



## Appeal Decision

Site visit made on 10 November 2020

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

an Inspector appointed by the Secretary of State

Decision date: 23 November 2020

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**Appeal Ref: APP/D0840/W/20/3254776**

**Land at Polurrian Road, Mullion TR12 7EN**

- 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 James Wilson of The Diocese of Plymouth against the decision of Cornwall Council.
  - The application Ref PA19/05707, dated 21 June 2019 was refused by notice dated 10 January 2020.
  - The development proposed is residential development of up to 25 residential units including vehicular access, internal roads, landscaping, open space, drainage, infrastructure and all associated development.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposal is for outline planning permission with all matters reserved for future approval except for access. Whilst not formally part of the proposed development, the details submitted with the application include an illustrative layout for the scheme. I have determined the appeal on this basis.
3. The Council's decision notice provided three reasons for refusal. The second and third of these reasons related to the lack of an agreed mechanism to secure affordable housing and off site contributions for education, open space provision and measures to reduce recreational impacts upon the Fal and Helford Special Area of Conservation (the SAC). There is now an agreement under Section 106 of the Town and Country Planning Act 1990 which the Council confirms would provide an appropriate level of affordable housing as well as providing contributions towards education, open space and to the SAC.

### Main Issue

4. In light of the above, the main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the location of the site within the Cornwall Area of Outstanding Natural Beauty (the AONB).

### Reasons

5. The Council's settlement strategy is contained within Policy 2 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) which sets out a sustainable approach to accommodating growth and maintaining the dispersed

- development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place.
6. The appeal site is located at the southwestern edge of Mullion and comprises a roughly triangular shaped agricultural field which slopes downhill from north to south. The appeal site is bounded on its three sides by highways known as Polurrian Road, Nansmellyon Road and Trenance Lane. A ribbon of development is situated within Trenance Lane, with further residential development being located on the northern side of Polurrian Road. The land to the southeast and beyond Nansmellyon Road is predominately open agricultural land which slopes downhill away from the site before rising again steeply in the direction of Mullion Cove.
  7. The site is located within the South Coast Western Section of the AONB, with areas inland from the sea being characterised by an undulating and open landscape, with farmsteads and small hamlets interspersed with streams which reach the coast. The Cornwall AONB Management Plan and the Cornwall and Isles of Scilly Landscape Character Study characterise the surrounding area as comprising tall cliffs with soft undulating landscape spread over Devonian rocks inland of Gunwalloe and Mullion Cove. Whilst modest in size, due to its prominence on account of the surrounding undulating topography, the appeal site nevertheless reflects and reinforces these characteristics and makes a positive contribution to the character and appearance of the area.
  8. Policy 3 of the Local Plan guides development towards a hierarchy of locations. Criterion 4 thereof explains that within the AONB development would be supported only where it accords with other policies within the Local Plan, and where the proposed scheme would conserve and enhance the landscape character and natural beauty of the AONB.
  9. Along with National Parks, AONBs are afforded the highest status of protection when it comes to their landscape and scenic beauty. The National Planning Policy Framework (the Framework) provides that great weight should be given to conserving landscape and scenic beauty of AONBs. Policies 12 and 23 of the Local Plan require, amongst other things, that development respects the character of its setting, promotes local distinctiveness, and conserves and enhances the AONB's distinctive natural character.
  10. By reason of the location of the appeal site at the periphery of Mullion, the proposal would result in some loss of openness in this sensitive location which marks the transition between the developed area of Mullion and the predominately open countryside south of the site. In this regard, the appeal scheme would represent an encroachment of the built form of Mullion into the countryside.
  11. When viewed from within Nansmellyon Road, the site would be partially screened by vegetation and would be somewhat seen in the context of development which is located within Trenance Lane. Nonetheless, given that the site is situated on sloping land, the proposal is highly visible from Ghost Hill which rises steeply uphill, away from the site, towards the direction of Mullion Cove. On my site visit, I saw that from the public footpath located towards the top of the slope on Ghost Hill, the site would be prominent within views towards Mullion for users of that footpath.

12. From these views south of the site, the proposal would be seen somewhat in the context of nearby residential development and particularly in relation to the dwellings which are located on the northern side of Polurrian Road. In this regard, the nearby developments described above provides important context to the site and reduces the effect that the appeal scheme would have on the AONB. Furthermore, the appeal site comprises only a small component of the AONB and the landscape in which it is located.
13. The Appellant's Landscape and Visual Impact Assessment concluded that the impact on the landscape character and visual amenity of the appeal site and the surrounding area would be limited, and any impact would be confined to a very small area. As noted above, given the nature and location of the site and due to the surrounding topography and nearby development, I concur that the harm to the AONB would be limited. Whilst the harm may be described as limited, there would, nonetheless, be some degree of harm to the AONB.
14. Although not a major development in the AONB, the appeal proposal would still be a significant development. The appeal scheme would have an urbanising effect on undeveloped land at the edge of the settlement and would result in the encroachment of the settlement into the countryside. I do not consider that landscaping within the proposed development or the existing vegetation around the boundaries of the appeal site would assist in overcoming this visual harm, taking into account the sloping gradient of the appeal site and its prominence in views from the south.
15. In light of the presence of nearby development, I consider that the proposed development would result in limited harm to the open character of the site and to the landscape and scenic quality of the AONB. Whilst the harm could be described as limited, in accordance with paragraph 172 of the Framework and Policy 23 of the Local Plan, great weight should be attached to that harm in the determination of this appeal.
16. Whilst the appeal proposal would not constitute infill or use of previously developed land, it is common ground between the main parties that development of the site would represent the rounding off of the settlement within the context of criterion 3 of Policy 3 of the Local Plan.
17. However, criterion 4 of Policy 3 of the Local Plan places conditions on proposed developments within the AONB and is reflective of national policy in that it seeks to protect the natural beauty of the AONB by requiring that development conserves and enhances the character and landscape appearance of the AONB. In this regard, I find as above that the appeal scheme would visually extend Mullion into the countryside and would have an urbanising effect which would alter and diminish the natural beauty of the AONB, albeit to a limited degree. As such, the proposed scheme would conflict with Policy 3 of the Local Plan when taken as a whole.
18. Therefore, I conclude that the landscape and scenic beauty of the AONB would not be conserved or enhanced by the proposed development. For the reasons outlined above, it would be contrary to Policies 3, 12 and 23 of the Local Plan which, amongst other things, seek to ensure that local distinctiveness and the character and appearance of the area, including the scenic beauty of the AONB, is protected. Furthermore, I also find that the proposal would not comply with those parts of Policy 2 of the Local Plan which concern the protection and conservation of the surrounding natural landscape.

19. Additionally, the proposal would conflict with the landscape character protection aims at paragraph 172 of the Framework as set out above. Furthermore, it would not comply with paragraph 127 of the Framework which contains, amongst other matters, the requirement for developments to be of high quality design which is sympathetic to the character of the area.
20. 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.
21. Weighed against the proposal's conflict with the development plan as described above, in addition to the benefits arising from the delivery of open market housing there would be clear benefits associated with the provision of affordable housing units and contributions in an area where there is an identified and agreed need for affordable housing. Furthermore, the site is accessible to the range of services and facilities contained within Mullion. I accept that future occupants could help support the local economy through future spend within local businesses and that the proposal would provide some limited economic benefits in terms of employment during the construction phase.
22. Whilst it is acknowledged that the submitted planning obligation also secures contributions towards the SAC, open space and education provision, these matters relate to mitigation and therefore carry neutral weight in the determination of this appeal.
23. I conclude that, cumulatively, the benefits described above would be moderate in nature due to the scale of the proposal. Consequently, I find that the moderate benefits associated with the appeal scheme would not outweigh the harm to the AONB as identified above and to which I attach great weight. Therefore, the proposed development would conflict with the Framework's aim to conserve the landscape and scenic beauty of AONBs.

### **Other Matters**

24. The Appellant submitted the appeal scheme following pre-application advice from the Council. The Framework stresses the benefits of early engagement and of good quality preapplication discussion. Whilst it is not binding, it is clearly unfortunate if proposals are initially supported but then the final outcome is an adverse one. Nevertheless, at appeal the proposal is considered afresh and, as a consequence of this, the positive feedback given at pre-application stage does not warrant allowing the appeal.
25. Interested parties raise additional objections to the proposal on the grounds of highway safety and drainage. These are important matters and I have considered all of the evidence before me. However, given my findings in relation to the main issue above, this is not a matter that has been critical to my overall decision.

### **Conclusions**

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

*A Spencer-Peet*

INSPECTOR