



Appeal Decision

Site visit made on 25 August 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 01 September 2020

Appeal Ref: APP/D0840/W/20/3253410

75 Treverbyn Road, St Austell PL25 4EW

- 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 Mr Dominic Penhall of Cornwall Executive Homes Ltd against Cornwall Council.
 - The application Ref PA19/09675, is dated 4 November 2019.
 - The development proposed is an outline application for 10 self-build plots with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for later consideration. I have considered the appeal on this basis.

Main Issue

3. The Appellant has submitted this appeal on the basis of non-determination of the planning application. Following the submission of the appeal against non-determination, Cornwall Council (the Council) has identified the reasons the local planning authority would have given to refuse consent. The Appellant has seen these details and has had the opportunity to respond.
4. In light of the submissions, the main issue is whether the proposed development would be in a suitable location for housing having regard to National and Local Planning Policy, and to the character and appearance of the surrounding area.

Reasons

5. The appeal site is located on the western side of Treverbyn Road and comprises a substantially sized undeveloped plot of sloping land which, the evidence before me indicates, prior to the removal of trees and plants, formed an area of dense vegetation. To the north of the site is a well-proportioned dwelling known as Highlands, with this property's garden area appearing to be predominately restricted to a narrow wedge which runs adjacent to part of Treverbyn Road.
6. To the south of the appeal site there are a small cluster of dwellings, with access being provided between those dwellings to a public footpath that runs

adjacent to part of the southern boundary of the appeal site. To the northwest, west and southwest, the site is surrounded by predominately open agricultural land. The eastern side of Treverbyn Road is characterised by built development, comprising a mixture of housing types and commercial units.

7. As noted above, the land to northwest, west and southwest of the site comprise hedge lined agricultural fields of significant size. Almost the entirety of the site is located within the St Austell Bay and Luxulyan Valley landscape character area, with the site reflecting and contributing to the character of this area as defined within the Cornwall & Isles of Scilly Landscape Character Study (2008), being suburban belt on fringes of a main urban area, with established country houses in mature treed grounds and scatter of residential development.
8. The main parties disagree as to whether the appeal site is situated within the main town of St Austell, or whether the site should be assessed as being outside that settlement and within the open countryside. The Appellant has put it to me that the appeal should be considered to be located within St Austell by reason of the contention that the site represents garden land associated with a very small cluster of dwellings located south of the site, and due to developments close to the site within the Carclaze District of St Austell.
9. From the evidence before me and from observations made on my site visit, the developed area of Carclaze is well defined east of the appeal site. The built form of this area extends uphill from the lower section of Treverbyn Road and forms a linear pattern of residential and commercial development predominately located on the eastern side of this road. Whilst there is housing to the south of the appeal site, further uphill the character on the western side of Treverbyn Road changes dramatically, where the density of housing at this location decreases significantly, with individual dwellings being positioned in close proximity to the road and with significant gaps separating those dwellings from one another.
10. Whilst I note the scale of development south of the site, the appeal site is separated from that and merges with the undeveloped agricultural land west of the site. Consequently, in my view the appeal site has a greater visual and physical affinity with the agricultural land to the west rather than with the nearby built up area of Carclaze.
11. Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) seeks to control the distribution of new dwellings across Cornwall and provides that housing within main towns will be allocated according to the Site Allocations Development Plan Document (the SADPD) and Neighbourhood Plans. In this regard, the evidence indicates that the site has not been allocated for housing within the SADPD and there is currently no neighbourhood plan for this area.
12. For the reasons given above, I have found that the site is located outside of the physical boundary of St Austell. However, while the site is located outside of St Austell, Policy 3 of the Local Plan provides that the appeal scheme could be considered in the context of whether it constitutes previously developed land (PDL) or the rounding off of the settlement, on land immediately adjoining that settlement. In this regard, my attention has been drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (The CPOAN) which, whilst being informal guidance, provides clarity on the approach to be

adopted in relation to, amongst other things, PDL, rounding off of settlements and infill, and as such I have had regard to this advice.

