



Appeal Decision

Site visit made on 22 August 2017

by J Wilde C Eng MICE

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

Decision date: 26 September 2017

Appeal Ref: APP/D0840/W/17/3176141

Land east of Ethyan House, Carpalla Road, Foxhole, Cornwall PL26 7TY

- 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 Mr Geoff Huddy against the decision of Cornwall Council.
 - The application Ref PA16/08436, dated 8 September 2016, was refused by notice dated 23 December 2016.
 - The development proposed is an affordable lead housing development to include demolition of Ethyan House.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - a) Whether or not the proposed development would be in a sustainable location and would accord with the Council's strategic allocation strategy.
 - b) The effect of the proposed development on flooding in the area and
 - c) on the living conditions of the occupiers of Carpalla Cottage with respect to privacy.
 - d) Whether or not a mechanism is in place to secure the provision of affordable housing and necessary financial contributions.

Reasons

3. The appeal site is a field situated behind properties that front onto the B3279. The area is known as Carpalla, but is effectively an extension of the village of Foxhole. The village, which is essentially ribbon development, contains some of the services necessary for everyday living, such as a small retail shop, post office and health centre. There are also several sports clubs, a primary school and church. At the far end of the village from the appeal site is a China clay Works.
4. However, larger shops, the nearest secondary school, hospitals and leisure facilities would all be a considerable distance away, with the nearest large town being St Austell, about 5km away. Whilst there is a bus service to both St Austell and Truro I consider that the frequency and timings of services mean that most travel to and from the proposed development would be by private

- car. The appeal site cannot therefore be considered to be in a sustainable location.
5. Policy 3 of the Cornwall Local Plan Policy 3 is entitled *Role and function of places* and seeks to distribute future development according to a hierarchy. This policy makes clear that other than in identified main towns housing will be delivered either through sites identified within a Neighbourhood Plan, by the rounding off of settlements, infill schemes or rural exception sites under policy 9.
 6. Rounding off is defined within the justification for the policy as *land that is substantially enclosed but outside the of the urban form of a settlement and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). It should not visually extend building into the open countryside*. Whilst the proposed development would have built form to the north and west its other boundaries would not be clearly defined by a physical feature and to my mind it would visually extend building into the open countryside. The proposed development could not therefore be defined as rounding off.
 7. The appellant however also makes the case for the site being a rural exception site. Policy 9 states that *development proposals on sites outside of but adjacent to the existing built up area of smaller towns, villages and hamlets, whose primary purpose is to provide affordable housing to meet local needs will be supported where they are clearly affordable housing led and would be well related to the physical form of the settlement and appropriate in scale, character and appearance*.
 8. The supporting text to policy 9 states at paragraph 2.58 that rural exception schemes should work from a base position of 100% affordable housing and that they must achieve a minimum of 50%. The proposed development would provide 58 dwellings, of which 29 would be affordable and 29 market priced. As Ethyan House would be demolished there would therefore be a net gain of 57 houses, 51% of which would be affordable. The scheme would therefore produce the bare minimum necessary to qualify to be considered as a rural exception site in this respect.
 9. Policy 10 of the LP allows for the reduction in affordable units on such sites where appropriate evidence has been submitted to show that delivery of the full quota of 100% would be unviable. To this end I have been provided with an Economic Viability Assessment produced for the appellant by Lipscomb Jones Architects. This does indeed show that the scheme would only be viable if cross-subsidised by market housing, and I note that the provision of affordable housing in the parish is challenging in terms of viability. Such an approach is allowable under Policy 10 of the LP.
 10. Policy 9 also requires that any scheme should be *well related to the physical form of the settlement and appropriate in scale, character and appearance*. In relation to this the Council question the scale of the development.
 11. The National Planning Policy Framework (the Framework) defines rural exception sites as *small* sites used for affordable housing in perpetuity and goes on to say that *small* numbers of market homes may be allowed to enable the delivery of affordable units without grant funding (my underling). The Council seek to show that the site would not be small by comparing the

proposed number of houses to the total number already existing in Carpalla. However, this seems to me to be somewhat stretching the point as to my mind Carpalla and Foxhole effectively merge into one community.

12. Nevertheless, the proposed development would account for about a 10% increase in the number of dwellings in the community, and I am not persuaded that either a total of 57 houses or a figure of 28 market houses can be considered to be 'small'. I also note that paragraph 54 of the Framework states that *Local planning Authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing* (my underlining). I do not consider that 28 market houses can be considered to be *some*.
13. Therefore the proposed development would conflict with the Framework on this issue and with policy 9 in terms of the scale of the development. In arriving at this position I have taken account of the fact that given the recent adoption of the LP, the Framework must have been instrumental in its policy derivation and content.
14. Policy 9 also requires that *the number, type, size and tenure of the affordable dwellings should reflect identified local needs as evidenced through the Cornwall Housing Register or any specific local surveys completed using an approved methodology*.
15. I have been supplied with evidence to show that there is a substantial unmet need for affordable housing in the parish, with 27 people on the list expressing a preference for Foxhole and several hundred others requiring housing in the area. Whilst I have found conflict with policy 9 therefore, the provision of affordable housing has to be seen as a benefit of the scheme. I will return to these matters in my planning balance.

Flooding

16. The appeal site has had a history of flooding and being boggy. However, a letter dated 27 May 2016 from South West Water (SWW) confirms that the source of the water was actually mains water, emanating from a leaking main running from the reservoir at the top of the site. I accept that given the sloping nature of the site water run-off could be a problem in times of heavy rainfall, and note the comments in the Drainage Strategy Report (DSR), prepared by Steve Parker BEng (Hons) for the appellant that the ground is not suitable for large soakaways.
17. However, I am not persuaded from the evidence before me that a suitable and safe drainage solution could not be designed and implemented. Such a system could be the subject of a suitable condition were I to find in favour of allowing the appeal in the final balance.
18. I do note however that the DSR acknowledges that further investigation is required to determine whether a gravity discharge to a watercourse 450m south-west of the site would be feasible. If not then a pumped discharge would be required, crossing third party land and a railway. This would be expensive, is not specifically allowed for in the viability assessment mentioned above, and could therefore further imperil the viability of the whole scheme, which as it is very finely balanced.

Privacy

19. The Council's third reason for refusal has two elements. I will deal with the second element first. This relates to the relationship between the proposed unit 52 and the annexe to the rear of Carpalla Cottage. The annexe has roof lights in the rear slope of the window and unit 52 would be situated on higher ground behind it such that views into the roof lights would be available from the rear first floor windows of unit 52. Whilst it may be possible to erect boundary treatment to prevent these views the treatment in itself would have to be of such a height that it would be likely to appear overbearing to occupiers of the annexe. Such an arrangement would therefore conflict with policy 12 of the LP, which seeks, amongst other things, to ensure that individuals are protected from unreasonable loss of privacy, overshadowing and overbearing impacts.
20. The Council also criticise the decision to connect the proposed development to the public right of way (PROW) that runs along the south of the site, due to its unmade and in their view, unsafe nature. I disagree with the Council on this matter. The connection would provide an option for residents of the proposed development to utilise the circular right of way network in the area. It would be a matter of choice, as residents would be aware of the condition of the path. There would therefore be no conflict with the LP on this matter.

Affordable housing and financial contributions

21. I have been supplied with a signed and dated Unilateral Planning Obligation that would ensure the provision of 29 affordable houses and contributions towards the provision of public open space and education. As noted above however, these contributions are less than the amounts calculated as necessary by the Council to mitigate the impact of the development. To justify the amounts requested the Council have furnished me with documents entitled *Guidance on Section 106 Planning Obligations for Education Provision and Open Space assessment for Foxhole Area in Cornwall*. From the information provided I consider that the requested contributions are justified and, whilst I note the appellant's comments in respect of the necessity or otherwise of the open space provision, I have been given no compelling evidence that would lead me to a contrary view.
22. I note that policy 10 of the LP indicates that some flexibility can be utilised in order to help deliver affordable housing and that this approach was used in relation to a scheme in Falmouth (PA16/08689). However, I have not been supplied with the full details of this case and have to take the case before me on its own merits.

Planning balance

23. I have found that the proposed development would conflict with policies 9 and 12 of the LP. The former in respect of the scale of the development and the latter in respect of residential amenity. I have also found that the development would not fully mitigate its effects in terms of education and public open space provision and would not be in a particularly sustainable location. These matters carry significant weight.
24. Against this has to be balanced the provision of 29 much needed affordable houses, and in this respect I note the appellant's comments relating to the affordable housing trajectory, and the acknowledgement that a large proportion

of the required contributions would be provided. The provision of the dwellings would be a positive factor in respect of the social and economic limbs of sustainability as defined in paragraph 7 of the Framework. On balance however, I consider that the factors against allowing the appeal outweigh the factors in favour.

Conclusion

25. Therefore, having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Wilde

INSPECTOR

Richborough Estates