

Appeal Decision

Site visit made on 14 November 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 20 December 2016

Appeal Ref: APP/D0840/W/16/3157449

Land at Church Road, Illogan, Redruth, Cornwall

- 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 the Truro Diocesan Board of Finance against the decision of Cornwall Council.
 - The application Ref PA15/09245, dated 2 October 2015, was refused by notice dated 28 June 2016.
 - The development proposed is residential development of the land, to include affordable housing.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of the land, to include affordable housing at land at Church Road, Illogan, Redruth, Cornwall in accordance with the terms of the application Ref PA15/09245, dated 2 October 2015, subject to the schedule of conditions in this decision.

Application for Costs

2. An application for costs was made by the Truro Diocesan Board of Finance against Cornwall Council, which is the subject of a separate decision.

Procedural Matters

3. The application was made in outline with matters of appearance, landscaping, layout and scale reserved (the 'reserved matters'). As such the plans supporting the application are illustrative of the development proposed, other than in so far as they relate to access which is not a reserved matter.
4. The original proposal was for development described on the application form as the 'erection of 33 dwellings'. However in the course of the Council's determination of the application the number of dwellings proposed was omitted.¹ I have therefore used the description of development in the banner heading above as was given within the Council's decision notice.

¹ As explained in paragraph 75 of the Council's officer report dated 7 March 2016.

5. As a consequence I have also determined the appeal with reference only to plans entitled 1037442.01 and 1037442.03 A which the main parties agree remain relevant in this context, the former being a site location plan and the latter an illustration of the access proposed.
6. A signed copy of a unilateral undertaking, dated 7 November 2016, is before me (the 'undertaking'). This relates, amongst other matters, to the provision of affordable housing. As the main parties have had the opportunity to comment upon it at appeal, I have had regard to the undertaking in determining the appeal as explained subsequently.

Planning Background

7. The Council cited within their decision notice that the proposal would conflict only with elements of the National Planning Policy Framework (the 'Framework') as at the time that their decision was taken there was no adopted development plan encompassing the appeal site. However on 22 November 2016 the Council adopted the Cornwall Local Plan: Strategic Policies 2010-2030 (the 'Local Plan').
8. Nevertheless policies of the Local Plan, then emerging rather than adopted, were considered within the Council's appeal statement. The appellant has also commented upon the changing policy context at appeal. I have therefore determined the appeal in line with the statutory basis for decision-taking, i.e. in accordance with the development plan unless material considerations indicate otherwise.

Main Issue

9. Notwithstanding the significant number of representations made in respect of the proposal, the main issue in dispute based on the information before me, and therefore the main issue in this appeal, is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

10. The appeal site is an untended field which falls at a north-westerly reach of the village of Illogan. It bounds the cemetery associated with the Grade II Listed Church of St Illogan, Church Road, the plots associated with the Rectory and the Harris Memorial Surgery, and Manningham Woods. At a slightly higher ground level than the adjoining carriageway, the appeal site is largely flat and demarcated variously by boundary walls, fences and vegetation.
11. There is a permissive footpath running along the western edge of the site which I understand is owned by the appellant and let to Illogan Parish Council. The appellant has set out that it is not intended that the development proposed would result in any change or interruption to the footpath. The basis on which the footpath land is let to the Parish Council is a private legal arrangement, and

the physical preservation thereof relates to the layout of the proposal which is a reserved matter.

12. From the representations made in respect of the proposal from nearby residents, and from the connecting role that the footpath serves between certain properties of the village and the primary school, village hall, Church, and wider countryside, it is clear that this footpath is regularly frequented. Many nearby residents have explained that the essentially natural and open character of the appeal site contributes to a pleasant walking experience here and more generally to the semi-rural character of Illogan, observations with which I concur.
13. I also appreciate that development has historically not occurred in this location in preference to elsewhere around the village. This lends the appeal site some significance in understanding the evolution of the area. Whilst the appeal site is subject to no particular protective landscape or heritage designations related to its character, this does not mean that it is unworthy of recognition or indeed protection commensurate with its value in respect of character and appearance. Indeed the Planning Practice Guidance (the 'Guidance') sets out that open space extends to 'all open space of public value'.²
14. Although essentially natural and open in character the appeal site nevertheless falls in close proximity to various properties of the village, notably those along Church Road, and a range of services and facilities catering for day-to-day needs are within a convenient walking distance. It therefore appeared to me that the appeal site is closely integrated visually and physically within the built form of Illogan, albeit in character representing a transitional space between the village and the countryside beyond towards the north-west.
15. The neighbouring cemetery and Manningham Woods are recognised public open spaces within the Council's Open Space Strategy for Larger Towns in Cornwall dated July 2014 (the 'Space Strategy'). However the appeal site is currently within private ownership, and there is no definitive evidence before me to establish that it has previously been otherwise. Whilst it may have formerly been used for occasional livestock grazing, it is not presently in agricultural use but rather simply vacant.
16. The appeal site falls within the Redruth, Camborne and Gwennap Landscape Character Area as identified with the Cornwall and Isles of Scilly Landscape Character Study released in 2008 (the 'Character Study'). This character area is therein described as a rolling pastoral landscape of irregular fields. However views of the wider landscape from, and with reference to, the appeal site are limited by the topography of the land, the boundary features of the site, and indeed by the presence of surrounding properties. The appeal site consequently does not in my view contribute strongly to the natural landscape characteristics of the wider area.
17. Returning to the Space Strategy, this identifies that Illogan has a comparatively high level of publicly accessible parks and amenity space, and a significant quantity of natural and readily accessible open space nearby. Although the

² Reference ID: 37-001-20140306.

appeal site is clearly valued locally, it nevertheless therefore appears that there are various other public open spaces within reasonably close proximity. Indeed the site is private, it is not intended that the proposal would affect the footpath, and the Council do not object to the proposal in respect of its effects upon ecology. Consequently development here cannot be said to hamper connectivity with the wider countryside or Area of Outstanding Natural Beauty,³ or indeed to conflict with the approach in policy 25 'Green infrastructure' of the Local Plan.

18. Policy 3 'Role and function of places' of the Local Plan supports appropriate residential development at Camborne with Pool, Illogan and Redruth. Some land is indicatively allocated for housing development in Illogan along Bridge Road which falls a short distance to the east of the appeal site within the emerging Site Allocations Development Plan Document (the 'DPD'). Thus the Council do not appear to object to the principle of residential development in this area subject to its suitability in other respects.
19. However policy 12 'Design' of the Local Plan sets out that proposals must maintain and enhance Cornwall's distinctive natural and historic character and respond appropriately to their setting. The Framework similarly establishes that planning should take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside, and that planning decisions should aim to ensure that development integrates appropriately with its surroundings.
20. The proposal would inevitably introduce a built form in what is presently an open natural environment to the detriment of its intrinsic character, the semi-rural character of the village in this location and indeed to an understanding of the historic evolution of Illogan. On the face of it, this brings the proposal into conflict with the approach in policy 12 of the Local Plan and with relevant elements of the Framework as identified above.
21. However whilst the proposal would be visible and prominent from vantage points along Church Lane and the footpath in particular, the Council accept that based on the appellant's Landscape and Visual Impact Assessment,⁴ the effect of the proposal would be essentially confined to an area close to the site on account of the topography of the area and the presence of surrounding features.⁵ I have also identified above how the appeal site is closely integrated with the built form of the village and does not contribute strongly to the landscape characteristics of the wider area.
22. In this context the effect of the development is qualified by its surrounding context such that I conclude that only limited harm would result in terms of its effect on the character and appearance of the area. I now turn to the other considerations relevant to the proposal in order to determine whether, overall, the development is acceptable.

³ An aim of the Cornwall Area of Outstanding Natural Beauty Management Plan 2016-2021 which has been brought to my attention by nearby residents.

⁴ Prepared by Richard Sneesby Landscape Architects, dated 26 August 2016, which is stated to have been prepared in line with the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment (2013).

⁵ As set out in paragraph 5.6 of their appeal statement.

Other considerations and balancing exercise

23. Policy 2a 'Key targets' of the Local Plan sets an overall housing requirement for the plan period of 52,500 homes, 5,200 of which are intended to be delivered within the Camborne-Pool-Illogan-Redruth area. Policy 8, 'Affordable Housing' of the emerging plan requires that for development exceeding 10 dwellings within 'zone 5' of the Council's administrative area, as is the location of the appeal site, 25 per cent of units should be affordable homes.
24. The Framework similarly establishes that it is the purpose of the planning system to contribute to the achievement of sustainable development, i.e. the pursuit of economic, social and environmental gains jointly and simultaneously, and seeks to boost significantly the supply of housing in order to meet full objectively assessed needs for market and affordable homes.
25. In reporting that, subject to a number of modifications, the Local Plan was sound on 23 September 2016, the examining inspector set out that 'it is necessary to ensure that the [housing] requirement of 52,500 is met and is not interpreted in the future as a cap or ceiling on housing delivery as there is no evidence to justify such an approach'. The examining inspector's report is silent, however, as to whether a five year land supply presently exists given that it is the Council's intention to establish this through site allocations plans and neighbourhood plans which are at varying stages of preparation.⁶
26. The appeal site is not allocated for development within the emerging DPD, which instead proposes that the remaining target for housing delivery in this area which is not yet accounted for is met by land identified as the 'Tolgus Urban Extension, Phase 2'. There is limited information before me as to the intended timescale of housing delivery for this site.
27. The Council have explained that there is significant need for affordable housing at present in the area. I understand that 269 households are registered with the Council in this context, which is described within the Council's officer report associated with the proposal as representing an 'acute need' for affordable homes. The emerging DPD is at a relatively early stage of preparation, and in this context I can only reasonably accord it limited weight. Similarly as the Illogan neighbourhood plan is at an early stage of preparation and as no specific policies thereof have been brought to my attention with a bearing upon the appeal site, I likewise cannot accord it substantive weight.
28. The proposal would provide for a significant number of homes in a location close to services and facilities and in an area where the Local Plan supports residential development in principle. This brings the proposal into compliance with policy 2a of the Local Plan, where the housing requirement is not expressed as a maximum, which carries some weight in favour of the proposal.
29. The undertaking associated with the proposal, dated 23 November, requires that 25 per cent of the homes delivered on site would be affordable as defined by the Framework, which would be secured through an affordable housing scheme agreed with the Council. The Council are of the view that the

⁶ At paragraphs 140 and 149 thereof in particular.

undertaking would in this respect both achieve its purpose and is robust, and there is nothing in the information before me to arrive at a different assessment.⁷

30. It is therefore not disputed that the undertaking brings the proposal into compliance with the requirements of policy 8 and would thereby make provision for a number of affordable homes. This carries significant weight in favour of the proposal given that there is an acute need for affordable homes in the area at present and given that the emerging DPD is at an early stage of preparation and therefore the housing therein allocated will inevitably take some time to come forward.
31. There would also be notably social and economic benefits that would arise from the proposal both in supporting employment during construction and as future occupants would make use of nearby services and facilities. This carries some further weight in favour of the development proposed.
32. For the above reasons significant weight can be accorded to the benefits of the proposal in respect of housing delivery relative to local needs and indeed the other social and economic benefits that would result (with reference to the approach in the Local Plan and the Framework). I therefore conclude that the other considerations relevant to the development clearly outweigh the limited harm that would arise in respect of character and appearance, being the sole matter in dispute as set out above.
33. For the avoidance of doubt I have reached this finding irrespective of whether or not the Council are able to demonstrate a five-year land supply. Where a 5 year land supply is not present, regard should be had to the approach in paragraph 14 of the Framework whereby permission should generally be granted unless the adverse impacts 'significantly and demonstrably outweigh the benefits'. It is therefore unnecessary for me to reach a finding as to whether the Council can demonstrate a five year supply given that considered without reference to paragraph 14 the benefits of the proposal outweigh the harm that would arise.

Other Matters

34. I have considered the relevant provisions of the undertaking related to affordable housing above. The undertaking contains three further obligations: financial contributions in respect of open space, education, and a Traffic Regulation Order related to Church Road. I am satisfied on the basis of the evidence before me that each obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.⁸ The Council have set out that in respect of each obligation no more than five pooled contributions will have been received, which also brings the undertaking into compliance with relevant statutory requirements. The appropriateness of the undertaking in

⁷ With reference to the approach in paragraphs 203 and 204 of the Framework and Regulations 122 and 123 of the Community Infrastructure Regulations 2010 as amended (the 'CIL Regulations').

⁸ Ibid.

- purpose and detail is not disputed, and I have no reason to disagree with this assessment.
35. There is some reference within the information before me to the Parish Council potentially seeking to ensure that the appeal site is put to community use or purchased as such. However there is no substantive information before me in respect of whether this is actively being pursued, its certainty, or the stage that such an approach has reached.
36. The Council cited in their decision notice that the proposal would conflict with the approach within paragraph 131 of the Framework, which is referred to above in general terms given that this relates to considering in decision-taking the contribution made by development to local distinctiveness. However this paragraph falls within Section 12 of the Framework which relates to conserving and enhancing the historic environment, and it is acknowledged that the proposal would have some effect upon several heritage assets.⁹
37. However the Council do not cite within their decision notice or within the information submitted at appeal that the proposal would fail to preserve the significance of these assets in line with statutory requirements and the approach in the Framework.¹⁰ There is nothing in the information before me to lead me to a different conclusion as the relevant assets are outside of the appeal site and inevitably viewed in conjunction with the surrounding built form of the village. Consideration of appearance and landscaping at reserved matters stage can further ensure that the development is appropriate in this regard.
38. The appeal site is Grade 3a agricultural land, 'best and most versatile' agricultural land as defined by the Framework. However the loss thereof would be fractional and the Council indicate that the development of agricultural land will in any event be required to meet housing needs for the area. I would further note that the appeal site is not presently in agricultural use, nor apparently intended to be used for such.
39. I have given thorough consideration to the petition against the development and to the concerns raised by many nearby residents, including the potential effects of the proposal regarding traffic generation and safety, design, parking provision, flooding, ecological impact and trees, contamination, local infrastructure capacity, crime, safety and anti-social behaviour. I have also noted those points made to the effect that the land should be used in preference for other purposes including in association with the adjacent cemetery, regarding recent development permitted elsewhere in the wider area, in relation to the affordability of homes for those in the local community, and regarding the extent of consultation conducted on and motivation behind the proposal.

⁹ In relation to six Listed Buildings, a schedule monument, and the Cornwall and West Devon Mining Landscape World Heritage Site.

¹⁰ With reference to the appellant's Built Heritage Statement, prepared by CgMs Consulting, Ref HB/TC/21125, dated December 2015, and Built Heritage Appeal Statement, Prepared by RPS CgMs, Ref JCG21125, dated July 2016.

40. I do not treat these concerns lightly, however some are not relevant to planning such as the motivation behind the proposal, and there is no evidence before me to indicate that the appeal site has ever been reserved for an alternative use such as in connection with the cemetery. Other concerns do not form part of the Council's case at appeal, such as the effect of the proposal on local infrastructure capacity. Some concerns also fall chiefly to applications for reserved matters such as design, safety and effect upon nearby trees, and others to matters that can be addressed via the imposition of suitable conditions or via the undertaking as explained above. Therefore neither these matters, nor any other matters, are of such significance so as to alter my findings in respect of the acceptability of the development.

Conclusion

41. The proposal would conflict with policy 12 of the Local Plan and certain elements of the Framework. However I am of the view that the harm arising in respect of character and appearance would be limited. This harm would be clearly outweighed by the significant benefits of the proposal in respect of housing delivery and other social and economic benefits, which bring the proposal into compliance with policies 2a and 8 of the Local Plan as a consequence, and with other relevant elements of the Framework.
42. Having taken into account all other matters raised, I therefore conclude that the proposal complies with the development plan taken as a whole and with the approach in the Framework. The proposal represents sustainable development and, accordingly, I allow the appeal subject to the submitted undertaking and the conditions set out below.

Conditions

43. It is necessary to impose conditions limiting the life of the planning permission and setting out requirements for the reserved matters to accord with relevant legislative provisions. In so far as the plans associated with the application relate to access it is necessary to require via condition that the development hereby permitted is carried out in accordance with them for the avoidance of doubt and in the interests of proper planning.
44. I agree with the Council that in order to minimise the effects of the proposal on the living conditions of those nearby during construction it is necessary to require that development is undertaken in line with an agreed construction and environmental management plan, which must necessarily be established before any development is begun, and undertaken only within specified times. In order to ensure highway safety, it is also necessary to specify via condition that before any dwelling hereby permitted is occupied, appropriate vehicular access is established and thereafter maintained.
45. I also agree with the Council, given the potential presence of archaeological remains at the appeal site,¹¹ that it is necessary to impose a condition specifying the approach to be taken to appropriately record any noteworthy archaeology features that may be revealed during the course of development.

¹¹ As referred to in paragraphs 52-54 of the Council's officer report dated 7 March 2016, where a 'sub surface survey' is referenced which 'revealed some results of potential interest'.

This condition must necessarily apply before any development is undertaken given that any such works have the potential to disturb archaeological remains.

46. I have taken account of the submissions before me in respect of the potential presence of buried animal carcasses within the appeal site, which may have been infected with anthrax. There is no definitive evidence before me to substantiate that such carcasses are present, however equally no definitive information to indicate that none are present. Whilst the risks associated with carcass exhumation are generally low,¹² on this basis it is nevertheless in my view necessary to impose a condition setting out the process that must be followed in the event that any livestock carcasses are discovered during building operations.
47. In imposing conditions I have had regard to the tests within the Framework, the Planning Practice Guidance, and relevant statute,¹³ and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout and scale of the development proposed (herein after called the 'reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place, and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision, and the development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with approved plans 1037442.01 and 1037442.03 A but only in respect of those matters not reserved for later approval.
- 4) No development hereby permitted shall take place until a Construction and Environmental Management Plan has been submitted to and approved in writing by the local planning authority (which shall include details of general environmental management considerations related to the construction phase, dust mitigation measures, details of roles and responsibilities related to the development proposed, monitoring and reporting, emergency measures, and arrangements for community and stakeholder relations and

¹² With reference to Public Health England's Guidance of assessing risk of anthrax on building land, dated September 2014.

¹³ Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

training). The development shall be carried out in accordance with the details thus approved.

- 5) No construction works related to the development hereby permitted shall take place outside of the following hours: 0800-1800 Mondays to Fridays and 0800-1300 on Saturdays. No construction works related to the development hereby permitted shall take place on Sundays, on public holidays or on bank holidays. Any construction works proposed outside of these hours shall only take place with the prior written agreement of the local planning authority. For the purposes of this condition, construction work shall include the use of any plant or machinery, the cleaning or maintenance of any plant or machinery, deliveries to the site and the movement of vehicles within the curtilage of the site.
- 6) Before any dwelling hereby permitted is first occupied the alterations to the access to allow for visibility splays shall be implemented in accordance with approved plans, and thereafter maintained as such and neither obstructed nor used for any other purpose.
- 7) No development hereby permitted shall take place until a programme of archaeological work has been submitted to and approved in writing by the local planning authority (which shall include a written scheme of investigation and details regarding how any archaeology will be assessed, researched, a phased work programme, and a methodology for investigation, analysis, recording, publication, archiving and arrangements for the nomination of a competent person to undertake such activities). The development shall be carried out in accordance with the details thus approved.
- 8) If during the undertaking of the development hereby permitted any buried livestock carcasses are discovered, any works associated with the development hereby permitted shall cease immediately. Works shall only be resumed once an approach to addressing this matter has been agreed in writing by the local planning authority, and shall proceed in line with the approach thus agreed.