
Appeal Decision

Site visit made on 12 October 2015

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 20 November 2015

Appeal Ref: APP/D0840/W/15/3129923

South Lynstone Farm, Marine Drive/Lynstone Road, Upton, Bude EX23 0LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Marshall against the decision of Cornwall Council.
 - The application Ref PA15/00069, dated 6 January 2015, was refused by notice dated 10 March 2015.
 - The development proposed is up to 22 dwellings (including affordable housing) with associated access and open space. The proposed development would involve the demolition of two small storage buildings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline and the application form makes it clear that all matters apart from access are reserved for future consideration. Whilst the submitted drawings show the layout of the site and the design of the new dwellings, the drawings are marked as indicative and this is how I have treated them. It is on this basis that I have determined the appeal.
3. The appellant submitted additional ecological information with the appeal. I have considered this information under the principles established by the Courts in *Wheatcroft*¹. The Council has commented on the revised information within its statement. I am satisfied that it does not change the development to such a degree that to consider this information would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings and information submitted with the application and the revised ecological information.
4. A Unilateral Undertaking (UU) dated 1 October 2015 was submitted with the appeal. I have considered the obligations contained within this UU later in my Decision.
5. My attention has been drawn to the policies within the emerging Cornwall Local Plan 2010-2030. Whilst the plan provides a clear indication of the Council's direction of travel, it is in the process of being examined. It has not been found to be sound and consequently I am only able to attach limited weight to the policies contained therein in my decision. It follows that the appeal has to be

¹ Bernard Wheatcroft Ltd v SSE & Harbrough DC [1982] P&CR 233

determined against the relevant policies of the development plan and the National Planning Policy Framework (the Framework).

6. The Council has made reference to Policy DVS4 of the North Cornwall District Council Local Plan (Local Plan) within its decision notice. This policy relates to the design and layout of housing schemes. As this is an outline application with only access to be considered at this stage, I do not consider that this policy is relevant to my Decision, and accordingly I have afforded it limited weight.

Main Issues

7. The main issues in this case are:

- whether new housing in this location would be acceptable having regard to principles of sustainable development, having particular regard to whether there would be a high dependency on the use of the private car, the effect on the landscape character of the area and the effect upon protected species; and
- the appropriateness or otherwise of contributions sought towards affordable housing provision, public open space, transport strategy and education provision.

Reasons

8. The appeal site is grazing land and comprises a small building and several containers used for fodder and storage. The site extends to approximately 0.7 hectare. It is bounded by existing housing on Wentworth Close and Upton Meadows to the east and agricultural land to the south, north and west. The appeal site slopes down from west to east. The site is enclosed by mature landscaping.
9. The appellant seeks outline planning permission for up to 22 dwellings with 50% of them being affordable. The new access would be from Marine Drive.

Sustainable development?

10. I note that the appellant considers that the appeal site is within a built up area, forming a southern extension to Bude. From my observations, the appeal site is largely undeveloped and displays the characteristics of the surrounding agricultural land, rather than the neighbouring residential development. I therefore concur with the Council that the site is open countryside for planning policy purposes.
11. Policy HSG 10 of the Local Plan allows for small scale schemes to meet the local community's need for affordable housing within the countryside providing the site is within or immediately adjoining the settlements of Camelford or Padstow or a main or minor village identified in Policies HSG 1 and HSG 2, and where there is a genuine local housing need which cannot be met in any other way. For schemes of more than 10 dwellings (as is the case in the appeal proposal), this policy requires the site to adjoin the settlements of Camelford or Padstow, or a main village identified in Policy HSG 1.
12. Lynstone or Upton are not identified as a main village in Policy HSG 1 of the Local Plan, however Bude-Stratton is identified as a town under this policy. Accordingly, having regard to the location of the appeal site and the appeal scheme not solely comprising affordable housing, there would be conflict with the objectives of Policy HSG 10 of the Local Plan.

13. However, within its decision notice the Council accepts that until there has been a fully tested objective assessment of housing need, it is unable to conclude whether or not there is a five year supply of housing land within Cornwall. It accepts that in accordance with paragraph 49 of the Framework that the relevant policies for the supply of housing (in this case Policies HSG 1, HSG 2 and HSG 10) are not up to date. As I have not been provided with up to date evidence to demonstrate that the Council has a five year supply of housing land, I have no reason to disagree with the approach that the Council has adopted.
14. Paragraph 14 of the Framework advises that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in (the) Framework taken as a whole; or specific policies in (the) Framework indicate that development should be restricted. Paragraph 49 also advises that housing applications should be considered in the context of the presumption in favour of sustainable development.
15. Paragraph 7 of the Framework advises that there are three dimensions to sustainable development: economic, social and environmental. There would clearly be economic benefits associated with the proposal including the provision of construction jobs, and the support the intended future occupiers of the new dwellings would give to local businesses. I attach limited weight to these benefits however, as they could be achieved regardless of where the new dwellings were built.
16. In social terms, the scheme would deliver new housing and affordable housing, in an area where there is an identified local need. This is not disputed. This carries significant weight in the scheme's favour. The social role of sustainability also includes accessible local services. The nearest services and facilities to the appeal site are in Bude, where supermarkets, shops, banks, post office, medical services, primary and secondary schools are located.
17. The Manual for Streets (MfS) recognises that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes walking distance of residential areas (up to approximately 800 metres). However, MfS recognises that 800 metres is not an upper limit; a distance of up to 2 kilometres is recognised as being walkable. The appellant has calculated that Bude town centre is approximately 1.5 kilometres distant from the appeal site. There is a pavement on the opposite side of the road to the appeal site which is lit by street lighting. This pavement continues into Bude. An intermittent pavement is provided on the southern side of the road within the vicinity of the appeal site.
18. Given the proximity of Bude to the appeal site, I have no reason to doubt that a number of the future occupiers of the new dwellings may walk or cycle into the town. However, given the gradient of the road, particularly between Bude and the appeal site, the journey home may not prove to be so attractive. This would be particularly so for those with limited mobility, to people with pushchairs and heavy shopping.
19. As an alternative to walking or cycling, there is a bus service which runs past the appeal site. The nearest bus stop is approximately 300 metres from the site where the number 595 service could be caught. This service provides journeys to Wadebridge, Camelford, Tintagel, Boscastle and Bude town centre at a 2 hour frequency between 8:30 and 17:00 Monday to Saturday and during the summer on a Sunday between 10:40 and 17:00. Given that a regular, frequent bus

