
Appeal Decision

Site visit made on 15 October 2015

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 10 November 2015

Appeal Ref: APP/D0840/W/15/3129965

Land off Briansway/Churchtown Vale, Saltash, Cornwall

- 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 Westward Housing Group against the decision of Cornwall Council.
 - The application Ref PA14/10131, dated 22 October 2014, was refused by notice dated 2 April 2015.
 - The development proposed is residential development.
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Decision

1. The appeal is allowed and planning permission is granted for residential development at Land off Briansway/Churchtown Vale, Saltash, Cornwall in accordance with the terms of the application, Ref PA14/10131, dated 22 October 2014, subject to the conditions in the attached Annex.

Application for costs

2. An application for costs was made by Westward Housing Group against Cornwall Council. This application will be the subject of a separate Decision.

Procedural Matter

3. The appellant submitted drawing No 1843-011 revision A during the appeal process. As the Council and residents of Tregwael, to whom it relates, have seen that plan and commented on it, they would not be prejudiced by its consideration.

Main Issue

4. The main issue is the effect of the proposed development on the safety of pedestrians using Church Road.

Reasons

Pedestrian safety

5. The site is currently a field enclosed by residential properties or adjacent roads within a fundamentally residential area. It is on the western side of Church Road, with Fairway to the north and Briansway and Churchtown Vale to the south. Church Road is a north-south route from residential properties at and beyond its southern end linking through to various facilities and services

necessary to serve the day to day needs of residents, including schools. There is also a bus route running along that road with a bus stop at the junction of Church Road and Parkesway. Church Road is therefore well used by both vehicular traffic and pedestrians. In this respect I have had regard to submissions from both the appellant, following completion of a traffic survey dated December 2014, and local residents, including a traffic survey carried out on 6 November 2014 by a local residents group highlighting existing traffic and pedestrian issues.

6. In the vicinity of the southern end of the site, Church Road narrows significantly to an extent whereby two cars are unable to pass each other. That stretch also has no pedestrian footway although there is a section of road that has a nominal footway demarcated by broken white road markings on the eastern side up to the junction with Parkesway. Nevertheless, I have received no substantive evidence of any reported accidents in recent years along that section of road.
7. The proposed development would involve 36 new dwellings with its vehicular access point onto Briansway. There would also be a new pedestrian pathway running from the site to its southern corner at the junction of Church Road and Churchtown Vale.
8. Inevitably the proposed development would generate an increased number of pedestrians and vehicles in the local area. Furthermore, whether the proposed new pathway from the site to the junction of Church Road and Churchtown Vale was there or not, the shortest route for pedestrians from the development to a number of facilities and services to the north would be via the narrow section of Church Road.
9. The key question is whether pedestrian safety along the narrow section of Church Road would be worse as a result of the proposed development. Having regard to the submitted Transport Statement, the number of proposed dwellings would generate increased vehicle use of Church Road albeit relatively small compared to existing usage, so as also not to be likely to significantly add to existing congestion. Nevertheless, without adequate mitigation, the risk to pedestrian safety would increase, also due to the increase in pedestrians that would be generated by the proposed development.
10. The proposed development would involve the provision of a footway along the western side of Church Road from the Churchtown Vale junction northwards for a short stretch up to and partly overlapping with the nominal footway continuing on the opposite side. This would involve crossing the road but visibility along the road in both directions is good at that point and due to the narrowness of the road, it would only be a short crossing. The proposed improvements to visibility splays for drivers exiting Churchtown Vale would also provide better inter-visibility with pedestrians using and crossing that stretch of Church Road.
11. The nominal footway would remain but with an enhanced contrasting road surface, which would be likely to draw more attention to, and awareness of, pedestrians using that remaining fairly short stretch of the road. That footway would also continue to be protected to some extent by existing roadside grass banking immediately to its south. Furthermore, the narrowness of the road along that stretch would also be likely to generate slower vehicle speeds, thereby further reducing the likelihood of conflicts.

12. I understand that there are other proposed large housing developments in the surrounding area and have had regard to concerns raised about the cumulative impacts of these, together with the proposed development, on the level of traffic along Church Road. However, I have not received full details of those cases to enable their full and proper consideration and have determined this appeal on its merits based on all of the evidence submitted.
13. In respect of whether there would be another more appropriate location for the vehicular and pedestrian access to the site onto Fairway, I have not received any substantive evidence to demonstrate this. In any case, I have determined the appeal based on the plans submitted and on its merits.
14. For the above reasons, whilst it is not an ideal scenario in terms of provision for pedestrians, with the proposed mitigation in place it would be unlikely that the proposed development would cause any additional safety risk to pedestrians using Church Road. If anything the proposed works would be likely to represent an improvement in provision for those pedestrians who currently use that stretch of road, but it would also be unlikely that the improvements would be to such an extent as to divert those who currently have quicker routes. As a consequence of the works, there would also be unlikely to be a material increase in the proportion of car usage over alternative modes of transport than would otherwise be the case in the area.
15. As such, the proposed development would accord with saved Policy EV11 of the Caradon Local Plan First Alteration (the Local Plan). That Policy states that arrangements for access and circulation will be expected to be appropriate to the type of development proposed and the area in which it is located and do not, amongst other things, increase accident potential, or harm the environmental conditions in the area. It would also accord with section 4 of the National Planning Policy Framework (the Framework) which relates to the promotion of sustainable transport.

Other matters

16. The proposed development would all be affordable housing comprising 2 and 3 bed houses and 1 bed flats. I have had regard to Policy HO11 of the Local Plan which states that where there are demonstrable local needs, the Council will seek the provision of a minimum of 40% affordable housing on sites such as this allocated for housing in the Local Plan. Based on the evidence before me it is evident that there is a need for provision of affordable housing in Saltash, and for the proposed mix of Affordable Rented Dwellings let by a Registered Provider (RP) of social housing, and Shared Ownership Dwellings which would be owned and managed by or in partnership with such an RP. Furthermore, it appears that the need for such provision arises from the proposed development and satisfies the three tests set out in Paragraph 204 of the Framework.
17. The appellant has submitted a Planning Obligation by Agreement under section 106 of the Town and Country Planning Act 1990. This would secure the provision of affordable housing on the site.
18. No public amenity space is provided on the site. However, I note that the development would be within comfortable walking distance of existing nearby open space and the size of the development is not of such a scale as to be likely to justify any useful provision on the site. I note that a financial contribution towards off-site provision of open space would, ordinarily, be

necessary to mitigate the additional demand for such space by prospective occupiers. However, in this instance the scheme has been assessed as being unviable should such a contribution be required, bearing in mind that it would provide 100% affordable housing. I also note that there is an existing equipped area of play located within comfortable walking distance of the site. I am therefore satisfied that such a contribution towards open space would not be required in this case.

19. The site adjoins the curtilage of the Grade II listed building known as Llan Stephens Cottage which fronts onto Church Road. Therefore special attention has to be paid to the desirability of preserving the setting of the listed building (LB). The LB is an early 19th century two storey thatched cottage which I understand from the Council is a rare surviving example of its type which would have been seen within a rural setting. The building maintains its picturesque qualities in itself albeit that it is now seen in the context of more recent buildings on the opposite sides of Church Road and Fairway as well as the dwelling known as Tregwael to its south. That also applies when viewing the LB from within the site whereby those houses opposite can be glimpsed through the site boundary vegetation to varying degrees whilst Tregwael is clearly visible.
20. The rural setting is therefore now significantly weakened, albeit that the field comprising the site does enable the LB to retain some impression of its original rural setting. The proposed development would remove that and so would inevitably cause some degree of harm to the LB's setting.
21. Nevertheless, when observing the LB from Church Road in particular, the site is largely obscured by mature vegetation and the LB itself. As such, from that vantage point the proposed development would be likely to be significantly screened or softened so as not to dominate the LB. Furthermore, the hedge along the shared boundary between the LB and site would be retained and so would preserve the verdant edge to the LB's curtilage.
22. For the above reasons, the modern day weakening of the LB's setting and the other mitigating factors referred to above would ensure that any harm, having regard to paragraph 134 of the National Planning Policy Framework would be less than substantial. That harm therefore needs to be weighed against the public benefits of the proposal.
23. Importantly, the 100% provision for affordable housing would represent a very substantial benefit due to the need identified for such housing in the area. It is also within a sustainable location in terms of access to services and facilities to serve the day to day needs of residents. There would also be the economic benefits that would come with employment provided during the construction phase of the development. For these reasons, I consider that the public benefits of the proposed development would outweigh the less than substantial harm that would be caused to the LB's setting.
24. I have had regard to the effect of the proposed development on the living conditions of residents of those properties surrounding the site in respect of outlook, privacy and sunlight and daylight.
25. In respect of Nos 2 and 20 Churchtown Vale, although the nearest proposed dwellings at plots 28 and 29/30 respectively would be at a higher level, they would be side on to those existing properties and set off the site boundary with

a good degree of separation between the respective facing elevations and with intervening boundary vegetation. That relating to plot 28 would also have its first floor rooms partially within the roof space, thereby reducing its height compared to other proposed full two storey units. There would also be no side windows in the flats of plots 29/30 whilst the only windows above ground floor level relating to plot 28 would be high level roof lights.

