



Appeal Decision

Site visit made on 26 July 2016

by **Nick Fagan BSc (Hons) DipTP MRTPI**

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

Decision date: 16 August 2016

Appeal Ref: APP/W1145/W/16/3148519

Hawkan View, Parkham, Bideford, Devon EX39 5PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Pearce Construction Barnstable Ltd against the decision of Torridge District Council.
 - The application Ref 1/1198/2014/OUTM, dated 14 November 2014, was refused by notice dated 15 October 2015.
 - The development proposed is described as 14 dwellings, access, landscaping, foul and surface water drainage and recreation land for Parish.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline. Originally access, layout and landscaping were to be determined at this stage but the application was amended prior to its refusal and all matters are now reserved.
3. The appellant has submitted two S106 Unilateral Undertakings. The first covers District level obligations: transfer of the northern part of the site to Parkham Parish Council along with a £25,000 maintenance and management contribution and the provision of affordable housing (UU1). The second covers the County level obligations: a contribution of £17,641 towards the cost of secondary school transport for the pupils of Great Torrington College who would be likely to reside in the development (UU2). I address these obligations where necessary below.

Main Issue

4. Whether the amount of affordable housing (AH) and its proposed tenure meet the requirements of local and national policy including in terms of the economic viability of the proposed development.

Reasons

Local and National Policy

5. Policy DVT2 of the Torridge District Local Plan (LP) limits development in rural settlements, including Parkham, to that which seeks to address local social or economic needs. LP Policy HSC2 states that where a community need for AH is established then a balanced mix of types and sizes of dwellings to meet the need will be sought. There is an undisputed need in Parkham for 9 affordable
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rental homes and 1 shared ownership home, and the appellant's development does not address the totality of that need due to its arguments concerning viability. The Council acknowledges that the site is acceptable for development in principle with a mixture of market and AH.

6. Paragraph 50 of the National Planning Policy Framework (NPPF) states that local planning authorities should plan for a mix of housing including a mix of tenures to reflect local demand, and this stipulation includes AH. The appellant argues that no weight should be given to Policy HSC2 because the TDLC is time expired and therefore out-of-date and as a consequence no weight should be given to the Council's *Planning Obligations Supplementary Planning Document* (SPD) either since it is supplementary to this Policy. The Council cannot demonstrate a five year supply of housing. However, NPPF paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Since the Policy is consistent with the Framework it should be accorded full weight, especially as the delivery of housing includes AH.
7. Policy HSC2 does not set out a specific figure of AH that should be delivered as a proportion of market units in villages such as Parkham. The SPD states that 100% of new housing development in the Category B villages like Parkham should be affordable but some cross subsidy may be acceptable subject to viability considerations. The Council's forwarded email dated 4 August 2015 liberalised this strategy in order to improve delivery prospects for AH by allowing a substantial market proportion. As a result the amended policy requirement is now to provide for 40% AH on sites of 3 or more dwellings.
8. Although Planning Practice Guidance now states that AH should not be sought on schemes of under 10 dwellings, this scheme is for 14 dwellings and so the Council's policy still applies. The Council has explained that only 30% is required in the emerging Local Plan because of the combined effects of CIL. I accept on this basis that the Council's current requirement is for 40% of the units on this site to be affordable.
9. Since there is no dispute about the level and tenure of need in Parkham there is no reason why a full amount of affordable housing up to the level of such need should not be provided, subject to viability considerations as set out in NPPF paragraph 173 and Planning Practice Guidance.

The Tenure Issue

10. The appellant has offered 3 alternative tenure mix options in UU1 as follows:
 1. 3 Low Cost Units (LCUs) to be sold at first sale to a residential occupier at a fixed value of £99,950 (or 70% of open market value whichever is the lower) and thereafter a discount of 30% on open market value
 2. 2 LCUs to be sold at first sale to a residential occupier at a fixed value of £84,652 (or 60% of open market value whichever is lower) and thereafter at a discount of 40% on open market value
 3. 1 social rented unit (SRU) and 1 shared ownership unit (SOU)
11. The Council point out that there is no need for LCUs in Parkham; on the contrary the need is predominantly for SRUs. It has also drawn my attention to the definition of what is affordable as set out in the SPD. For the purposes

of shared equity dwellings and low cost home ownership dwellings the price of such units shall not exceed that which could be purchased with a 95% mortgage based on 3.5 x the average annual household income for the District. The current average household income for Torridge is £22,977 so the restricted price using this formula equates to a price of £84,652. This means that Option 1 above does not meet the requirements of the SPD.

12. Low cost market housing in general is in any case specifically excluded from the definition of affordable housing in the NPPF, which was published after the SPD was adopted. So neither Options 1 nor 2 qualify as affordable housing, despite these Options apparently being acceptable to the Parish Council.
13. Option 3 however does meet the current definition of affordable housing. The question is whether 1 SRU and 1 SOU is all that can be delivered in terms of the economic viability of the development and I now turn to this issue.

Viability

14. The Council and appellant have used the same methodology in conducting their viability assessments. The differences are the inputs into their viability assessments. The Council argues that the full policy compliant scheme of 4 SRUs and 2 SOUs as set out in its viability appeal statement¹ would be viable for the developer. In contrast the developer says in its statements that only one of the three above options would be viable². As set out above, I only intend to look at viability in terms of policy compliant tenures, in other words SRUs and SOUs with a respective split of 70:30%. I now turn my attention to the various financial inputs in terms of assessing the above policy compliant scheme.
15. There is now no difference or an insignificant difference between the parties in terms of land value/acquisition costs and the abnormal site costs: the pumping station, rising main, surface water drainage and footpath construction. In terms of the external works costs I agree with the Council that the appellant has double counted the costs of the double garages but because the appellant initially omitted in error £48,000 of external works costs these two figures essentially balance each other out. The parties agree that £30,000 S106 moneys should be added onto the costs of the scheme, but neither appear to include in their figures the £17,641 education contribution, which is also provided in the S106. The costs of this contribution should be added on in favour of the developer. I now address the main inputs in dispute.

Construction Costs for the houses

16. The appellant's gross internal areas of the proposed houses are based on its own house types and I have no reason to dispute its claim that the scheme is 22m² larger than the District Valuer (DV) calculates, adding £21,560 onto the construction cost of the dwellings.

Private Housing Market Value

17. The appellant bases the prospective sales figures of the market houses on the process actually achieved for a similar development it has recently completed and sold at the Hillpark site in Buckland Brewer, a village 2.4 miles away,

¹ 'Proof of Evidence' of William Gill BSc MRICS District Valuer (DV) 13 June 2016

² Underwood Wright Viability Assessment 30 March 2016 & Response to above DV evidence 20 June 2016

taking account of its acknowledgement that some of the proposed houses in this scheme would have more expensive finishes and thus sell for a higher price. In contrast the DV's examples of recent sales relate largely to sales in Bideford. I consider the appellant's figures are more likely to be accurate given its recent more local experience. The difference in the total value is actually £50,000 (£2,230,000-£2,180,000) in favour of the appellant.

Affordable Housing Value

18. There is a significant difference between what the Council say the affordable units could be sold to a registered provider for (a total of £503,750) and what the developer claims (a total of £392,000). The DV says that his sale prices for 2 and 3 bedroom SR units are based in his experience of recent cases in the District whereas the appellant's figures appear to be general and anecdotal. The main difference is in the value of the shared 2-bedroom SO units; the appellant values them at £86,000 whereas the DV values them at £113,850 by reference to comparable schemes elsewhere in the District. It is unclear where the appellant's figure comes from. I consider the DV's figures both for the SR and SO units to be more likely and realistic. The difference in value is £111,750 in the Council's favour.

Contingency on Build Costs

19. The Council argues that a 3% contingency should be sufficient for such a greenfield site and evidences this by reference to a number of recent local examples. However, the Council's figure does not appear to take into account a contingency on anything other than the housing construction costs and seems to exclude the costs of the garages and external works. The appellant argues that there are a number of factors that suggest a 5% contingency is more realistic for this site. I am inclined to split the difference between the parties on the contingency issue, which would result in about an additional £20,000 in the developer's favour.

Professional Fees

20. Both parties say these should be 7% of the costs but for some unexplained reason the Council appears to exclude any fees in respect of the external works costs, which gives a difference of £22,594 in favour of the developer (£118,254-£95,660).

Marketing of Market Housing

21. The developer calculates the marketing costs in a slightly different way from the Council, giving a figure of £55,560 compared to the Council's figure of £49,509. For the purposes of this assessment I will take the developer's estimate, which favours it by the difference of £6,051.

Profit Levels

22. This is clearly the most important difference between the parties and seems to be on the basis as to whether the developer is assessing its return as a percentage of the costs of the scheme or a percentage of its gross development value (GDV). It should be the latter. The DV has evidenced a number of recent local schemes where the blended profit levels were 18.64% as set out in its appraisal for the policy compliant scheme. He has also drawn my attention to a number of appeals since the 2008 recession where the

blended profit levels on GDV on other market/affordable schemes were as low as 15.5% and pointed out that profit levels of 15% were routinely seen prior to the downturn, which I agree with. For these reasons the Council's blended profit level of 18.64% is more than reasonable.

Conclusion on Viability

23. Taking into account all the above inputs I agree that there are about £138,850 in unaccounted costs that should be added onto the viability calculation. But the developer has underestimated the value of the affordable units as set out above to the tune of £111,750. This gives a balance of £27,100 which must be added on in favour of the developer.
24. However, I agree with the DV's assumed profit level for the above reasons. The assessment has been made in respect of the policy compliant scheme of 4 SRUs and 2 SOUs (which is actually slightly less than the 70:30 SR:SO policy compliant split). I agree that amount of AH would not be viable – it would only generate a profit of just over 8%. But the relevant test is whether more AH units could be provided whilst still allowing the scheme to be viable. The balance of £27,100 in favour of the appellant would mean that at least one additional SR unit if not two could be delivered whilst still retaining a profit of more than 17%, a level which is adequate for this site. Such a level of AH would be closer to the fully policy compliant scheme.
25. I conclude that the amount of AH and its proposed tenure do not meet the requirements of local and national policy including in terms of the economic viability of the proposed development for the reasons set out above. There is a pressing need for AH in the area and failure to deliver affordable units up to the level of viability is contrary to local and national policy and consequently unacceptable.

Other Matters

26. The appellant has drawn my attention to two other sites³ where the Council has not required 40% of the units to be affordable. However, the Council has explained why those sites are not comparable and I agree with it for the reasons given. In any case, even if other schemes had been allowed contrary to adopted policy at the time, this scheme should be determined on its own merits in the light of current policy.
27. The UUs are the mechanism for delivering the affordable housing and various financial contributions necessary to mitigate the impacts of the development, all of which would be necessary and justified if I had concluded in favour of the development on the main issue. But, since I have not, there is no need for me to consider these obligations any further.

Conclusion

28. For the reasons given above I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR

³ Pebbleridge Road Westward Ho! and Chapel Road Parkham

Richborough Estates