatively, these make up about 39% of local housing need. As such, and despite not providing any 1 bed dwellings, in my judgement, the proposed scheme which includes 2 and 3 bed affordable dwellings also reflects local housing need.
13. Furthermore, the Council has agreed and implemented the: 'Securing Homes for All: A Plan to respond to Cornwall's Housing Crisis' ('The Plan'). The Plan recognises that Cornwall is experiencing a housing crisis and sets out a number of objectives and interventions to respond to this. Amongst other objectives, this includes increased availability of homes for local residents and a step-change in affordable housing provision and assuring delivery of the new homes needed under the LP.

14. The Plan sets out that the LP continues to establish an up-to-date level of housing supply as required and contains sufficient flexibility to deliver a range of affordable housing projects.
15. In light of the above, and in particular given that the Council is no longer able to demonstrate a 5-year supply of housing land, the proposal would respond to the housing crisis by increasing the supply of housing; contributing towards a step-change in the supply of affordable homes across Cornwall; and enabling the delivery of the housing targets within the LP. As such, the proposal accords with the aims of Policy 9 of the LP and Policy HP4 of the NDP.

Other Matters

16. The appeal site lies within the zones of influence for the Plymouth Sound and Estuaries Special Area of Conservation ('SAC') and Tamar Estuaries Complex Special Protected Area ('SPA') Natura 2000 sites ('European Sites'). Under Policy 22 of the LP and the European Sites Mitigation Strategy Supplementary Planning Document ('SPD') there is an acceptance that the combination of new recreational development in the zone of influence may result in recreational pressures upon the European Sites.
17. The Council has carried out an Appropriate Assessment (contained within the appendix of the SPD). In this instance, financial contributions as per the SPD are considered to represent adequate mitigation to ensure that the integrity of the European Sites can be maintained. This has been agreed, between the Council and Natural England, to meet the Habitats Regulations' under 'The Conservation of Habitats and Species Regulations 2017'.
18. The Council has confirmed that the mitigation in the form of a financial payment in support of the proposed scheme has been paid 'up-front.' Based on this and the evidence available to me, any adverse effects on the integrity of the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA Natura 2000 sites would be avoided.
19. Although not a reason for refusal, the Council's submissions identify that the proposed scheme is not providing on-site open space to meets its minimum size criteria. Therefore, the Council advises that an off-site financial contribution is required. To this end, some information on the relevant LP policies is provided and the level of off-site financial contribution sought, which is based on the Council's Open Space Strategy. Furthermore, it has been suggested that this financial contribution is to be allocated for the improvement of the open space adjacent to Harrowbarrow Village Hall and/or the creation or improvement of open space within Calstock Parish. Nevertheless, there is insufficient evidence about any such open space improvement or creation proposals, which any off-site financial contribution would support. Also, the details of the Council's Open Space Strategy are not before me.
20. As such, I am uncertain that the open space requirement is necessary to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. I therefore cannot be certain that this meets the tests that are set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended).
21. In addition to the above matters, third parties have raised concerns in relation to a number of other matters. These were largely addressed as part of the Council's report

to the East Sub-Area Planning Committee and did not form part of its refusal of the application.

22. Moreover, in considering such matters, I am aware that the current application is similar to a previous refused application Ref PA21/09916 at the appeal site. This application was subsequently dismissed on appeal. The main issues identified by the Inspector in determining the previous appeal were the effect of the proposal on the character and appearance of the area, including the setting of the Cornwall and West Devon Mining Landscape World Heritage Site ('WHS'); and on the integrity of the European sites. Most notably, in dismissing this appeal, the Inspector concluded that the proposed development would not harm the character and appearance of the area, including the setting of the WHS. I have also considered the proposed scheme and submissions before me and have no strong reasons to conclude otherwise.
23. Given the modest scale of the development and its proximity to existing built forms and separation from the Tamar Valley section of the Area of Outstanding Natural Beauty ('Tamar Valley National Landscape'), it is unlikely that the proposal would unacceptably affect the setting of the Tamar Valley National Landscape.
24. On the information available to me the proposed visibility splays are commensurate with the recorded road speeds and can be secured via a condition. Parking and turning areas are provided within the site to enable vehicles to enter and exit in a forward gear.
25. Whilst I acknowledge that the construction of the development including access and deliveries would cause some disturbance and inconvenience to local residents, this is inevitable and only likely to be for a temporary period.
26. I am satisfied that due to their siting and separation, the proposed dwellings would not adversely affect the living conditions of neighbours.
27. In light of the submitted ecological reports / surveys and subject to the implementation of the proposed mitigation and enhancement measures therein, the proposal would not result in any adverse impacts on protected and priority species / habitats.
28. Although the proposed 6 dwellings would result in some strain on existing infrastructure and services, on the information before me, this is not sufficient to warrant refusal of the proposal.
29. There are no strong technical reasons for me to conclude why a condition would not secure a suitable surface water drainage scheme for the proposal so as not to result in any on or off-site flooding. There is also no substantive technical evidence to suggest that the appeal site is contaminated and requires further investigation in respect of this.
30. The Council's Climate Emergency Development Plan Document ('DPD') was formally adopted on 21 February 2023. This aims to act on climate change as part of a positive and flexible planning policy framework for Cornwall up to 2030. However, because the application was submitted prior to the 15 June 2023, Policy SEC1 of the DPD does not apply to the proposal, which amongst other things requires that residential development proposals achieve Net Zero Carbon. Whilst the proposal may not fully align with some of the other policies in this DPD aimed at promoting accessibility and the provision of Electric Vehicle ('EV') charging points, because the proposal is for a rural exception site, its primary purpose is to provide affordable

housing. I, therefore, attach greater weight to this over accessibility. Also, it is likely that EV charging points would be secured within the development under the requirements of building regulations.

31. The proposal would see the loss of a small area of Grade 3 agricultural land. Whilst this and some alterations to historic field patterns are inevitable and regrettable, in this instance these considerations are outweighed by the need for housing, including affordable dwellings.
32. Individually or cumulatively, the above matters are not sufficiently forceful to justify dismissal of this appeal.

Conditions

33. In imposing conditions, I have had regard to the Framework and the Planning Practice Guidance. I have included the standard timescale condition for the implementation of the planning permission. A condition specifying the relevant plans and drawings is necessary as this provides certainty.
34. A condition requiring that the replacement Cornish hedge proposed to the south of the dwellings, and sections of hedge to be constructed on the northern roadside boundary are reasonable and necessary in the interests of maintaining the character and appearance of the area and biodiversity.
35. Conditions requiring that the provision and maintenance of visibility splays and that parking areas are surfaced and drained in accordance with the approved plans are necessary for the satisfactory functioning of the development and highway safety.
36. To ensure that the development safeguards and enhances biodiversity, I have specified conditions requiring that the development be carried out in accordance with the mitigation measures contained in the various submitted ecological reports, surveys and assessments, along with a scheme for the incorporation of bat and bird boxes and bee bricks.
37. A condition relating to the disposal of sewage is necessary to ensure the satisfactory functioning of the development and to safeguard against pollution. The condition requiring the details and implementation of a surface water drainage scheme is necessary to ensure that the development does not result in any on or off-site flooding.
38. To ensure that the affordable dwellings are not extended in a manner which would substantially increase their value, thereby ensuring the units remain affordable, a condition removing permitted development rights for development for certain forms of extensions and alterations is justified, reasonable and necessary.
39. Where necessary and in the interests of clarity, precision and flexibility, I have altered the conditions to better reflect the relevant guidance.

Conclusion

40. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) Subject to the requirements of any of the other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the following plans and drawings:
Site Location Plan: Drawing number - 190-PL-101, Rev A;
Proposed Site Plan: Drawing number - 190-PL-102;
Proposed Site Plan: Drawing number - 190-PL-103;
Proposed Site Plan: Drawing number - 190-PL-104, Rev A;
Proposed Site Plan - GF Plans and drainage: Drawing number - 190-PL-105;
Proposed Site Plan - Hedges and Highways: Drawing number - 190-PL-106, Rev A (includes annotation 'Rev B Plots 1 - 4 House type description corrected. 29/06/23');
Proposed four bed house -Plots 1 and 2 Floor Plans: Drawing number - 190-PL-107;
Proposed three bed house - Plots 3 and 4 Floor Plans: Drawing number - 190-PL-109;
Proposed two and three bed house - Plots 5 and 6 Floor Plans: Drawing number - 190-PL-111;
Proposed Four bed house - Plots 1 and 2 Floor Elevations: Drawing number - 190-PL-108;
Proposed three bed house - Plots 3 and 4 Floor Elevations: Drawing number - 190-PL-110;
Proposed two and three bed houses - Plots 5 and 6 Floor Elevations: Drawing number - 190-PL-112;
Proposed Street Elevation: Drawing number - 190-PL-115; and
Existing Workshop Refurbishment: Drawing number - 190-PL-116.
- 3) Prior to the first occupation of any of the dwellings hereby permitted, the replacement Cornish hedge proposed to the south of the dwellings, and sections of hedge to be planted on the northern roadside boundary, shall be provided in accordance with details first submitted to and approved in writing by the local planning authority. The details shall include a cross section to establish the construction, appearance and scale of the hedge, along with a detailed planting and maintenance scheme. Thereafter, the hedges shall then be retained and maintained in accordance with the approved details.
- 4) Prior to the first occupation of any of the dwellings hereby permitted, all land and planting within the visibility splays shown in drawing no. 190-PL-106, Rev A (includes annotation 'Rev B Plots 1 - 4 House type description corrected. 29/06/23'); shall be reduced to a height not exceeding 900mm above the adjoining carriageway level and thereafter no obstruction shall be permitted within the approved visibility splays.
- 5) Prior to the first occupation of any of the dwellings hereby permitted, the parking areas shall be laid out in accordance with the approved plans, surfaced in a bound material and provision shall be made to ensure surface water drains within the development site. Thereafter, the parking areas shall be retained for such purposes for the life of the development.

- 6) Prior to the first occupation of any of the dwellings hereby permitted, details of a system to serve the development for the disposal of sewage (including a timescale for its implementation) shall be submitted to and approved in writing by the local planning authority. The details shall include a programme for maintaining the system if required. Thereafter, the sewage disposal system shall be provided and maintained in accordance with the approved details and timescale.
- 7) Prior to the first occupation of any of the dwellings hereby permitted, a scheme for the incorporation of bat and bird boxes and bee bricks at a minimum rate of one per dwelling shall be submitted to and approved in writing by the local planning authority. The scheme shall include the location and specific details of each feature. The approved features shall be installed prior to the first occupation of the dwelling to which they relate and shall thereafter be retained and maintained as such.
- 8) Prior to the first occupation of any of the dwellings hereby permitted, details of a surface water drainage system for the development site (including a timescale for its implementation) shall be submitted to and approved in writing by the local planning authority. Thereafter, the surface water drainage system shall be provided and maintained in accordance with the approved details and timescale.
- 9) The development hereby permitted shall be carried out in accordance with the mitigation measures contained in the following: Section 9 and 10 of the 'Preliminary Ecological Appraisal' (dated 30 November 2021) carried out by Land & Heritage; Section 6 of the 'Reptile Survey' (dated 30 November 2021) carried out by Land & Heritage and Section 6 of the 'Bat Roost Presence or Absence Assessment' carried out by Land & Heritage (dated May 2023).
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without an express grant of planning permission at the affordable housing units hereby permitted.