13. In respect of whether the appeal site can be regarded as PDL, the Appellant maintains that the entirety of the site comprises garden land. I have been provided with a historical photograph which appears to indicate that part of the site located nearest to the dwellings at 73 and 75 Treverbyn Road was previously used for the cultivation of plants. However, I have no information regarding the whole of the site which extends to a significant distance uphill from the abovementioned dwellings and, given that there is little or no documentary evidence and no Certificate of Lawful Development that would help me clarify the use of the site, I attach little weight to the case that the site is previously developed land. Consequently, the appeal scheme would not accord with the specific criterion included within Policy 3 of the Local Plan with regards to use of PDL.
14. Within the context of Policy 3 of the Local Plan, rounding off is defined as being development on land that is substantially enclosed and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth. The supporting text to this policy further confirms that rounding off of settlements should not visually extend building into the open countryside.
15. In this regard, even if I were to accept that the dwellings to the south of the appeal site and the presence of the property known as Highlands to the north of the appeal site, would bound the site on two sides, it is apparent from the maps and plans provided and from observations made on my site visit, that development of the site would both visually and physically extend the built form of the settlement into the countryside. Furthermore, in my view, if the proposed scheme was allowed, it would have the effect of creating a further site for rounding off to the west of the dwellings at 69b, 69c and 71a Treverbyn Road. Development of the site would not provide symmetry or completion of the settlement and, for all of these above reasons, the proposal could not be considered to be rounding off within the context of the CPOAN or Policy 3 of the Local Plan.
16. Policy 3 of the Local Plan further confirms that infill schemes within settlements can provide a contribution towards housing growth. Whilst I have found that the site is not located within the settlement for the reasons given above, even in the event that the site could be considered to be within the boundaries of St Austell, as maintained by the Appellant, by reason of the significant gap that exists in the built environment and given that the development of the site would physically extend the settlement into the countryside, the proposal would not represent infill development within the context of Policy 3 of the Local Plan.
17. The supporting text to Policy 7 of the Local Plan defines open countryside as being the area outside of the physical boundaries of an existing settlement where it has a clear form and shape. For the reasons given above, the appeal site is located outside of the settlement and, accordingly, the provisions of Policy 7 apply to the appeal scheme. The policy supports development proposals within the open countryside where it is shown that special circumstances exist. A number of criteria are listed against which proposals may be assessed. The appeal scheme fails to accord with any of these criteria.

18. Whilst I note the references to paragraph 79 of the National Planning Policy Framework (the Framework), given its location close to residential and commercial buildings, the proposal would not be located far away from other places, people or buildings and, therefore, would not be considered to be isolated in terms of the Framework. Accordingly, the provisions of paragraph 79 of the Framework do not apply in this instance.
19. Due to its position on sloping land, the proposed development would be highly visible within the wider area, surrounding landscape and, in particular from the public footpath located adjacent to the southern boundary of the site. As noted above, development of the site would represent an encroachment into the countryside, with the domestic paraphernalia associated with residential occupation that that would entail. In this way, the appeal proposal would significantly harm the character and appearance of the area. This harm would fail the requirements of paragraphs 127 and 170 of the Framework, that decisions should ensure that developments are sympathetic to local character and contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
20. In summary of the above, I conclude that the appeal site would not provide a suitable location for the proposed housing by reason of the conflict with the development plan with regards to the location of the site and due to the harm to the character and appearance of the area that would result from the proposal. The appeal site is not considered to be PDL and, in combination with the above reasons, the proposed development would therefore conflict with Policies 2, 3, 7, 21 and 23 of the Local Plan which, amongst other matters, seek to ensure that development maintains and respects the special character of areas, recognising that all urban and rural landscapes, designated or undesignated, are important. Furthermore, and for the reasons given above, the proposal would not accord with the provisions of Policy 1 of the SADPD or paragraphs 127 and 170 of the Framework.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
22. The Appellant has proposed the scheme as a self-build development and has put it to me that the Council have not fulfilled their duties with regards the provision of self-build housing. However, and based on consideration of all of the evidence and submissions before me, I would conclude that the Council is able to demonstrate that it is currently meeting its requirements with regards self-build housing. Furthermore, whilst being disputed by the Appellant, the evidence confirms that the Council can currently demonstrate a five year housing land supply. Nonetheless, the proposal would still make a positive contribution to local housing supply, in an accessible location with regards to services, facilities and employment opportunities.
23. I further acknowledge that the appeal scheme could help support the local economy through future spend of residents and that the proposal would provide some limited economic benefits in terms of employment during the construction phase. Additionally, I give limited weight to the potential improvements that could be made to the public footpath located adjacent to the site and to the potential clearance of invasive plant species on site.

Cumulatively, I attach moderate weight to all the potential benefits which may arise from the proposal, by reason of the scale of the scheme.

24. Against these benefits, the appeal site would not be in a location which is suitable for housing and, in that regard, would conflict with the development plan and the Framework when taken as a whole. The harm resulting from the conflict with the development plan and the harm to the intrinsic character and beauty of the countryside, weighs significantly against the proposal. Once the above benefits and harm that would result from the proposal are considered together, the appeal scheme could not be considered to be sustainable development in the context of the Framework or in terms of Policy 1 of the Local Plan for which there is a presumption in favour of. Overall, I conclude that the identified significant harm would outweigh the moderate benefits that the scheme would provide.

Other Matters

25. I have carefully read and considered all of the information provided by the Appellant, and it is with regret that I note the Appellant's frustrations with the Council's communication and the way in which it handled the application. However, these matters do not impact on the planning merits of the proposal and I have reached my own conclusions on the appeal proposal on the basis of the evidence before me. Furthermore, whilst I note the references and information from the Appellant regarding delay and costs, the Appellant has confirmed that no application for costs has been made in relation to this appeal. I have therefore not separately considered matters associated with a costs application.
26. Interested parties raise additional objections to the proposal on the grounds of biodiversity, and highway safety with regards to access to the site. These are important matters and I have considered all of the evidence before me. However, given my findings in relation to the main issues these are not matters that have been critical to my decision.

Conclusion

27. For the reasons given above, the scheme conflicts with the development plan when considered as a whole and there are no material considerations to outweigh the identified harm and subsequent development plan conflict in relation to the suitability of the location of the appeal site and the resulting harm to the intrinsic character and beauty of the countryside. I therefore conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR