
Appeal Decision

Site visit made on 15 March 2016

by David Walker MA MRTPI

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

Decision date: 7th September 2016

Appeal Ref: APP/D0840/W/15/3137998

Land adjacent to Barn Elms, Rose Hill, Porthtowan, St Agnes, Truro, 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 Mr and Mrs J Pearce against the decision of Cornwall Council.
 - The application Ref PA15/03067, dated 31 March 2015, was refused by notice dated 10 July 2015.
 - The development proposed is the erection of three dwellings and the provision of an internal access road.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs J Pearce against Cornwall Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in the appeal are the effect of the proposal on the character and appearance of the area with regard to the landscape setting of Porthtowan, and whether the site is an appropriate location for housing having regard to its location outside of the established settlement boundary.

Reasons

Character and appearance

4. Porthtowan is a collection of disparate groupings of buildings forming a collective, rather than a unified settlement. As such, Rose Hill performs a linking role as a rural corridor connecting two built up areas with a green and wooded setting. It is an attractive natural setting that contributes significantly to the rural character of the wider area. Beyond Barn Elms and its associated domestic out buildings, the only other development along Rose Hill is the modest collection of wooden chalets of Rose Hill Lodges holiday park, situated opposite the appeal site and at a lower level.
 5. Although the appeal site lies at the fringe of the built up area it is situated centrally in the rural corridor I have identified. Extensive tree cover would provide a backdrop to the development and there is a degree of foreground screening from Rose Hill, which is supplemented with recent planting. The
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- submitted Design and Access Statement explains that the design concept allows for the rising wooded landscape to be seen in glimpses between the dwellings, pointing to a degree of landscape integration in the scheme.
6. At this location, however, the three additional dwellings would extend the pattern of housing into the undeveloped rural setting to the village. The sloping topography of the appeal site would also necessitate extensive retaining structures that would increase the amount of built form, giving the impression of much taller buildings. Combined with the contemporary design and extensive glazing employed, the proposal would result in a sizeable massing of development in an otherwise rural setting. Such an urbanising effect would be exacerbated by night time lighting and the movement of cars along the access road located at the front.
 7. I acknowledge that new planting would help to help to soften the visual impact of the proposal, but this would be limited to shrubs and smaller trees provided in the limited space available after the creation of the new access road and its retaining structures. Such additional planting would not extend to the height of the dwellings so as to have a significant screening effect or help provide the landscape integration anticipated in the Design and Access Statement.
 8. That the existing trees would remain unaffected, thereby bringing this element of the proposal into accord with saved Policy 3F of the Carrick District Wide Local Plan 1998 (the Local Plan) (incorrectly stated as saved Policy 4F in the Council's decision), does not offset the visual impact arising from the proposal I have identified.
 9. The appellants' Landscape and Visual Impact Assessment (LVIA) considers the proposal to amount to a change from one domestic scene to another. I find this to understate the effects of the proposed development. There would be three substantial dwellings, an access road and retaining walls in place of minor outbuildings.
 10. My attention has been brought to appeal decision APP/D0840/W/15/3027383 where an Inspector found no evidence to counter the appellant's landscape appraisal. However, on the limited information provided to me I am unable to draw any parallels in the substantive matters of the two cases and so have determined the appeal on its merits. Moreover, the level of significance identified in the LVIA as being only moderate to motorists in viewpoints along Rose Hill would be much greater to pedestrians on the pavement or rights of way network, and to holiday makers in the Rose Hill Lodges.
 11. I am not satisfied therefore that the existing screening available and new planting proposed would sufficiently assimilate the scale and massing of the development into its rural setting. Therefore, with regard to the green and wooded setting, and the sparse pattern of development, the proposal would result in harm to the character and appearance of the countryside at this position.
 12. I conclude on this issue therefore that the proposal would result in adverse impacts on the character and appearance of the area giving rise to conflict with paragraph 17 of the Framework, and to criterion (iii) of saved Policy 6D of the Local Plan which requires development to respect the surrounding area, and saved Policy 3A of the Local Plan which seeks to protect the beauty of the countryside.

