

Appeal Decision

Site visit made on 8 February 2016

by Geoffrey Hill BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 May 2016

Appeal Ref: APP/D0840/W/15/3131932

Land to the west of Trevowah Road and south of Carneton Close, Crantock, Newquay

- 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 West Crantock Vale Ltd., against the decision of Cornwall Council.
 - The application Ref PA/11426, dated 1 December 2014, was refused by notice dated 5 May 2015.
 - The development proposed is described as "full application for a cross subsidy residential development comprising 37 residential dwellings (20 affordable and 17 open market), public open space, access road and ancillary works".
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by West Crantock Vale Ltd., against Cornwall Council. That application is the subject of a separate Decision.

Main Issues

3. There are three main issues in this appeal:
 - i) the effect of the proposed development on the character and appearance of the area;
 - ii) the effect on the residential amenity of persons living in the bungalows in Carneton Close, with particular regard to overbearing impact and noise and disturbance;
 - iii) whether the proposed scheme would result in an unacceptable loss of best and most versatile agricultural land.

Reasons

Policy context

4. As required by Section 38(6) of the Planning and Compulsory Purchase Act 1990, a decision on a planning application should be made in accordance with the development plan policies, unless material considerations indicate
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otherwise. The Council's decision notice refers to the 'saved' policies of the Restormel Local Plan 2001 (RLP). Whilst these policies were adopted prior to the publication of the National Planning Policy Framework (NPPF), they may be given due weight in the determination of this appeal, subject to the degree of consistency with NPPF. The reasons for refusal also refer to sections of the NPPF.

Character and appearance

5. The Council's objections on character and appearance relate both to the impact on the wider landscape around Crantock, and to the compatibility of the proposed higher density development on the village and its setting.
6. RLP Policies 6, 11 and 14 require – in general terms and amongst other matters, that new development should harmonise with its surroundings, not appear intrusive in the landscape and respect areas of Great Landscape Value. The appeal site lies within an Area of Great Landscape Value.
7. Paragraph 17 of NPPF lists, as one of the core planning principles, the need to recognise the intrinsic beauty of the countryside. NPPF paragraph 115 says that 'great weight' should be given to conserving the landscapes of National Parks and Areas of Outstanding Natural Beauty, but paragraph 109 advises that 'valued landscapes' should be protected and enhanced. It is not clear what is meant by 'valued landscapes' but it is reasonable to accept that an AGLV classification indicates that care needs to be given to assessing the impact of proposed development in these areas. That is, these policies of the local plan can be seen to be broadly consistent with the NPPF, but subject to the caveats discussed below.
8. The appeal site is in an elevated position with clear views primarily out to the south and south-west and, in return, there are views of the appeal site from the wider countryside. New development on the appeal site would be visible from several locations, as identified in the Landscape and Visual Impact Analysis (LVIA) submitted by the appellants. The bungalows along Carneton Close are not readily seen in these views, but the houses on the appeal scheme would be taller and would be sited where the landform begins to fall away into the valley south of the village. The proposed scheme would occupy a position directly opposite to the Trevowah Meadows development. Houses on Trevowah Meadows can be seen from locations to the south on the opposite side of the valley and from Cubert Common.
9. To some degree, the new development would be seen in these more distant views against the back-drop of the present development in the village. The development would be a marginal increase in the extent of the built up area, and it would not appear to create an entirely new profile or projection of built development in the wider landscape views. The LVIA categorises the significance of the effect from these more distant viewpoints as ranging between Moderate, through Moderate-Minor and down to Negligible. Unsurprisingly, from closer view points the proposed scheme would be more obvious, with the significance categorised as Major or Major-Moderate.
10. No similar structured analysis of the likely landscape impact has been put forward by the Council, and I have no other evidence to cogently argue that this analysis is flawed or incorrect. However, the conclusions of the LVIA are

a technical analysis: it is necessary to consider whether the likely impacts of the scheme would be acceptable or not.

11. The LVIA acknowledges that the proposed scheme would extend built development into countryside, albeit with varying degree of impact and associated harm. RLP Policy 14 seeks to resist any new development which would cause harm to the AGLV. However, policies which seek to impose a blanket ban on development are not fully compliant with NPPF, which requires that any harm has to be balanced against possible benefits. If there is a demonstrable need for the additional housing, and there are no overriding concerns arising from other considerations, then it is a matter of judgement as to whether the degree of harm to the landscape would be acceptable, when weighed in the balance against all other matters.
12. It is proposed that the boundaries of the site would be marked by Cornish hedges, which would help to partially screen the development and mitigate the impact on the landscape. Whilst Cornish hedges are clearly part of the landscape character hereabouts, these are generally straight or rectilinear. The boundaries of the appeal scheme would not follow this established pattern and would, to some degree, appear contrived and unsympathetic to the landscape character.
13. With regard to the scheme's impact on the immediate surroundings, I saw that there is a variety in the built development along Trevowah Road, with a mixture of houses and bungalows. All of the properties are set back from the highway, with the housing opposite the proposed site entrance set back about 8m or so, and the newer housing further south on the Trevowah Road frontage of Tara Vale properties within 2-3m of the highway. On the west side of the road to the south of the appeal site, the bungalows are about 12m back from the highway, and the side elevation of No.1 Carneton Close about 10m back.
14. The appeal scheme would be at a density of more than 30 dwellings per hectare. The proposed houses on plots 01-04 would be about 3m back and plots 32-37 about 5m back. Whereas the new houses in the Trevowah Meadows development are as close to the highway as some of those in the appeal scheme, the whole of the frontage of the proposed development on the west side of Trevowah Road would be closer to the highway than the existing bungalows to either side. This would have the effect of noticeably reducing the apparent width and spaciousness of the street scene at this point. The impact would be emphasised by the absence of gaps between houses on plots 01-04 and the small gaps between houses on plots 35-37. In the approach up Trevowah Road from the south, the transition from the open countryside to this relatively close knit, high-density street scene would be most marked. This would appear uncharacteristically crowded in the context of this generally low-density part of the village.
15. Drawing the above points together on this first main issue, the appeal scheme would result in some harm to the wider landscape around the village, but perhaps not so great as to warrant dismissing the appeal on this point alone if there are other factors which may be seen as being beneficial overall. However, the more intensive character and density of the proposed scheme would not be compatible with the adjacent and nearby development on this

side of the village, with the close spacing of the houses and the minimal set back from the highway appearing notably out of keeping.

Living conditions of neighbouring residents

16. Two particular concerns are cited by the Council; the siting of the garage courts to the rear of the bungalows in Carneton Close, and the proximity of some of the proposed houses to the bungalows.
17. The Council's reasons for refusal do not make reference to any development plan policies regarding the safeguarding of residential amenities and make only a generalised reference to the core planning principles set out at paragraph 17 of NPPF. One of the core principles is the need to provide a good standard of amenity for all existing and future occupants of land and buildings.
18. Paragraph 56 of NPPF expects good design in the built environment which would contribute positively to making places better for people. Paragraphs 59 and 62 of NPPF advise that councils should provide guidance on what would constitute good design. Amongst the documentation provided with the appeal submissions is the Cornwall Design Guide 2013, which includes some guidance applicable to the matters in dispute in this appeal. Also relevant are paragraphs 64 and 123 of NPPF which – respectively – expect development to improve the character and quality of an area, and to ensure that quality of life is not harmed by noise.
19. The rear gardens of the bungalows are between 10m-15m long (not counting any conservatories). Whereas this may be long enough if backing on to similar gardens, it would leave the bungalows close to active parking courts where there is likely to be considerable movement of vehicles with the associated noise of manoeuvring, closing of doors and conversations. This could be all the more disturbing if it happens early in the morning or in the evening as people travel to and from work, or when returning from a evening social event. The harm would be aggravated if there were to be lighting in the parking courts which spilled over into the back gardens and living room windows of the bungalows.
20. This level of activity would be far greater than would be typical in a neighbouring residential garden and would notably disturb the peaceful enjoyment for those living particularly at Nos.3, 5, 11 and 13 Carneton Close. Whilst the Cornwall Design Guide does not preclude the use of parking courts, Section 2.12 does point out several disadvantages of such courts. Taken together with the point discussed at paragraph 4.11 of the Design Guide, which seeks to minimise noise and disturbance, the proposed scheme would be in conflict with Council's published guidance.
21. Close siting of dwellings has the potential to create an overbearing impact, and the impact can be all the greater where a house is in proximity to a bungalow, simply by reason of the height difference. In which case, careful consideration has to be given to the space between the buildings. The Cornwall Design Guide does not appear to include advice on separation distances between a dwelling and a neighbouring blank side elevation. However in my experience a separation distance of 15m between the rear elevation of a dwelling and a blank side elevation on a neighbouring building

is regarded as the minimum to safeguard against overshadowing and an overbearing impact.

22. The proposed scheme would place two-storey blank side elevations facing towards some of the existing bungalows. There would be 11m separation between the house on Plot 01 and 1 Carneton Close, and 13m separation between the house on Plot 21 and No.17 Carneton Close. This would be uncomfortably close for the occupants of the bungalows, appearing overbearing, thereby eroding their residential amenity and quality of life. The effect would be exacerbated by the fact that these houses would be sited to the south of the bungalows, casting a shadow over at least part of the gardens of the bungalows at certain times of the year.
23. Because of the likelihood of noise and disturbance from the parking courts and the overbearing impact of the houses on at least two of the plots, the proposed scheme would unacceptably harm the residential amenity of persons living in the bungalows in Carneton Close, contrary to the expectations of NPPF and the Cornwall Design Guide 2013.