service is not provided I consider that the bus service would be unlikely to be attractive to the intended future occupiers of the scheme, particularly those that worked in Bude or further afield.

20. In light of the foregoing, I find that in order to access the facilities and services in Bude, and towns and villages further afield, including places of employment, health and education, there would be a high probability that residents of the new dwellings would drive to them rather than walk, cycle or use public transport. The facilities and services would not therefore be accessible to those members of the community that did not have access to a private car, and as such there would be conflict with the social role of sustainability.
21. I therefore find that the intended future occupiers of the scheme would have a heavy reliance on the private car to access even the most basic day to day services in Bude. This would be in conflict with the environmental role of sustainability which seeks amongst other things to move to a low carbon economy. I note the appellant's submissions that people are using the internet more for shopping and everyday tasks including banking. However, shopping deliveries are typically made by vehicles larger than a car and this adds to my concern above.
22. The environmental role of sustainability also includes contributing to protecting and enhancing our natural, built and historic environment. The site lies outside of, but close to an Area of Great Landscape Value, within the Bude Basin Landscape Character Area. The scheme would clearly have an impact on the character and appearance of the landscape in that the site would be developed with new housing where there is none at present. It would extend the built development along Marine Drive. However, and whilst accepting that the site is elevated and can be seen from public vantage points, I am satisfied that it could be developed in such a manner that would not be harmful to the landscape character of the area. The new housing on the site would be largely read in the context of neighbouring residential development. The layout and design of the scheme, including landscaping would be the subject of a further application to the Council and such matters could be addressed at this stage. I therefore find that there would be no conflict with the landscape character objectives of Policy ENV1 of the Local Plan.
23. A further environmental role of sustainability is helping to improve biodiversity. The planning application was submitted with a Phase One Ecological Survey undertaken in July 2014. The survey recognised that its findings were only valid for 12 months. Further Ecological Supporting Information dated July 2015 was submitted with the appeal. This identified that there were badger setts upon the site and that there was evidence that dormice were using the hedgerows around the site for nesting. Nesting birds were also identified.
24. The appellant has suggested mitigation measures which are shown on his Ecological Constraint and Opportunities Plan submitted with the appeal. Whilst this plan identifies opportunities to enhance biodiversity on the site, it does not provide details of the future management of the mitigation measures proposed. In the absence of such measures, I am not satisfied that the future use of the site would not have an adverse effect upon protected species and their habitat. This brings the scheme into conflict with the objectives of Policy ENV7 of the Local Plan, the environmental role of sustainability and the natural environment objectives of the Framework.

25. Whilst I have found that the scheme would have some economic and social benefits and would not result in harm to the landscape character of the area, I am not convinced that the nature conservation value of the site would be protected and enhanced in the long term. Furthermore, I find that the scheme's heavy reliance on the private car, the site's location remote from the services and facilities to serve the day to day needs of its intended future occupiers, and the limited appeal to those people who may not have personal transport would outweigh these benefits. Given that the 3 roles of sustainability are mutually dependent, I conclude that the scheme would not result in sustainable development for which the Framework indicates there is a presumption in favour.
26. In reaching this conclusion, I have had regard to a scheme in Helston that the appellant has referred me to. This scheme was for an urban extension to Helston and adjoined the built up area of the town. I find that neither the scheme, nor its relationship to a settlement is comparable to that before me and accordingly I have attached limited weight to this matter in my overall Decision. Furthermore, as I have concluded that the scheme would not represent sustainable development, the shortfall in the supply of deliverable housing sites does not offer a basis to allow the appeal.

Affordable housing, public open space, transport and education contributions

27. The Council's fourth reason for refusal relates to the absence of a mechanism to secure affordable housing, on site public open space, transport strategy and educational contributions. I find that the obligations sought by the Council are reasonable and necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind to the proposed development.
28. During the course of the appeal the appellant submitted a completed UU which contains planning obligations to provide for 50% of the new dwellings to be affordable, for on site public open space to be provided and for a financial contribution to be paid towards education provision and the Council's transportation strategy. The Council was provided with the opportunity to comment on the UU and found it to be incomplete and unenforceable because of wording contained therein. Were matters otherwise acceptable, this is a matter that I would raise with the appellant. However, given that the appeal is to be dismissed on the substantive merits, it is not necessary for me to look at it given that the proposal is unacceptable for other reasons.

Conclusion

29. For the above reasons and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR