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## Appeal Decision

Site visit made on 9 August 2017

**by Thomas Bristow BA MSc MRTPI**

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

**Decision date: 11 September 2017**

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**Appeal Ref: APP/D0840/W/17/3171099**

**Land at Fore Street, Barripper, Camborne TQ14 0QR**

- 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 Poltair Housing Ltd. against the decision of Cornwall Council.
  - The application Ref PA16/09196, dated 30 September 2016, was refused by notice dated 7 February 2017.
  - The development proposed is described on the application form as 'residential development comprising a cross subsidy scheme for 20 dwellings (10 affordable and 10 open market) together with access, estate roads and landscaping.'
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### Decision

1. The appeal is allowed and planning permission is granted for residential development comprising a cross subsidy scheme for 20 dwellings (10 affordable and 10 open market) together with access, estate roads and landscaping in accordance with the terms of the application Ref PA16/09196, dated 30 September 2016, subject to the schedule of conditions in this decision and the associated unilateral undertaking dated 31 July 2017.

### Application for costs

2. An application for costs was made by Poltair Housing Ltd. against Cornwall Council, which is the subject of a separate decision.

### Preliminary matters

3. Certain plans were amended during the Council's determination of the application.<sup>1</sup> These amendments relate to relatively minor aspects of design, and all parties have had the opportunity to comment on them. I have therefore determined the appeal based on the scheme before the Council at the time of their decision on application Ref PA16/09196.
4. A significant number of local residents requested that the appeal be dealt with via hearing. Nevertheless, with regard to the issues at hand and level of local interest, the written representations procedure is appropriate.<sup>2</sup> I have considered all representations made in determining the appeal.

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<sup>1</sup> As set out in paragraph 67 of the Council's officer report.

<sup>2</sup> With regard to Section 319A of the Town and Country Planning Act 1990 as amended.

5. The decision notice states that the proposal would conflict with policies 1, 2, 3, 12 and 23 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (adopted November 2016, the 'LP').<sup>3</sup> However the Council explain at appeal that the proposal 'meets with the requirements' of LP policy 9 'Rural Exception Sites'.<sup>4</sup> No neighbourhood plan has been brought to my attention which has reached significant milestones in terms of its preparation, or which contains policies relevant to the development in this appeal.<sup>5</sup>
6. LP policy 9 supports, in principle, affordable housing led schemes in rural locations where residential development would not normally be allowed. Rural exception sites are also supported by the National Planning Policy Framework (the 'Framework').<sup>6</sup> The appeal site is adjacent to the north-eastern extent of the village of Barrripper. 50% of the dwellings proposed would be secured as affordable housing by way of a unilateral undertaking dated 31 July 2017 (the 'UU'), which also includes obligations related to open space provision and education infrastructure.
7. The Council explain at appeal that they consider that the UU would bring the proposal into compliance with relevant policy requirements, and that it would be effective in practice.<sup>7</sup> The Council does not dispute that 50% affordable housing provision in this instance is appropriate, with regard to the appellant's viability evidence and the provisions of LP policy 9. There is nothing before me to lead me to different conclusions in these respects.
8. However the support accorded to rural exception sites via LP policy 9 and the Framework is not unconditional. LP policy 9 explains that such development must be 'well related to the physical form of the settlement and appropriate in scale, character and appearance'. The Framework also establishes that all development should recognise the intrinsic character and beauty of the countryside, and that it appropriate to seek to reinforce local distinctiveness.<sup>8</sup>

### **Main issue**

9. Given the context set out above, the main issue is the effect of the development proposed on the character and appearance of the area.

### **Reasons**

10. The appeal site is a triangular field of approximately 0.57 hectares used for grazing. It is adjacent to, and at higher level than, Fore Street towards the north-east of the main built form of Barrripper.<sup>9</sup> Barrripper originated as an historic settlement centred on New Road and the village Church, and has expanded considerably over time.<sup>10</sup>

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<sup>3</sup> Entitled respectively 'Presumption in favour of sustainable development', 'Spatial strategy', 'Role and function of places', 'Design' and 'Natural environment'.

<sup>4</sup> Council statement of case, paragraph 5.8.

<sup>5</sup> Council officer report, paragraph 9 and Council appeal statement, paragraph 5.6.

<sup>6</sup> Paragraph 54, rural exception sites as defined in the glossary to the Framework.

<sup>7</sup> Including the relevant elements of LP policies 9 'Rural exception sites', 25 'Green infrastructure', 28

'Infrastructure', the Council's Open Space Strategy for the Larger Towns in Cornwall- Recommendation for future provision standards 2014, Education Infrastructure Needs Assessment work, and the requirements of Regulations 122 and 123 of the Community Infrastructure Regulations (2010) as amended.

<sup>8</sup> Including at paragraphs 17, 60, and 61.

<sup>9</sup> Around the location where Barrripper Road becomes Fore Street.

<sup>10</sup> Council statement of case, paragraph 5.3.

11. Several streets characterised by relatively modern bungalows of understated design and suburban layout fall between the historic centre of the village and the appeal site. The pattern of development adjacent to the appeal site is more sporadic; several holiday cottages are situated to the south, there is one dwelling opposite, and a small cluster of buildings to the north.<sup>11</sup>
12. The pavement alongside Fore Street next to the appeal site leads continuously to the centre of the village and, in the opposite direction, to Penponds primary school and Camborne beyond.<sup>12</sup> The appeal site is therefore relatively conveniently located in relation to nearby services and facilities.<sup>13</sup>
13. The appeal site falls within landscape character area CA11, Redruth Camborne and Gwennap, as described in the Cornwall and Isles of Scilly Landscape Character Study published in 2008 ('LCS'). The LCS describes the surrounding landscape as characterised by a rolling, predominantly pastoral, patchwork of fields demarcated by traditional hedgerows. Being laid to grass and falling outside the established built form of Barripper, in character the appeal site represents part of the countryside and reflects certain characteristics of CA11.
14. The development proposed would be partially visible from Fore Street, particularly near the access proposed, and from more distant vantage points around Penponds School in particular. By introducing built development in what is presently a natural area of land, the proposal would inevitably alter the character of the area to some extent.
15. I accept that the appeal site provides a natural break between Barripper and the cluster of buildings to the north. However neither the appeal site nor its immediate surroundings are subject to any protective designations related to landscape character. Moreover, aside from field accesses, the appeal site is bounded by substantial hedgerows and trees. The presence of such, combined with the elevation of the site relative to Fore Street, result in their being few nearby vantage points from which the appeal site is seen in conjunction with the wider landscape or contributes significantly to a sense of openness.
16. The principal visual contribution of the appeal site to the character of the area is therefore its hedgerows, in particular that which faces Fore Street (there are no nearby public rights of way to the rear of the appeal site relative to Fore Street). Whilst approximately 16 metres of hedgerow would be removed in order to facilitate access, the vast majority of the hedgerows bounding the appeal site would be retained, which would significantly limit the visual effects of the development proposed.<sup>14</sup>
17. Furthermore the LCS describes that CA11 is a well populated landscape, with many built structures giving the area a 'cluttered appearance'. This is not to say that preserving natural landscape character is unimportant. However it is relevant in respect of the baseline characteristics of the area: an open rural character is somewhat qualified.

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<sup>11</sup> Including Penventon House, Grade II Listed Adjewhella and a former Methodist Chapel.

<sup>12</sup> As noted by the inspector in appeal Ref APP/D0840/W/16/3142806, paragraph 12.

<sup>13</sup> The Council raises no objection to the location of the development proposed with regard to the proximity of nearby services and facilities catering for day-to-day needs.

<sup>14</sup> A figure quoted by the Council in paragraph 5.10 of their appeal statement.

18. From most, if not all, vantage points from which the development proposed would be apparent, it would be visible either in conjunction with buildings nearby or the established built form of Barripper. Moreover the appeal site represents a small element of the setting of the village, which elsewhere is more clearly open and rural in character (particularly to the south-east and south-west of the historic centre, which has not been so affected by modern development in the passage of time).
19. I acknowledge that the proposal would inevitably result in change. However having regard to the character of the appeal site and its surroundings, and the highly limited effect of the development proposed in this context, I conclude that the proposal would not result in an unacceptable effect on the character and appearance of the area. I therefore find that no substantive conflict arises with the relevant provisions of LP policies, 9, 12 'Design' or 23 'Natural environment',<sup>15</sup> or with relevant elements of the Framework cited in paragraph 8 of this decision.

### **Other matters**

20. There is no evidence before me to indicate that the Council are unable to demonstrate a five year land supply of deliverable housing sites relative to needs.<sup>16</sup> Nevertheless the housing target set within LP policy 2a 'Key targets' is expressed as a minimum. Development brought forward in compliance with LP policy 9, such as the development here, will also contribute towards the housing target set for the Camborne, Pool and Illogan Community Network Area in which the appeal site falls (the 'CNA').<sup>17</sup>
21. I acknowledge that the Council's emerging Site Allocation Development Plan Document ('DPD') seeks to prioritise the use of previously developed land. However such prioritisation does not mean that development elsewhere is impermissible, and the DPD cannot yet be accorded full weight on account of its stage of preparation.
22. The Council furthermore indicates that there is a significant need for affordable housing in Camborne at present.<sup>18</sup> Whilst I accept that rural exception sites must relate to the needs of the local community,<sup>19</sup> Barripper falls within the Parish of Camborne and, as established above, is closely connected to the town of Camborne. The UU furthermore contains clauses related to 'local connection' and 'qualifying person[s]' which would give priority to local needs in respect of the occupation of the affordable housing proposed.
23. I have considered the concerns raised by nearby residents including in respect of the potential effects of the development proposed on Grade II Listed

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<sup>15</sup> Policy 9 as explained above. LP policy 12 'Design', in summary, seeks to ensure that all development integrates appropriately with the character of its surroundings, and LP policy 23 'Natural environment' seeks to ensure that development sustains local distinctiveness.

<sup>16</sup> With regard to paragraph 5.4 of the Council's appeal statement and with reference to paragraphs 47, 49 and 14 of the Framework.

<sup>17</sup> 1,000 homes set via LP policy 2a outside of main settlements, in respect of which completions and consents to date plus windfall expectations amounts to 888 homes as set out in LP Table 1.

<sup>18</sup> A figure of 1,023 households in need of affordable housing with a local connection to the Parish is given in paragraph 36 of the Council's officer report.

<sup>19</sup> With the terms of the Framework and with reference to the decision handed down in *Old Hunstanton Parish Council v Secretary of State for Communities and Local Government & Ors* [2015] EWHC 1958 (Admin).

Adjewhella and the adjacent former Methodist Chapel, flooding, infrastructure capacity, traffic generation and safety, and the potential for a precedent to be set were the appeal to be allowed.

24. Given the separation distance between both Adjewhella and the former Methodist Chapel and the appeal site, alongside the boundary treatments proposed and the character of the surrounding area described above, in my view the development proposed would suitably preserve the setting of these assets.<sup>20</sup>
25. I acknowledge that parts of Barripper other than the appeal site are vulnerable to flooding, and that South West Water have commented that there is insufficient capacity in the existing public sewerage system to accommodate the uplift that would result from the proposal.<sup>21</sup> However subject to a suitably-worded condition, I am satisfied that the proposal itself would not result in unacceptable effects in relation to flooding or sewerage on site or elsewhere.<sup>22</sup>
26. As set out above, in making provision for contributions towards public open space and education provision, the UU brings the proposal into compliance with relevant LP policies related to infrastructure provision. There is no robust evidence before me to indicate that the vehicular access proposed would be anything other than suitable, or that the uplift in vehicular movements resulting from the development proposed would be detrimental to the safe or efficient operation of the highway network.
27. Each proposal must be determined on its merits, and I have explained above how it is the particular nature of the development proposed and its surrounding context that render it acceptable. As such I am not of the view that allowing this appeal would set an undue precedent. Accordingly neither this, nor any other matter, is sufficient to outweigh or alter my reasoning in respect of the main issue in this appeal.

## Conclusion

28. For the above reasons, and having taken all other relevant matters into account, the proposal accords with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be allowed subject to the schedule of conditions below and the associated unilateral undertaking dated 31 July 2017.

## Conditions

29. I have imposed a condition requiring compliance with the relevant plans in the interests of certainty. Whilst indications of the external materials to be used have been set out in the application documentation, I have nevertheless imposed an associated condition to ensure that the precise details of such are

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<sup>20</sup> With regard to the duty placed upon me by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. My finding is consistent with that of the Council who explain in paragraph 5.13 of their appeal statement that 'these heritage assets will not be directly affected by the proposal and their setting will not be significantly affected'.

<sup>21</sup> As explained in the Drainage Strategy Report Ref SDP/2016/ForeSt/DSR001 Issue 01, dated September 2016.

<sup>22</sup> As is a position consistent with that of the Council and the Environment Agency, as explained in paragraph 5.14 of the Council's appeal statement.

agreed (in order to ensure that the development integrates appropriately with its surroundings).

30. Conditions are also necessary to ensure that drainage provision is appropriate, access visibility adequate with regard to highway safety, and that unacceptable effects to ecology do not result as a consequence of construction (with reference to relevant plans and documents supporting application Ref PA16/09196).<sup>23</sup>
31. I have further imposed conditions requiring that any on-site open space is implemented and maintained, and that a geophysical survey is undertaken. The former is necessary to ensure that any on site open space is adequately provided and maintained in a suitable condition, and the latter to ensure that any relevant archaeological remains are identified and recorded.<sup>24</sup> The latter must necessarily apply to any development hereby permitted given that any development may affect the ability to identify archaeological remains.
32. In imposing conditions I have had regard to the tests within the Framework, the Planning Practice Guidance and relevant statute,<sup>25</sup> and have amended the wording of certain conditions proposed by the Council without altering their aim.

*Thomas Bristow*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P.04 C, P.05, P.06 3D, P.20 A, P.21, P.22 A, P.23 B, P.24 A, P.25 A, P.26, P.27 A, P.28 A.
- 3) No development hereby permitted above the damp proof course level of any dwelling shall take place until details of the external materials to be used have been agreed in writing by the local planning authority (including doors, windows, lintels, sills, stonework, roof slates and their method of fixing). Development shall be carried out in accordance with the details thus agreed.
- 4) The drainage provision associated with the dwellings hereby permitted shall be implemented, and thereafter managed and maintained in perpetuity, in accordance with the details and timetable provided in the Drainage Strategy Report Ref SDP/2016/ForeSt/DSR001 Issue 01, dated September 2016.

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<sup>23</sup> And in order to ensure compliance with the approach in relevant provisions of LP policies 26 'Flood risk management and coastal change', 27 'Transport and accessibility' and 23 'Natural Environment' as the case may be.

<sup>24</sup> Pursuant to paragraphs 73 and 141 of the Framework respectively.

<sup>25</sup> 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.

- 5) Before any dwelling hereby permitted is first occupied, the visibility splays and access point shall be provided and constructed in accordance with approved plan P.04 C and shall thereafter be retained as such in perpetuity.
- 6) The development hereby permitted shall be carried out in accordance with the recommendations in Section 6 of the Phase 1 Habitat Survey Report and Desktop Study undertaken by Lee Ecology, dated June 2016, and the recommendations in Section 6 of the Bat Activity Survey Report undertaken by Lee Ecology dated July – September 2016.
- 7) Before any dwelling hereby permitted is first occupied, an open space delivery plan shall be agreed in writing by the local planning authority (which shall include details of phasing, design specifications, maintenance requirements, estimated costs, and implementation and maintenance responsibilities). The open space delivery plan shall be implemented and maintained in accordance with the details thus agreed.
- 8) No development hereby permitted shall take place until a geophysical survey has been agreed in writing by the local planning authorities (including details of how any relevant archaeological features identified will be recorded).

Richborough Estates