



Appeal Decision

Site visit made on 22 May 2023

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2023

Appeal Ref: APP/D0840/W/23/3314795

Site Adjacent To 11 Penhale View, Cubert, Newquay, Cornwall TR8 5FW

- 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 Daniel Kemp against the decision of Cornwall Council.
 - The application Ref PA22/03475, dated 7 April 2022, was refused by notice dated 20 July 2022.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address provided on the application form was 'Land and Buildings on The North West Side Of Holywell Road, Cubert, Cornwall TR8 5FW'. However, given the location of the appeal site as illustrated within the location plan, I have taken the address above from the Council's decision notice, as this provides a more accurate description of the location.
3. I have taken the description of development in the banner heading above from the application form. However as 'site adjacent to 11 Penhale View, Holywell Road, Cubert, Cornwall, TR8 5FW' is not an act of development, I have removed this element.
4. Following the decision of the Council, a signed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990(UU) has been received which as well as committing to affordable housing and education contributions, commits to payment of contributions to Strategic Access Management and Monitoring schemes to mitigate additional recreational disturbance on the Penhale Dunes Special Area of Conservation (SAC).

Main Issues

5. The main issues are:
 - whether the proposal would be in an appropriate location, having particular regard to local development strategy and the effect of the proposal on the character and appearance of the area; and
 - whether the proposal provides appropriate affordable housing provision, having particular regard to the viability of development.

Reasons

location

6. The appeal site is located to the edge of Cubert, and immediately adjoining a residential development of dwellings known as Penhale View which tapers to a linear built form towards the appeal site. The appeal site features timber fencing to the boundaries, with vegetation within highway banks beyond. Despite the existence of vegetation, and fencing, the site is in a prominent visual location from both nearby viewpoints when entering or exiting Cubert, as well as long distance viewpoints from the surrounding countryside.
7. The Council contend that the proposal conflicts with Policy 3 of the Cornwall Local Plan Strategic Policies 2010–2030 (LP). Policy 3 sets out a hierarchical strategy for the delivery of new housing. Cubert is not a location named within the settlement hierarchy of Policy 3(1) and therefore Policy 3(3) provides that, outside these larger named settlements, housing growth is to be delivered through, amongst other mechanisms, rounding off of settlements and development of previously developed land(PDL) and rural exception sites under LP Policy 9.
8. LP paragraph 1.68 defines 'rounding off' as 'development on land that is substantially enclosed but outside of the urban form of a settlement and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road). It should not visually extend building into the open countryside.'
9. My attention has also been drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (The CPOAN). The CPOAN does not form part of the statutory development plan and is to be regarded as informal guidance. However, it does provide some clarity on the locally adopted approach in relation to matters such as infill, rounding off of settlements and PDL, and as such I have had regard to it in the determination of this appeal. 'Rounding off' is defined in the CPOAN as providing a 'symmetry or completion to a settlement boundary' and 'is not intended to facilitate continued incremental growth'
10. The appeal site is bound by a road to the north, existing residential development to the east, and a vehicular track to the south. With regard the track, I have noted the appeal decisions¹ cited by the Council. However, in the later decision, the Inspector notes that a track was a '*relatively recent feature of the landscape and is largely unenclosed with boundary features, and on account of its low-lying form it is not a significant or particularly prominent feature in the landscape*'. This differs from the track that I observed to the south of the appeal site, which runs adjacent to the appeal site and Penhale View and is in part enclosed by boundary features and is a prominent visual feature. I therefore find that the track can be considered a physical feature that also acts as a barrier to further growth to the south.
11. Furthermore, from both near and far viewpoints, the site would be seen within the context of existing residential development. Given the close relationship with the adjoining dwelling and being clearly defined by the highway and track as being within the tapering pattern of the wider residential development, the

¹ APP/D0840/W/21/3271497 & APP/D0840/W/17/3177431

- site is seen as part of the adjoining residential development, as opposed to being part of the surrounding countryside landscape.
12. However, even if I were to conclude that the proposal would result in rounding off, LP Policy 8 sets out that where the splitting of a site would result in two or more sites that are physically adjoined, the Council will consider the capacity and suitability of the entire developable area for the purpose of determining whether it falls above or below the affordable housing thresholds. Moreover, the Council's adopted Housing Supplementary Planning Document 2020 (SPD) states that the LP does not support the subdivision of sites in terms of calculating the threshold for affordable housing obligations, including in relation to developments considered under LP Policy 9. The SPD provides examples of subdivision such as by a phased development, or the subdivision of a larger site.
 13. I understand that the adjoining development is an affordable housing led scheme, permitted as a 'rural exception site'. Notwithstanding the Council's reasons for refusal, or indeed the appellants Design and Access Statement both referring to rounding off, the Council's position is that given the adjoining development was a rural exception site, the appeal proposal should also be considered with reference to LP Policy 9.
 14. The appellant within their appeal statement has also stated that given the proposal is following the same approach as the rest of Penhale View, and noting the Council's position, it should be considered with reference to LP Policy 9. No substantive evidence has been put before me in the main parties' submissions to reach a differing conclusion on this matter and therefore I will continue to consider this appeal under that policy context.
 15. LP Policy 9 supports 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 subject to the proposal being amongst other things, well related to the physical form of the settlement and appropriate in scale, character and appearance.
 16. The appeal site is within the Landscape Character Area LCA14 Newlyn Downs which key characteristics include, amongst others, open, gently undulating plateau, medium to large scale broadly rectilinear fields of pasture or arable and long views to the north and coast.
 17. In terms of the character and appearance of the proposal, I note the appeal site featured within the associated landscape scheme of the Penhale View development as an area of scrub. However, whilst I understand that the screening benefits of scrub on the appeal site formed part of the Landscape Visual Impact Assessment associated with that application, and may have been part of a particular balance of considerations justifying the granting of planning permission at Penhale View, that development has now been carried out and the development pattern and character of the immediate area has changed as a consequence.
 18. Furthermore, whilst it has been put to me that this area of scrub was to be retained, and indeed associated plans indicate this to be the case, I have not been provided with any substantive evidence that this area of scrub was subject to any planning condition or other mechanism for its future retention. This proposal must be assessed in the context of what exists on and around the

site now, and within this context the proposal would follow the pattern established by the development of Penhale View.

19. Existing views from the west into Cubert currently result in a hard urban edge created by the rendered finish of the adjoining residential development. Even if it is the case that previous scrub has been removed, which aided a transition between the built development and countryside, the proposal, utilising a stone finish to the western elevation, in combination with the proposed landscaping which could be secured through condition, would nevertheless result in a visual softening of the present somewhat stark appearance of 11 Penhale View from the west.
20. Although I accept the proposal would extend the linear form of development to the edge of Penhale View, and this would be seen to continue skyline development from some viewpoints, it would not significantly further domesticate the rural edge of the settlement and would not be seen to significantly intrude into, or harm the key landscape characteristics of the surrounding countryside.
21. Given all these factors, in combination with the appropriate scale, design and proposed materials, the development would integrate successfully with the settlement and be sympathetic to the local character of the immediate area.
22. Therefore, the development would be in an appropriate location, having particular regard to local development strategy and the effect of the proposal on the character and appearance of the area. The proposal, insofar as it is put to me that it is a rural exception site, would comply with LP Policies 1 and 3, to the degree that these policies relate to improving the environmental conditions of the area and delivering housing. However, LP Policy 9 also states that the purpose of an exception site must be primarily to provide affordable housing. I now turn to this in the main issue below.

Affordable housing

23. LP Policy 9 dictates that the inclusion of market housing will only be supported where the Council is satisfied it is essential for the successful delivery of the development based on a detailed financial appraisal. Furthermore, Market housing must not represent more than 50% of the homes or 50% of the land take, excluding infrastructure and services.
24. The submitted UU provides a mechanism to provide an affordable housing contribution in lieu of on-site affordable provision. This financial contribution has been calculated on the basis of a viability assessment carried out in relation to the adjacent development, which determined that 6 out of the 11 properties were to be provided as affordable housing. Therefore, the appellant has calculated the off-site commuted sum as 6/11ths of the full off-site contribution tariff in this area as outlined within the SPD.
25. The appellant has sought to rely on viability information previously considered by the Council in relation to the adjacent development. However, that viability information has not been submitted with the current proposal and I am therefore unable to assess the relevance in relation to the current appeal proposal. Furthermore, even if the viability information were part of the appeal submission, given the date of the previous planning application, the viability

information is likely to be some years old, limiting the weight to be afforded to it.

26. It has been put to me that a viability assessment for a single dwelling is impractical and likely to result in the scheme being less viable. However, no reasons as to why such an assessment would be impractical have been provided to me, and I cannot see why this would be so. Furthermore, even if, as is put to me, house prices have not radically changed, but materials, labour and build costs, along with borrowing costs have risen steeply, no substantive evidence of this has been provided and, in any case, LP Policy 9 requires that proposals are based on a detailed financial appraisal, which does not form part of the current proposal.
27. Consequently, I cannot conclude, on the substantive evidence before me, that the commuted sum calculation provides for an appropriate affordable housing provision, having particular regard to the viability of development. The proposal therefore conflicts with LP Policy 6 which amongst other things require development to address the identified need for affordable housing. LP Policy 8 is quoted within the Council's reason for refusal, which seeks, and sets thresholds for affordable housing on non-exception site developments taking into account viability considerations. However, given the proposal has been identified as an exception site, there would nevertheless also be conflict with LP Policy 9 for the reasons set out previously.

Other Matters

28. The Council's third reason for refusal relates to a failure to make an appropriate contribution towards mitigation measures required due to an additional recreational pressure the proposal would place on the SAC. During the appeal process a signed UU has been received which commits to payment of contributions to Strategic Access Management and Monitoring schemes. If the appeal were to be allowed, I would need to undertake an Appropriate Assessment in accordance with the Habitats Regulations. However, as I am dismissing the appeal for other reasons, I have not found it necessary to consider such matters any further.
29. It has been put to me that there is some public support for the proposal. Even so, my assessment of the material planning considerations would be unchanged and some public support is not a reason in itself to allow development that is unacceptable.
30. Although I acknowledge the findings of Securing Homes for All: A Plan to respond to Cornwall's Housing Crisis and the contribution that the proposal could make to housing supply, the Council's Housing Implementation Strategy 2022 indicates that the Local Plan housing target for the area has been met. The proposed development would nevertheless provide benefits in terms of the contribution of a single dwelling towards housing supply and an affordable housing contribution. Furthermore, I have identified that the proposal would be in an appropriate location, having particular regard to local development strategy and the effect of the proposal on the character and appearance of the area, although this is a normal requirement of development and therefore does not represent a positive benefit.
31. Notwithstanding, and acknowledging the Government's objective of significantly boosting the supply of homes, the benefits of the proposed scheme

would be limited given the scope and scale of the development. Such matters therefore neither individually nor in combination outweigh the development plan conflict described above.

Conclusion

32. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

S Harrington

INSPECTOR