



Appeal Decision

Site Visit made on 28 September 2021

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

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/D0840/W/21/3274868

Tregoddick Farm, Madron, Penzance, TR20 8SS

- 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 M Clyndes against the decision of Cornwall Council.
 - The application Ref PA18/02055, dated 28 February 2018, was refused by notice dated 23 April 2021.
 - The development proposed is a residential development of up to 17 dwellings (outline with all matters reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved. I have determined the appeal on this basis.

Main Issue

3. The main issue in this appeal is whether or not the proposed development would make adequate provision for affordable housing, public open space contributions and education contributions.

Reasons

4. The appeal site comprises a small parcel of land located at the eastern edge of the settlement at Madron. Amongst other matters, Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030¹ (the Local Plan) provides that at locations such as the appeal site, housing growth will be delivered through rural exceptions sites in accordance with Policy 9 of the Local Plan.
5. Policy 9 of the Local Plan provides that development proposals on sites outside of but adjacent to the existing built up area of smaller towns, villages and hamlets, whose primary purpose is to provide affordable housing to meet local needs will be supported where they are clearly affordable housing led and would be well related to the physical form of the settlement and appropriate in scale, character and appearance. The appeal proposal has been submitted as an affordable housing led development of up to 17 dwellings, and the evidence before me confirms that there is a moderate level of affordable housing need in the area for which the appeal scheme would make a significant contribution towards.

¹ Adopted November 2016

6. Policy 13 of the Local Plan requires new development to achieve the provision of public open space, in proportion to the scale of the development and providing for different types of open space based on local need. Policies 25 and 28 of the Local Plan require that green infrastructure, which is important to recreation, leisure, community use, townscape and landscape quality and visual amenity, be protected and enhanced and that developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development.
7. As noted above, the appeal proposal has been submitted as an affordable housing led rural exceptions development and which, subject to the completion of a suitable planning obligation, would secure the delivery of affordable housing, as well as agreed financial contributions in respect of education provision and in respect of improvements of open space facilities at the King George V Playing Field within Madron.
8. In respect of the above, a draft planning obligation has been submitted by the Appellant which, when completed, would secure the required level of financial contributions towards public open space and education provision, and which would provide the necessary mechanism for securing affordable housing at the site subject to viability. However, whilst acknowledging the difficulties encountered by the Appellant in the execution of the document, no completed planning obligation has been provided which would secure the above identified requirements. It is further noted that whilst the Appellant's statement of case indicates that a completed and executed document could be provided by the end of June 2021, as of the date of determination of this appeal, no such completed planning obligation appears to have been provided.
9. I have considered whether a condition could be applied for securing a completed planning obligation. The Planning Practice Guidance advises that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence, may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. Given the scale of the proposed scheme, and absence of any detailed information to suggest otherwise, the proposal is not a complex or strategically important development. Consequently, the use of a planning condition would not be appropriate in this instance.
10. In light of the above, there is no suitable and enforceable mechanism before me which would secure the provision of affordable housing, subject to viability, nor any enforceable agreement that would secure the agreed financial contributions towards education or public open space. Moreover, in the absence of such a suitable and enforceable mechanism to secure these benefits of the appeal scheme, the appeal proposal would conflict with Policies 9 and 28 of the Local Plan.

Conclusion

11. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet INSPECTOR