



Appeal Decision

Inquiry held on 6 July 2015

Site visit made on 7 July 2015

by John L Gray DipArch MSc Registered Architect

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

Decision date: 4 August 2015

Appeal Ref. APP/D0840/A/14/2229258

HX1 urban extension site, land west of Trewennack, Helston, Cornwall

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Jackamax Limited against Cornwall Council.
 - The application, ref. PA14/07450, is dated 6 August 2014.
 - The development proposed is up to 340 dwellings (including affordable homes) and a building for use for B1 offices and a medical practice, with means of access and all other matters reserved.
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Decision

1. The appeal is allowed. Outline planning permission is granted for up to 340 dwellings (including affordable homes) and a building for use for B1 offices and a medical practice on the HX1 urban extension site, west of Trewennack, Helston, Cornwall, in accordance with the terms of application ref. PA14/07450, dated 6 August 2014, and drawing no. 1516/101/A submitted with it, subject to conditions set out in the schedule attached to this decision.

Application for costs

2. At the inquiry an application for costs was made by Jackamax Limited against Cornwall Council. This application is the subject of a separate decision.

Main Issues

3. There are two main issues in the appeal, flowing from the Council's resolution on the reasons why it would have refused outline planning permission, had it retained jurisdiction. The first is whether residential development on this site would represent a significant extension of Helston beyond its natural eastern boundary, resulting in a poor relationship with the town itself, the urbanisation of open farmland and harm to the character and setting of the town. The second stems from what is seen as the poor relationship with the town and is whether the location is an unsustainable one, because of the distances to the town centre and other services and facilities and the consequent reliance on journeys by private car.

Reasons

The planning background

4. It is important to consider carefully two documents – the Helston Town Framework Urban Extension Assessment and the emerging Local Plan.

Neither carries significant weight as a policy document – but the former incorporates an analysis of the potential opportunities for residential development around Helston and the progress of the latter gives an indication of the likely housing requirements for the town.

The Helston Town Framework

5. The Helston Town Framework, Urban Extension Assessment, dated March 2013, contains an assessment of the options for the urban extension of the town that is agreed by the Council as being a comprehensive examination, carried out in a rigorous, objective and professional way. The document itself may not carry weight but the evidence base must have great value.
6. In essence, the Assessment looks at all of the land surrounding Helston, subdivides it into cells, looks at those cells in terms of environment, accessibility, landscape and urban design, and offers options for consultation. Only three options came forward – named HX1 (the appeal site), HX2 and HX3 (to the south-east and south of the town centre). No document has been published that furthers the assessment or puts the options in a policy context.
7. The Assessment does not indicate the capacity of any of the options. The appeal scheme is for up to 340 dwellings. An application has recently been submitted proposing 470 dwellings on the HX2 site – though there are known to be noise problems which could entail a much smaller number actually coming forward (assuming planning permission will be granted). There has been no movement on the HX3 site, which the appellant understands to have an access ransom strip problem.

The emerging Local Plan

8. Examination of the emerging Local Plan has been suspended following the Inspector's Preliminary Findings after the hearings in May 2015. The Council has accepted the Inspector's suggestion of carrying out further work and its programme anticipates a resumption of hearings in April 2016. Amongst the matters to be reviewed is housing need and supply.
9. Put simply, the housing requirement in the submission document – 47,500 dwellings over the plan period – is inevitably going to rise. The Inspector found the need for a 7% uplift to cater for second and holiday homes. He also found that addressing the backlog of affordable housing provision over five years would use most of the overall annual housing requirement of the plan and that, over the plan period, delivery of affordable housing would likely be less than the Council's calculation of 22,000. He referred to Planning Practice Guidance (PPG), which advises that an increase in total housing figures should be considered where it could help deliver the required number of affordable homes.
10. Accordingly, the submission document's housing requirements for Helston and for the Helston and the Lizard Community Network Area (CNA) – 900 and 1,100 dwellings respectively – will rise. By how much cannot be known; nor can it be known if the uplift would be distributed *pro rata* across Cornwall; nor if the CNA would be able to accommodate an increase or if some of the additional requirement would fall on Helston. In short, and as it recognises, the Council cannot demonstrate a 5-year supply of housing land. That said, the figures in the submission document show residual requirements of 441 in Helston and 477 in the CNA, which give some sort of guide to how much land will have to be found – as a purely hypothetical example, a 10% uplift in the

housing requirement, spread *pro rata*, would mean finding land for a further 90 dwellings in Helston and 110 in the CNA.

Conclusion

11. The appeal site, as site HX1, is one of only three options found acceptable in the Helston Town Framework Urban Extension Assessment. The overall housing requirement in the emerging Local Plan is 47,500, though that is bound to rise as a result of the examining Inspector's preliminary findings. The figure for Helston is 900, with a residual requirement, after completions and commitments, of 441; that too seems bound to rise. Part of any uplift in the housing requirement will be to enable the provision of affordable housing, for which there is a substantial need. The Council, correctly, acknowledges that it cannot demonstrate a 5-year supply of housing land; it accepts that para. 14 of the National Planning Policy Framework (NPPF) is engaged, in other words, planning permission (for sustainable development) should be granted unless the impacts would significantly and demonstrably outweigh the benefits (assessed against the policies of the NPPF as a whole).
12. The position in Helston is not assisted by what is known about the availability of land. None of the HX sites seems individually capable of accommodating the likely required number of houses. The application for the HX2 site is for 470 houses but, on the evidence, that seems unlikely to be achieved. There has been no movement on the HX3 site. If one accepts the conclusions of the Urban Extension Assessment, the HX1 site (the appeal site) is the only other option for expansion. The total number of dwellings from the HX1 and HX2 sites would exceed the net requirement in the Local Plan submission document, and probably also whatever the re-assessed figure might be, but the requirement is a minimum, not a maximum, and sustainable housing development should not be restricted solely because the Local Plan requirement would be exceeded.

First main issue – character and appearance

13. It is not unreasonable to say that the Helford River forms a natural eastern boundary to Helston where the appeal site abuts the existing residential development on the west side of the river. One can see precisely why the existing residential development extends only as far east as the river. It is not as simple as that, however.
14. The appeal site is not within any area designated for landscape or other qualities. It has no outstanding features, save for the trees along the river and, at one point, extending eastwards from it. Nor are those features that do exist sufficiently important to warrant retaining the area as open land. It seems not to qualify as a "valued landscape" (the term used in the NPPF) because what value it has is purely as an open backdrop to the existing housing on the opposite side of the river. Even then, public views tend to be limited because of the closeness of the dwellings and garages along Manor Way (and the existing trees, which should be retained, prevent any views from and to the north of Tremenheere Avenue. Apart from that, there are no clear views across the site, for example towards features that are of visual or landscape quality; nor is there public access to it.
15. It is inevitable that development on any greenfield site will mean a loss of landscape quality, simply because there would be buildings in place of open land. That is not itself, however, good reason to resist development. Nor is the change from open land to built-up area necessarily harmful.

16. In this case, the land falls within the Mount's Bay East Landscape Character Area, LCA 06; the key characteristics are described in the officer report to Committee as "undulating farmland intersected by river valleys with Helston spreading from its traditional core over the surrounding valley sides". That seems a very reasonable description of the appeal site and its surroundings.
17. Approaching from the east along the A394, there is a series of views of Helston from both east and west of Trewennack; in all of them, development in and around Helston is plain to see and is hardly what one might term compact or coherent. Development on the appeal site would add to that – but only to the extent of some of the housing being closer to the viewer; the overall nature and character of the views would be largely unchanged. Approaching from the south, again along the A394, there would be a change in where the eastern edge of Helston lay – but it would be just that, and not critical to an appreciation of the character of the town or its setting.
18. One would certainly be aware of development as one passed the southern boundary of the site along the A394. There is, however, a strong hedgeline along that boundary and two options for development. One is to assist the transition from built-up area to countryside by appropriate planting within the site, reinforcing the hedgeline and softening the impact of the buildings. The other, as indicated on the illustrative layout (and the more honest approach), is to place the access junction towards the south-eastern corner of the site with the proposed office and surgery buildings on either side of the road into the site, thus firmly marking, beyond the largely retained hedge, the driver's arrival at Helston.
19. As said above, change is not necessarily harmful. The proposal would certainly bring significant change. The existing rural appearance would be lost – but there is no reason why development should not be laid out and designed to a high standard; and, once there, it would mature into a natural part of Helston rather than appearing as an appendage to the town.

Second main issue – sustainability

20. Helston is accepted as a sustainable location for housing development. What is at issue is whether development on the appeal site would be sustainable in terms of accessibility to the town centre and the various services and facilities around the town.
21. The Urban Extension Assessment found that the HX1 site was one of three that would be acceptable. It noted some concerns about routes and distances to the town centre and other facilities, though insufficient to deter its inclusion as one of three options for expansion.
22. The Council's evidence to the inquiry was that the proposed development would not fulfil the social dimension of sustainability because of the absence of significant services nearby and the need, therefore, to travel further afield for daily services and facilities. The distances to the town centre and to such as the primary schools were found to be greater than the 800m recommended in Manual for Streets (MfS); the gradients on those routes were thought to be a further deterrent to walking; and the relative paucity of public transport was argued as not providing a practical alternative. Those local people who spoke, a high proportion of them Helston or Cornwall councillors, argued the same views, perhaps more forcefully. Some also suggested that the occupiers of the proposed affordable housing (40%, or 136 out of 340 dwellings) would be those most likely not to own a car and therefore would be particularly

- disadvantaged by the appeal site's relatively poor connectivity. There is something to be said for all of those points.
23. MfS says that 800m is not an upper limit for the walking distance to facilities and that there is the potential for walking up to 2km. Clearly, though, the greater the distance the less the inclination to do so, especially in inclement weather. Mr Awcock, for the appellant, set out the distances to various facilities. The town centre would be a 1,200-1,600m walk (depending on where within the development one lived). For shopping, only the Tesco superstore would be nearer, at 800-1,500m distant. Parc Eglos Primary School would be a 1,250-1,950m walk, St Michael's C of E School 1,450-2,150m. Virtually all of those distances would mean a significant walk, in both distance and time; even so, almost all are within 2km and thus offer the potential for walking.
 24. The nearest employment, apart from what is proposed on-site, would be at the Water-ma-Trout Industrial Estate, 500-1,500m away; RNAS Culdrose would be 3,900-4,800m distant. One could be walked, the other cycled, by those so inclined.
 25. There would be an attractive walk on the site's eastern boundary, alongside the river, but the lie of the land beyond that, for example uphill from the town centre, would certainly be a deterrent to walking if carrying anything at all bulky. The circular bus service would offer an alternative, in one or both directions, but its present hourly frequency would probably limit its usefulness; so too might its route, although there is the potential for it to run through the appeal site. In the end, however, the private car would almost certainly be used rather more than ideally, one might hope.
 26. There are various factors to be set against the objections. A significant part of the evidence was put as a comparison with the HX2 and HX3 sites – but more than one of the three sites will need to be developed, there is no evidence that HX3 will come forward and no indication of when (or if) the application on HX2 will be approved. Also, given that Helston is recognised as a sustainable location, one may ask where else around the town housing might go. The Urban Extension Assessment discounted all of the options save HX1, HX2 and HX3. Even if one set its conclusions to one side, a very serious question mark would remain over whether the same objections as on this site, or different ones, would be raised against development on any other site – and also when, or if, another site might come forward.
 27. Overall, there is a balance to be struck between the more general and the specific – between the recognition of Helston as a sustainable location for new housing and the relationship of the appeal site to existing services and facilities in the town, which are not as good as one might ideally wish. As HX1, the appeal site was identified as one of just three options around Helston on which new housing might be acceptable. The evidence indicates that more than one of those options will need to be developed during the plan period if the housing target for Helston is to be met. There is also a serious shortfall in affordable housing and the provision of 136 affordable dwellings must be seen as a significant benefit, not lightly to be discounted. All of that tips the balance in favour of a proposal which, even if not as well-connected as one might wish, at least offers a reasonable opportunity for walking, cycling or using public transport instead of relying on the private car.

Other matter – drainage and flooding

28. The question of drainage and potential flooding was not raised as an objection by the Council, or indeed its consultees, but was clearly of concern to local people. That concern is understandable – but misplaced. The essential purpose of a sustainable drainage system is to prevent run-off from a site exceeding normal agricultural run-off rates. Here, soakaways are proposed for some areas but the majority of surface water would be drained to interceptor swales along the east side of the developed land, then into two detention basins, then into the Helston River at a controlled rate. Two flood alleviation ponds would also be provided, in response to the Environment Agency's comments balancing ponds. In short, the situation would certainly be no worse than at present and, in all likelihood, rather better.

Overall conclusion

29. The Council acknowledges that it cannot demonstrate a 5-year supply of housing land. It also recognises the serious shortfall in the provision of affordable housing. It accepts that para. 14 of the NPPF is engaged. Thus, planning permission for development that is sustainable should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits".
30. The proposed development is to be seen as sustainable. Helston is recognised as a sustainable location for development. The appeal site is not as well connected as might be wished to Helston town centre or some of the services and facilities elsewhere in the town. Most are beyond the 800m walking distance recommended in MfS but within the maximum of 2km where walking "offers the greatest potential to replace short car trips". There is also the option, albeit relatively limited, of using public transport. Para. 34 of the NPPF says that developments generating significant movement should be located where the need to travel will be minimised and the use of sustainable travel modes maximised. That, however, should be addressed not in absolute terms but, in this case, in the context of Helston, the amount of residential development to be located there and the likely options for locating it. Para. 32 says that decisions should take account of whether "the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site". It cannot be said of the appeal site that those opportunities do not exist.
31. The submission document of the emerging Local Plan has a housing requirement of 47,500, which it is accepted will rise. The requirement for 900 dwellings in Helston seems also bound to rise. As site HX1, the appeal site was found to be one of just three sites potentially suitable for the urban expansion of Helston. There is no evidence to suggest that any of the discounted directions for expansion might come back into consideration. At least two of the HX sites will have to be developed to meet the housing requirement, probably even if it did not rise as anticipated. It may be that the development of the HX1 and HX2 sites would more than meet the eventual requirement – in line, however, with the NPPF exhortation to "boost significantly the supply of housing", the requirement, whatever it becomes, is to be viewed as a minimum, not a maximum.
32. Taking account of all of the above, there is no undue conflict with any of the paragraphs in the NPPF cited by the Council in its two reasons for defending the appeal. The proposed development would bring economic benefits in

terms of the provision of housing, including much-needed affordable housing, employment over the construction period and then from the proposed office and surgery space and expenditure in the locality from those occupying the housing. The affordable housing would also have social benefits. The environmental dimension of sustainability is more finely balanced; clearly, there would be the loss of what is presently open land – but the proposal would not appear as an incongruous appendage to Helston and there is no reason why it should not be successfully designed and landscaped.

33. Accordingly, the proposed development would be sustainable and, to the extent that there would be any adverse impacts, they clearly would not “significantly and demonstrably outweigh the benefits”. The appeal may therefore be allowed and outline planning permission granted, subject to assessing what is provided for in the executed obligation and what may be controlled by appropriate planning conditions.

Obligation and conditions

34. The executed obligation is in the form of an agreement. It provides for 40% of the total number of dwellings to be affordable, for an education contribution, for an open space contribution, for the design and future management of the open space within the site, for a sustainable drainage scheme, including its future maintenance, and for a highways contribution and a travel plan. All of those comply with Community Infrastructure Levy (CIL) Regulation 122 in that they are necessary to make the development acceptable in planning terms, directly related to the development and fairly related to it in scale and kind.
35. The Council suggested sixteen conditions in the event that the appeal was allowed and outline planning permission granted. Some of those conditions assumed a phased development, which might well be likely – indeed, it is possible that two house builders might operate within the site – but is better dealt with if and when such a scenario comes to be proposed. Indeed, some matters, for example surface water drainage, ought to be dealt with in relation to the whole of the site before any development commences.
36. There is only one application plan – the red line plan – although other plans and documents may reasonably be referred to in specific conditions. In general, in addition to dealing with reserved matters, conditions are necessary to cover construction methodology (including environmental protection and surface water drainage), hours of construction, the preparation and implementation of the travel plan (which is not dealt with particularly effectively in the obligation), decontamination (because of the possibility of pollution from mining), surface water drainage (to the extent not covered by the obligation), foul drainage and finished floor levels (required by the Environment Agency in respect of possible flooding). In addition to those, a condition amplifying the landscaping reserved matter would help to secure certain matters, including the protection of trees and hedges to be retained.
37. What is provided for by the obligation and can be secured by conditions means that there is no impediment to allowing the appeal and granting outline planning permission.

John L Gray

Inspector

APPEARANCES

FOR CORNWALL COUNCIL

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| Jane Astbury | Solicitor to the Council |
| She called | |
| Peter Blackshaw BA(Hons) MRTPI | Principal Development Officer with the Council |

FOR JACKAMAX LIMITED

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| Anthony Crean QC | instructed by Des Dunlop, Managing Director, D2 Planning Limited, Westbury on Trym, Bristol |
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 He called
Des Dunlop BA(Hons) MRTPI

 Not called

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| Ian Awcock CEng MICE MIHT MCIWEM | Awcock Ward Partnership, Exeter |
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INTERESTED PERSONS

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| Franklyn Moyle | Local resident |
| Steve Chamberlain | Councillor for Feock and Playing Place |
| Rob Nolan | Councillor for Truro Redannick and Chair of Strategic Planning |
| John Martin | Helston Town Councillor |
| Michael Thomas | Helston Town Mayor |
| Dr Loveday Jenkin | Councillor for Crowan and Wendron |
| Peter Hadfield | Local resident |
| Ian McDonald | Local resident |
| Martin Northern | Local resident |

DOCUMENTS

- 1 Appellant's opening submissions.
- 2 Council's opening submissions.
- 3 Cornwall Local Plan Strategic Policies 2010-2030 – Proposed Submission Document (March 2014) and Schedule of Focussed Changes (September 2014) – Combined document to support submission to the Secretary of State – February 2015. (See also first two parts of CD1.)
- 4 Council's response of 26 June 2015 to Inspector's Preliminary Findings (see CD2).
- 5 Franklyn Moyle's statement.
- 6 Steve Chamberlain's statement.
- 7 Rob Nolan's statement.
- 8 Helston Town Council's recommendation for refusal of application PA14/07450.
- 9 Email dated 6 July 2015 from C F P Chapman, Clerk to Wendron Parish Council.
- 10 Council's closing submissions.
- 11 Appellant's closing submissions.
- 12 Appellant's application for costs.

Core Documents

- CD1 Cornwall Local Plan Strategic Policies Proposed Submission Document 2010-2030; Proposed Schedule of Focussed Changes – August 2014; Schedule of Proposed Further Significant Changed – May 2015.
- CD2 Cornwall Local Plan Strategic Policies 2010-2030 – [Inspector's] Preliminary Findings Following the Hearings in May 2015.

Documents submitted after the close of the inquiry

- 13 Council's written response to costs application.
- 14 Email from Des Dunlop indicating no need for further comment on costs.

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HX1 urban extension site, land west of Trewennack, Helston, Cornwall
Schedule of conditions attached to outline planning permission

- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins. 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 permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Development shall not begin until a phasing plan has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan.
- 5) The means of vehicular access to the permitted development shall be from the A394 road. Development shall not begin until full details of the junction between the access road and the A394, including the timing of its construction in relation to the start of construction of roads and buildings on the site, have been submitted to and approved in writing by the local planning authority. The junction shall be constructed in accordance with the approved details.
- 6) No building shall be occupied until the means of access to it for vehicles, cyclists and pedestrians has been constructed in accordance with the approved reserved matters for access and layout.
- 7) The landscape and layout reserved matters shall include the finished ground floor levels of all buildings.
- 8) The landscape reserved matters shall include: details of both hard and soft landscape works; the identification of all trees and hedges to be retained, together with measures for their protection during the course of development; measures for the improvement and/or mitigation of features of ecological or biodiversity interest within the site (broadly in accordance with the appraisal/conclusions/recommendations of the January 2014 Ecological Appraisal, the March 2014 Bat Hibernation Survey and the July 2014 Badger Mitigation Strategy, all by Tamar Consulting); and a programme for implementation and management. All landscaping works shall be carried out and thereafter managed in accordance with the approved details and programme for implementation and management.
- 9) Development shall not begin until details of the design, implementation, management and maintenance of a sustainable surface water drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. No building shall be occupied until the surface water drainage scheme has been implemented in accordance with both the approved details and any phasing approved under condition 4 above.
- 10) Development shall not begin until details of the design of flood alleviation ponds, the timing of their construction and measures for their future maintenance and management have been submitted to and approved in writing by the local planning authority. Development shall be carried out and the ponds thereafter maintained in accordance with the approved details.
- 11) Development shall not begin until details of a foul drainage scheme have been submitted to and approved in writing by the local planning authority. No building shall be occupied until the works have been completed in accordance with both the approved details and any phasing plan approved under condition 4 above.

12) Development shall not begin until:

- a strategy for investigating contamination present on the site has been submitted to and approved in writing by the local planning authority;
- an investigation has been carried out in accordance with the approved strategy; and
- a written report, detailing the findings of the investigation, assessing the risk posed to receptors by contamination and proposing a remediation scheme, including a programme for implementation, has been submitted to and approved in writing by the local planning authority.

Remediation work shall be carried out in accordance with the approved remediation scheme and programme. Remediation work on contamination not identified in the initial investigation but found during construction work shall be carried out in accordance with details submitted to and approved in writing by the local planning authority subsequent to its discovery.

13) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) the loading and unloading of plant and materials;
- iii) the storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from construction works;
- viii) provisions for surface water management during construction; and
- ix) measures, including the timing of construction processes, to protect flora and fauna of ecological or biodiversity interest (bearing in mind the January 2014 Ecological Appraisal, the March 2014 Bat Hibernation Survey and the July 2014 Badger Mitigation Strategy, all by Tamar Consulting).

14) Construction works shall not take place outside 08:00-18:00 hours on Mondays to Fridays and 08:00-13:00 hours on Saturdays, nor at any time on Sundays or Bank Holidays.

15) No building shall be occupied until a Travel Plan, broadly in accordance with the Framework Travel Plan at section 6 of the Awcock Ward Partnership Transport Assessment, dated 6 August 2014, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include a programme for implementation, monitoring, regular review and improvement and shall subsequently be implemented, maintained and developed as approved.