Loss of best and most versatile agricultural land

24. The appeal site is recorded as grade 3a agricultural land. Grade 3a land is amongst the best and most versatile agricultural land (bmvl). The land on the appeal site is seemingly in good condition and, from the evidence produced by the Council, has been used for food production recently. It would, therefore, appear to be part of a viable agricultural enterprise. Paragraph 112 of NPPF states that poorer quality land should be used where significant development of agricultural land is demonstrated to be necessary.
25. In view of the agreed position that the Council is not able to demonstrate a 5-year supply of deliverable housing land it is arguable, having regard to paragraphs 47, 49 and 14 of NPPF, there is a need to release agricultural land for housing development somewhere, subject to the scheme being acceptable on all other grounds.
26. All of the land around Crantock is within the bmvl category and therefore taking any site for development hereabouts would involve the loss of such land. If there is an obvious unmet need for additional housing sites, and there are no other reasons to regard a proposed scheme as representing unsustainable development, then it would be necessary to put the loss of bmvl agricultural land into the balance with other considerations.
27. Although the loss of bmvl agricultural land would be a matter for regret, I do not see this as conclusive objection in its own right. However, it does add weight to the objections I have discussed above relating to the impact of the proposed scheme on the character and appearance of the area and the living conditions of those living adjacent to the site.

Other Matters

28. Many of the written representations from interested persons made directly to The Planning Inspectorate argue that if more housing is to be located in Crantock one of the other sites which are being promoted for development around the village should be preferred to the appeal site. It is not my role in this Section 78 appeal to consider the relative merits of other, or alternative,

sites. I am required only to consider whether the proposed scheme would be acceptable or not on its own merits.

29. Other concerns raised by local residents relate to the access and wider highway safety. The planning application was considered by the local highway authority, which is the statutory consultee responsible for providing advice on highway safety and the free passage of traffic. The local highway authority raised no objections to the proposed scheme, subject to planning conditions being imposed on any permission. Without specific information about recorded road traffic accidents, their cause and severity, or other technical evidence relating to highway design to demonstrate that the highway authority was incorrect in its assessment of the scheme, I am unable to conclude that the response from the statutory consultee is not to be relied upon. I acknowledge that the roads in and around the village are narrow in places, and that larger vehicles may not always be able to pass easily, or that parked vehicles can sometimes cause delays. However, these conditions are not unusual in Cornwall and local drivers and visitors accept this and adapt accordingly.
30. Similarly, the statutory consultees on flooding, drainage and sewerage (the Environment Agency and South West Water) raised no objections to the scheme. I am satisfied that, if the appeal were to be successful and planning permission granted, necessary safeguards could be put in place through planning conditions that would ensure the proposed scheme conformed with current standards of water supply, flood protection and drainage.
31. Other objections were raised relating to the ability of the local schools to accommodate additional children. The local education authority acknowledge that the village primary and nearby secondary schools would not be able to accommodate all of the likely additional pupils, but have agreed that these children can be accommodated either by redevelopment of existing temporary accommodation or expansion of Cubert School, subject to the payment of financial contributions. The appellants have submitted a planning obligation made under Section 106 of the Town and Country Planning Act 1990 to cover this, should the appeal be allowed.
32. Similarly, the appellants have agreed to make a proportionate contribution towards the provision or extension of, or improved access to, off-site public open space, including sports pitches, children's play areas, youth provision and allotments.
33. The planning obligation also includes a commitment to make a 54% of the dwellings available as affordable rented or shared ownership housing. If the appeal were to be allowed, this would meet the expectations of the Council's Affordable Housing Team.

Overall Conclusion

34. The Council accepts that it cannot demonstrate it has a 5-year supply of deliverable housing sites. In which case, paragraph 49 of NPPF advises that policies for the supply of housing should not be considered up to date. Paragraph 14 of NPPF says that where policies are out of date then planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

35. The Council's reasons for refusal do not refer to any housing supply policies, but RLP Policy 14, which seeks to resist development in the AGLV is, to some degree, a policy relating to housing supply in that it indirectly seeks to restrict the expansion of built development. Consequently, as noted above, it is not appropriate to regard a conflict with Policy 14 as an absolute embargo on further development at Crantock.
36. The proposed scheme would add to the housing land supply for the Council, thereby helping it to meet the requirement of a 5-year supply of deliverable sites. Furthermore, a high proportion of the dwellings would be affordable housing. Contributions offered through the Section 106 planning obligation would mitigate the impact of the development on school capacity and the need for public open space. Planning conditions would also ensure that the development would be carried out to satisfy the requirements of the highway authority, Environment Agency and South West Water.
37. However, the scheme would result in some harm to the locally valued landscape. More significantly, it would introduce unacceptable harm to the living conditions of the occupants of the bungalows in Carneton Close. Furthermore, the density of development would not be compatible with both the character of this part of the village and the street scene in Trevowah Road. The scheme would also result in the permanent loss of bmv agricultural land. I consider that these are adverse impacts which, taken together, significantly and demonstrably outweigh the benefits. Accordingly, the appeal should be dismissed.

Geoffrey Hill

INSPECTOR