Suitability of the location for new housing

13. The reason for refusal refers to the settlement boundary for Porthtowan as identified within the Local Plan. It is an aged document however and, to the extent that the settlement boundary has the effect of preventing Porthtowan from expanding, it is no longer consistent with the guidance set out at paragraph ID: 50-001 of the Planning Practice Guidance. Saved Policy 6D of the Local Plan, and in particular criterion (i) which defines settlement boundaries, accordingly attracts only limited weight.
14. The Cornwall Local Plan (the CLP) is at an advanced stage of preparation and will in due course replace the policies of the Local Plan. However, until such time as its housing policies have been found to be sound by the examining Inspector they cannot be afforded full weight, in accordance with the guidance provided at paragraph 216 of the National Planning Policy Framework (the Framework). With regard to the Local Plan and CLP, therefore, I do not find development plan policies to be determinative in this issue.
15. In the circumstances, paragraph 55 of the Framework is particularly relevant. It seeks to secure sustainable patterns of development in rural areas that will enhance or maintain the vitality of rural communities. Although the appeal site lies outside of the village in a countryside position, the proposal would be in reasonable proximity to local facilities and there would be good opportunities to use public transport with a bus stop located within 100m.
16. In this regard I am satisfied that three additional houses at the appeal site would contribute towards the support of the existing community as sought by paragraph 55. There is agreement between the parties that the proposal is at a 'sustainable' position and I find no reason to disagree. Therefore, with regard to the Framework, I conclude that the proposal is at a suitable location for new housing.

Other matters

17. There is disagreement between the parties as to whether or not the Council can identify a five-year supply of deliverable housing land. Nonetheless, even if there was not a five-year housing supply and the proposed dwellings were added to this supply, the limited benefit that three dwellings would make towards addressing the undersupply of housing would not outweigh the harm I have identified.
18. A signed and dated undertaking under section 106 of the Act has been submitted with the appeal to address the requirement for affordable housing as identified within the Council's affordable housing supplementary guidance¹. It would provide for: either a financial contribution towards affordable housing, or for the smallest of the three dwellings to be made available for sale to qualifying persons at a discounted price.
19. However, a recent judgment² by the Court of Appeal has reinstated the Government policy expressed in the Written Ministerial Statement of 28 November 2014 (the WMS), as reflected at paragraph ID: 23b-031 of the updated Planning Practice Guidance. The Government's position is that

¹ Cornwall Affordable Housing Supplementary Planning Document, March 2015

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

contributions for affordable housing should not be sought from small scale and self-build development.

20. This is a significant change in policy over that at the time of the submission of the planning obligation. In the light of this policy, neither the financial contribution nor the discounted dwelling can be considered necessary to make the proposal acceptable in planning terms. With reference to paragraph 204 of the Framework, I do not therefore afford the submitted obligation any weight as a reason for granting planning permission.
21. I have had regard to the location of the appeal site within the Cornwall and West Devon Mining Landscape World Heritage Site (the WHS). As there are no aspects of mining life visible from the appeal site and no inter-visibility with other attributes, I am satisfied there would be no adverse effect on the WHS as a heritage asset for the purposes of paragraph 131 of the Framework.
22. In reaching my assessment I am also mindful of the support for the proposal offered at the time of the application to the Council, but this does not dissuade me from my findings of harm in relation to the main issue.

Balancing exercise

23. With reference to paragraph 14 of the Framework, there would evidently be economic and social benefits delivered by the proposal; not least through construction and associated activities, and in the provision of additional housing units. I also acknowledge that it would meet a housing need for the appellants' daughter, and provide additional surveillance for people walking along the road at night.
24. However, the harm to the character and appearance of the area I have identified would result in adverse impacts that would significantly and demonstrably outweigh the limited benefits that would be delivered. The proposal cannot therefore be said to amount to a sustainable development for the purposes of paragraph 14 of the Framework.
25. I have given consideration to the suggested conditions provided by the appellants and the Council, in particular to the scope for consolidating the landscape planting of the proposal. However, these would not sufficiently offset the harm that I have identified.

Conclusion

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

David Walker

INSPECTOR