26. In respect of the proposed dwellings at plots 5, 6 and 9 again they would be side on to the existing properties to the west at 9 Briansway and 15 Fairway respectively and set off the site boundary, with a good degree of separation between the respective buildings and substantial intervening boundary vegetation. Whilst there could be some degree of additional overshadowing of 15 Fairway from the dwelling at plot 6, due to the degree of separation and the southern aspect of No 15 the overall loss of sunlight throughout the day would be unlikely to be so much as to cause unacceptable harm. Plot 9 would have first floor side windows facing the side of No 15 but would be set well away from the western site boundary to avoid any harmful loss of privacy from overlooking. Plot 5 would have no side windows. The only side window of plot 6 would relate to a first floor bathroom which is proposed to be obscure glazed which, along with any restricted opening, could be secured and controlled by condition to prevent any harmful loss of privacy from overlooking of the existing rear garden of No 15.
27. With regard to the existing dwelling known as Tregwael, that property would be surrounded by the site on three sides. However, the nearest proposed dwellings would be to the side of that existing property with no first floor side windows other than high level roof lights. There would also be a good degree of separation between the side of the proposed dwelling of plot 27 and the side windows of Tregwael. Furthermore, there would also be boundary fence and bank screening to protect the residents of that existing dwelling from harmful loss of privacy from both the adjacent dwellings and the proposed parking area and footway immediately to the west.
28. With respect to Llan Stephen's Cottage, the nearest proposed dwellings would again be set way from the boundary with that property, with no upper floor windows directly facing that existing dwelling. Boundary hedgerow would also be likely to contribute to avoiding significant overlooking from ground floor windows and gardens. There would be some degree of direct overlooking of part of the garden area of that existing cottage, mainly from first floor windows of plots 22 and, to a lesser extent, plot 23. However due to the degree of separation of those proposed dwellings from the boundary and the fairly large size of the cottage's garden, the overall loss of privacy to the garden as a whole would be unlikely to be to a harmful level.
29. With regard to the bungalows of Fairway on the opposite side of the road to the north, the degree of separation between those and the proposed dwellings would be unlikely to cause significant levels of overshadowing, particularly as the existing trees would already be likely to have some such effect, or to result in an overbearing impact or cause unacceptable loss of privacy.
30. For the above reasons, I am satisfied that the proposed development would not cause unacceptable harm to the living conditions of residents of those residential properties surrounding the site in respect of outlook, privacy and sunlight and daylight.

31. In terms of the effect of the proposed development on the character and appearance of the surrounding area, it would occupy a fairly prominent raised position when viewed from the west and south in particular. Whilst there are a number of single storey existing dwellings in the immediate vicinity of the site, the surrounding area generally includes a mix of dwellings including a number which are one and a half or two storey height. Furthermore, the existing surrounding settlement is already located on often sloping topography and therefore seen at different levels. The proposed development, with a mixture of one and a half and two storey dwellings, and despite its fairly prominent position, would therefore not appear out of place in that existing context.
32. It would result in the development of an existing green space. However, the site is and would be seen in the context of its setting within a predominantly built environment. Furthermore, vegetation around the perimeter of the site, including the majority of mature trees, would be retained which would soften the appearance of the development to varying degrees and maintain the verdant nature of the various street scenes.
33. I have had regard to ecological survey work carried out and recommendations of those documents demonstrating appropriate mitigation in respect of the ecological features of the site, and I have not received any substantive evidence to the contrary.
34. Concern has been raised about insufficient places in local schools. However, I consider that any deficiency in this respect would be off-set by the very substantial benefit of the provision for needed affordable housing.
35. In respect of the capacity of the local sewers, I have not received any substantive evidence to indicate that the proposed development could not be accommodated in this respect.
36. Concerns about an increase in anti-social behaviour are also not supported by substantive evidence.

Conditions

37. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wordings.
38. The standard time condition is required in this case, and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans is also required.
39. In the interests of the character and appearance of the site and surrounding area, conditions relating to the following are necessary: landscaping details; tree protection measures; and boundary treatment details, also required to ensure that the privacy of adjacent residents is maintained.
40. To prevent the increased risk of flooding and to minimise the risk of pollution of surface water, a condition to secure details and the implementation of a scheme for the provision of surface water management would be necessary. In the interests of protecting the safe and efficient operation of the road network

during the construction phase, there would need to be a condition to secure a Construction Management and Phasing Plan. Securing a Construction Environment Management Plan would also be necessary to ensure adequate measures would be in place to avoid or manage the risk of pollution or waste production during the construction phase.

41. The ecological features of the site would need to be protected through a condition to ensure adherence to the various survey work carried out and submitted in this respect.
42. In the interests of highway and pedestrian safety, a condition to secure the implementation of the off-site highway improvement works set out on the approved plans would be necessary. In order to ensure adequate provision for parking associated with the approved dwellings and access to them, details of such provision would need to be submitted for approval through a condition.
43. In the interests of preventing any harmful loss of privacy to the rear garden of 15 Fairway, a condition to secure details and implementation of obscure glazing and any restricted opening for the proposed facing first floor bathroom window of plot 6 would be necessary.
44. The Council has suggested a condition to remove permitted development rights for development falling within Classes A, B, C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 in order to ensure the future affordability of the houses. However, I have received no evidence to indicate that such extensions would be likely to affect the status of the dwellings as affordable units secured and controlled through the submitted Planning Obligation. Such a condition would therefore be unreasonable.

Conclusion

45. For the above reasons, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1843-004 revision U, 1843-005 revision L, 1843-006 revision J, 1843-007 revision J, 1843-008 revision B, 1843-009 revision E, 1843-011 revision A, T6394/SK01 Rev P1, MA1843-001 revision C, MA1843-002 revision A.
- 3) Prior to the commencement of the development hereby approved, a construction exclusion zone shall be established by the erection of fencing around the perimeter of the construction exclusion zone marked on drawing No 1843-004 revision U. The fencing shall be erected in accordance with figure 2 and paragraph 6.2.2.2 in the British Standard BS5837 and be maintained and retained as such until the completion of the development. At no time shall the construction exclusion zone be subject to access, excavation, ground level changes, the storage or movement of materials and equipment, or any other operations in connection with the development, including the provision of drainage, sewerage apparatus or services, and at no time shall any part of a tree within the construction exclusion zone be damaged.
- 4) A) No development shall commence until details of a scheme for the provision of construction phase surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - i) details of the drainage during the construction phase;
 - ii) a timetable for construction;B) No development above ground level and any works associated with the drainage and surface water management of the development hereby approved shall commence until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - i) details of the final drainage scheme;
 - ii) provision for exceedance pathways and overland flow routes;
 - iii) a construction quality control procedure;
 - iv) a plan for the future maintenance and management of the system and overland flow routes.

Prior to the first residential occupation of the site, it shall be demonstrated to the written satisfaction of the Local Planning Authority that relevant parts of the scheme have been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details.

- 5) The development hereby approved shall be carried out in accordance with the ecological mitigation and enhancements set out in the Extended Phase 1 Habitat Survey & Hedgerow Assessment dated April 2013; the Tree Bat Emergence and Activity Survey Report dated October 2013; and the Reptile Survey dated October 2013.
- 6) No development above ground level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme and, in respect of hard landscaping: proposed finished ground levels or contours, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials, minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); and in respect of soft landscaping: planting plans, written specifications, schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate. The landscape works shall be carried out in accordance with the approved details.
- 7) If within a period of five years from the date of the planting of any tree or shrub relating to the approved landscaping works, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 8) No development shall take place, including any works of demolition, until a Construction Management and Phasing Plan (CMPP) has been submitted to and approved in writing by the local planning authority. The approved CMPP shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) construction operation hours;
 - ii) expected number of vehicles per day;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) storage of plant and materials used in constructing the development, including surfacing and drainage of the storage areas;
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme to encourage the use of public transport by site operatives.
- 9) No dwelling shall be occupied until the parking spaces, and private access adjacent to the highway, for use in conjunction with that dwelling have been constructed, drained and surfaced in accordance with details first submitted to and approved in writing by the Local Planning Authority. The parking spaces shall thereafter not be used for any purpose other than the parking of vehicles.

- 10) No dwelling shall be occupied until those parts of the estate road carriageways and footways, as shown on the approved plans, which provide access to it, as well as associated street lighting, have, with the exception of the application of the final wearing course, been laid out and constructed in accordance with details of their construction, surfacing (including details of, and a completion programme for, the final wearing course) and drainage, which shall firstly have been submitted to and approved in writing by the local planning authority. The final wearing course shall be completed in accordance with the details and programme approved for that surfacing.
- 11) No dwellings shall be occupied until the proposed highways improvements have been fully implemented in accordance with drawing No T6394/SK01 Rev P1.
- 12) No development above ground level shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. No dwelling shall be occupied until the boundary treatment has been completed in accordance with the approved details. That boundary treatment shall be retained as such thereafter.
- 13) Before the first occupation of the dwelling shown as relating to plot 6 on the approved plans, the first floor bathroom window on the west facing elevation of that dwelling shall be fitted with obscured glass and a restricted opening in accordance with details which shall firstly have been submitted to and approved in writing by the Local Planning Authority. The window concerned shall thereafter be retained in accordance with the approved details.
- 14) No development shall take place until a detailed Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This CEMP shall include details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, to protect biodiversity and avoid, minimise and manage the production of waste with particular attention being paid to the constraints and risks of the site. The CEMP shall also include, but not be limited to, details of noise control measures, dust control measures, roles and responsibilities, monitoring and reporting, emergency responses, community and stakeholder relations and training. The development shall be carried out strictly in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority.