



Appeal Decision

Inquiry held on 13, 14 and 15 January 2015

Site visits made on 12 and 15 January 2015

by Neil Pope BA (Hons) MRTPI

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

Decision date: 20 February 2015

Appeal Ref: APP/D0840/A/14/2222789

Porthpean Road, St. Austell, 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 Simon Cater of Wainhomes (South West) Holdings Ltd against the decision of Cornwall Council (LPA).
 - The application Ref. PA14/01101, dated 5/2/14, was refused by notice dated 10/7/14.
 - The development proposed is residential development of 131 dwellings, strategic landscaping and public open space, access connections and associated engineering works.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 131 dwellings, strategic landscaping and public open space, access connections and associated engineering works at Porthpean Road, St. Austell, Cornwall. The permission is granted in accordance with the terms of the application Ref. PA14/01101, dated 5/2/14, subject to the conditions in the Schedule below.

Preliminary Matters

2. The LPA has not produced any evidence to demonstrate that there is a five year supply of housing within Cornwall. It agrees with the appellant that paragraph 49 of the National Planning Policy Framework¹ ('the Framework') is engaged and that the relevant policies for the supply of housing in the development plan cannot be considered up-to-date.
3. Having reviewed its second reason for refusal (RfR), the LPA no longer considers that the proposal would result in a significant loss of agricultural land. In addition, as the appellant relies on a planning obligation² to address those matters identified within the first RfR (affordable housing and infrastructure contributions), the LPA has informed me that only the third RfR is relevant to the determination of this appeal.
4. Amongst other things, the third RfR includes reference to policy 18 of the Restormel Borough Local Plan (LP). At the Inquiry there was a contradiction in the answers given by the LPA's witnesses regarding the relevance of this policy to the determination of the appeal. After a brief adjournment, the LPA's

¹ This is an important material consideration which identifies that the purpose of the planning system is to contribute to the achievement of sustainable development.

² Made under the provisions of section 106 of the above Act.

Solicitor³ informed me that the evidence⁴ of its Principal Development Officer should be taken as the Council's position regarding LP policy 18.

5. The planning obligation takes the form of an Agreement with the LPA. Amongst other things, it includes provision for 53 affordable dwellings, a financial contribution towards implementing the Draft St. Austell Transportation Strategy (DSATS), a financial contribution towards education infrastructure, footpath and cycle links, the provision of a Local Equipped Area of Play (LEAP) and open space. I shall return to these matters below.
6. An application for an award of costs was made by the appellant against the LPA. This application is the subject of a separate Decision.

Main Issue

7. Whether, in the absence of any evidence to demonstrate that a five year supply of housing exists within Cornwall, any adverse impacts of the proposed development, having particular regard to the effect upon the character and appearance of the area, would significantly and demonstrably outweigh the benefits of the scheme.

Reasons

Planning Policy

8. The development plan includes the 'saved' policies of the LP which were adopted in 2001. The LP was intended to cover the period 2001-2011. The most relevant⁵ LP policies to the determination of this appeal are policies 3 (development envelope [DE]) and 6 (development principles).
9. The appeal site is outside the defined DE for St. Austell⁶. This was drawn up around towns and main villages on the basis of housing needs considered in the 1990s. Anything outside the DE is treated as countryside. This policy was devised to control the provision of housing up to 2011 and makes allowance for those sites allocated in the LP. It is a policy for the supply of housing and, as a consequence, is out-of-date.
10. The LPA has drawn attention to part of LP policy 3 which aims to protect the countryside from harm. However, the policy must be read as a whole and its overall emphasis is one of housing supply/restraint. Moreover, there has been no review of the DE following the Phase I development or other housing schemes approved elsewhere outside the DE since the adoption of the LP. The recognisable boundaries of St. Austell are no longer reflected by the defined DE. The DE will become even more outdated and unreliable as additional land is released to meet the housing needs and requirements of St. Austell.

³ In Closing the LPA stated that there would be conflict with LP policy 18. Having drawn attention to the LPA's earlier position at the Inquiry its Solicitor clarified that there would be no conflict with LP policy 18.

⁴ The Officer informed me that neither this policy nor LP policy 17 would be offended. The LPA also conceded that it had misunderstood and misapplied these policies and, in so doing, had acted unreasonably.

⁵ The appeal site forms part of a Countryside Recreation Priority Area, Countryside Access Corridor and Conservation Corridor, as defined on the LP Proposals Map, to which policies 17, 18, 46, 93, 94, 95, 96 and R40 apply. Whilst in Closing the LPA argued that there would be conflict with LP policies 93 and 94, there is no reference to any of these policies within the RfR and in cross-examination its witnesses accepted that the scheme would not offend these policies. The agreed Statement of Common Ground also states that with the exception of landscape and visual impact there are no environmental reasons that are in dispute between the main parties.

⁶ The land adjoining the site to the north (referred to by the main parties as Phase I) and where development is taking place for 126 dwellings and 585m² of employment floorspace is outside the DE. Both main parties agree that Duporth, to the south, forms part of the St. Austell DE.

11. LP policy 6 includes a requirement for development to not lead to a possible coalescence of towns and villages. In very broad terms, it accords with the provisions of 'the Framework' which requires development to respond to local character.
12. The emerging Cornwall Local Plan Strategic Policies Proposed Submission Document 2010-2030 (eLP) was published in March 2014. Since that time, the LPA has undertaken consultation in respect of a Proposed Schedule of Focused Changes. However, as noted within the Statement of Common Ground, there are unresolved objections⁷ to the eLP and it has yet to be tested through an Examination. Whilst the eLP is scheduled to be submitted for Examination at the beginning of 2015, it is likely to be many months before the outcome of the Examination is known. Neither of the main parties relies upon the provisions of eLP. It is not determinative to the outcome of this appeal.
13. The St. Austell & Parishes Town Framework Urban Extension Assessment was published as an options consultation document in 2014. This is intended to inform and feed into the Cornwall Site Allocations Document (CSAD). The appeal site forms part of part of an area of study identified as cell 26b. This is described as being of intermediate landscape value. It did not form one of the four cells⁸ upon which the LPA decided to undertake consultation regarding potential future housing growth. The CSAD is unlikely to be published for some considerable time and this Assessment carries very limited weight.
14. My attention has been drawn to the St. Austell Town Plan 2012 (STP) and the St. Austell Bay Parish Plan 2014-17 (SBPP). The appeal site falls within the area covered by the STP. Amongst other things, the STP aims to maximise the benefits of the surrounding countryside and ensure the provision of an appropriate number and mix of new housing. I note from the SBPP that there is opposition to new housing developments within and bordering the parish.
15. Neither the STP nor the SBPP form part of the development plan and they are not relied upon by the LPA. Although material considerations, I attach very limited weight to these plans in determining this appeal.

Benefits of the Scheme

16. The proposed development would assist in addressing both the shortfall in the housing land supply (HLS) within Cornwall⁹, as well as contributing towards meeting the needs of those who are unable to access the local housing market¹⁰. It would also add to the mix and choice of housing within the area. The proposal would accord with the Government's objective of boosting significantly the supply of housing. These matters weigh substantially in favour of granting permission.
17. The proposal would create employment during the construction phase and incoming residents would provide some support for local services and facilities. The development would strengthen the local economy. In this regard, I note the appellant's argument that it is a key employer in the area and the contents

⁷ These include concerns over the proposed housing requirement which the LPA's officers have described as "the lowest that could be robustly defended at the Examination"

⁸ The LPA informed me that only three of the cells were now being taken forward for further consideration.

⁹ There is no cogent evidence to refute the appellant's calculation that about 3 years HLS exists in Cornwall.

¹⁰ There is a very high level of need for affordable dwellings in St. Austell. Even if the arguments of some interested parties are correct that there is some 'exaggeration' in the figures contained within the Homechoice Housing Register, there is still a serious shortage of affordable housing to meet the needs of the local community.

- of the 2011 Ministerial Statement 'Planning for Growth'. This adds moderate weight to the argument for granting planning permission.
18. Both main parties agree that the site is in a sustainable location close to the wide range of services and facilities in St. Austell. This includes the adjacent hospital and ASDA superstore, as well as the employment premises¹¹ which form part of the Phase I development. The proposal would accord with the Government's objective to actively manage patterns of growth. This adds some limited weight to the appellant's argument for granting permission.
 19. An area of public open space would be provided within the site, as well as a LEAP. These new facilities and the proposed pedestrian and cycle routes within the site would be available for use by future occupiers of the scheme and existing residents. Landscape planting would also be undertaken and there would be the potential for biodiversity enhancement¹². This adds some moderate weight to the case for granting approval.
 20. There is nothing to show that there would be a direct connection between the payment of the New Homes Bonus (NHB) and the proposed development. Moreover, the Government's 2013 Autumn Statement announced that consultation would take place to withhold payments where planning approvals are made on appeal. The 'direction of travel' therefore indicates that the NHB should not be treated as a benefit in appeals. There is also nothing to show how the increased council tax revenue from the scheme would benefit the area.
 21. Whilst the proposed dwellings would respond to local character, good design is a requirement of all new development. Furthermore, the financial contributions within the section 106 planning agreement would only be necessary if they are required to avoid harmful impacts. It is difficult to justify these as benefits.
 22. Notwithstanding my doubts in respect of some of the claimed benefits, overall, the range of benefits that would be derived from the appeal scheme can be given very considerable weight. These would fulfil the economic and social dimensions to sustainable development. In addition, the strategic landscaping and biodiversity enhancement would perform an important environmental role.

Character and Appearance

23. This 3.66 ha site is former grazing land on the southern edge of St. Austell. It comprises the remnants of a field currently being developed for the Phase I scheme to the north and an adjoining field to the south. Whilst I note the appellant's arguments to the contrary, the largely unspoilt green, open attributes of the site and its hedgerows and trees have more in common with the character of the countryside surrounding the town than its built-up limits, including the settlement¹³ of Duporth further to the south.

¹¹ These premises are under construction and an occupier has been found for about half of the floorspace.

¹² This would include: sowing areas of open space with a meadow mix to increase species diversity; an 'un-intensive' management/cutting regime to encourage wildlife and the creation of a seed bank in the soils; planting native local sub-species along the earth-banks/hedgerows; provision of bird and bat boxes and; drainage features to encourage amphibians. There is no evidence to substantiate fears that the scheme would harm wildlife.

¹³ Duporth lacks services/facilities and is reliant upon those provided within St. Austell. Whilst it has a St. Austell postal address the same is true of many other settlements which include the name of a town as part of their postal addresses. Moreover, although Duporth forms part of the St. Austell DE, the appellant's argument that it is within the town is at odds with some of the reports submitted in support of the application, including the Landscape and Visual Impact Assessment (LVIA). I agree with the LPA and some interested parties that Duporth is a separate settlement. This is consistent with the advice of the LPA's officers and the Cornwall Design Review Panel.

24. Prior to 2005 Duporth consisted of a private estate and a holiday park with numerous caravans and chalets. It now comprises about 300 dwellings. As I saw during my visits, this settlement is inward looking and dense intervening vegetation screens Duporth from the town and the appeal site. Although not unattractive, this settlement has no distinctive character or notable identity.
25. During my visits, I also noted that the appeal site, which is bordered by tarmac footways along its eastern and western¹⁴ boundaries, streetlights and metal railings along its southern boundary to Tregorrick Road and the car park to the hospice beyond, as well as Phase I to the north, is a rather contained area of open land. Unlike the large open expanse of very attractive countryside to the west, the urban influences upon the site dilute its landscape and visual qualities. In addition, the Urban Extension Assessment that I have noted above recognises that the site is less tranquil than the countryside to the west.
26. Whilst some residents consider the appeal site to be an attractive area of countryside, all landscapes have some value. From everything that I have seen, heard and read, this 3.66 ha area of land is rather unremarkable and there is no cogent evidence to substantiate the LPA's argument that it forms part of a valued landscape to which paragraph 109 of the Framework' applies. There is greater force in the appellant's argument that unless some objective landscape assessment is undertaken, arguments concerning valued landscapes could be applied to all sites where development is proposed. This, in turn, would be likely to frustrate the Government's objective to boost significantly the supply of housing.
27. The LVIA provides an objective assessment of the landscape and visual attributes of the site and the likely effects of the development. Amongst other things, it identifies the key landscape qualities of the area¹⁵, visual receptors and the sensitivity¹⁶ of the site before assessing the likely impact of the scheme. No similar detailed assessment has been undertaken by the LPA as part of its evidence to the Inquiry or by those opposing the proposals.
28. The proposed development would markedly change the character and appearance of the site. Much of the green, open attributes of this pasture land would be replaced by new buildings and roads. There would also be an unfortunate loss of a remaining section of hedgerow growing across the site which forms part of a parish boundary.
29. However, the proposals would be set within the context of neighbouring urban development/influences and there would only be limited erosion to one of the key landscape features of the area. Other than the very modest vehicular and pedestrian accesses proposed onto Porthpean Road the boundary hedgerows would be reinforced and there would be new hedgerow planting within the site. Many existing trees would be retained and there would also be some new tree planting. In addition, at the southern end of the site there would be new native and decorative shrub planting to strengthen the existing screen of trees and hedges. I concur with the appellant that overall the effects upon the character of the landscape would be moderate/minor. This adverse impact can be given moderate weight in the planning balance.

¹⁴ Including a chain link fence.

¹⁵ The site lies within the St. Austell Bay and Luxulyan Valley character area as identified in the Cornwall and Isles of Scilly Landscape Character Study, wherein the key landscape characteristics include undulating pasture land.

¹⁶ This is described as low given the influence of neighbouring urban development and its partially enclosed nature

30. Due to topography and intervening existing vegetation and proposed planting the appeal scheme would not be visible from either Duporth or Porthpean. Whilst the proposals would diminish the amount of open land between the edge of the town and these settlements they would remain separated from St. Austell. The site is not identified as a 'buffer' or 'important green space' in any policy document and there is no evidence to demonstrate that the proposals would alter any important attributes of these neighbouring settlements or erode their identities. The concern that the scheme would result in coalescence has not been substantiated. There would be no conflict with LP policy 6.
31. It appears that much of the LPA's concern regarding coalescence was largely based upon the fears of the Parish Councils and Town Council that the scheme would set a precedent for further development. However, I have not been informed of any proposals to undertake development on neighbouring land and each case must be determined on its own merits. The LPA would not be bound to approve further housing alongside in the event of this appeal being allowed. I also note from the Urban Extension Assessment that the land to the east, south and west is described as being of the 'highest landscape value'.
32. Whilst some of the proposed dwellings would front onto Porthpean Road, the scheme would have 'depth' with roads and housing across the site. It is therefore difficult to comprehend the LPA's argument that the proposals would amount to 'ribbon development'. I note that no such concerns were raised by the LPA when it approved a similar form of development on the Phase I land.
33. The proposed development would be seen from other parts of the public realm. In the main, this would be confined to the public footpath along the western boundary of the site, a section of Porthpean Road to the east and a small section of Tregorrick Road. From sections of these paths and roads the magnitude of visual change would be large.
34. From the footpath to the west the development would extinguish pleasing views across this remaining area of pasture land. For some users it would detract from their enjoyment of this path. This weighs against an approval. However, there would continue to be glimpses of the open countryside to the west and pasture land would be evident in views a short distance from the southern end of this path. Irrespective of the outcome of this appeal, urban influences are already readily apparent when walking this path. Upon completion of Phase I alongside there would also be an unmistakable change in the experience of this path with new buildings in close proximity. The LPA was unconcerned by this change when it permitted this adjoining housing scheme. The adverse visual impact from this path can be given moderate weight.
35. From Porthpean Road and Tregorrick Road the proposed development would be prominent and would erode the green edge to the town. However, the buildings would be set back from Tregorrick Road with landscape planting. This would soften the appearance of the buildings and set them apart from development to the south. The proposals would not interrupt any important public views and would be seen in association with the Phase I development alongside. The countryside would continue to be evident from other sections of these roads. This adverse visual impact can also be given moderate weight.
36. During my site visits I also viewed the appeal site from the A390, other parts of the town including Sycamore Avenue near Cornwall College St. Austell and sections of more distant public footpaths. I agree with some interested parties

that from some of these parts of the public realm the proposals would be conspicuous and would appear as an extension of the town into the countryside. The magnitude of visual change would be medium and the development would dilute the pleasing qualities of these views.

37. However, from these other parts of the town and countryside the proposals would be seen in the context of the Phase I development, as well as the hospice and rugby club which lie beyond the appeal site. Due to the intervening vegetation and topography the proposed development would not create the impression of coalescence with any neighbouring settlement or spoil any important public views. Countryside would remain an integral part of these views. The adverse impact upon these views carries limited weight.
38. At the Inquiry the LPA accepted that in accommodating the housing needs and requirement of the local community some new 'greenfield' land would have to be released for development. It also accepted that in so doing there would be inevitable adverse impacts upon the character and appearance of the area. Moreover, it is not lost on me that some of the options that the LPA has consulted upon following the Urban Extension Assessment involve land of higher landscape value than the appeal site. Whilst these may be the LPA's initial preferred options, there is nothing to show that they are deliverable¹⁷.
39. Some interested parties have also drawn attention to the Cornish Mining World Heritage Site (WHS) at Charlestown. However, there is nothing to support the fears that the scheme would in any way harm the integrity of the WHS.
40. I attach moderate weight to the totality of the landscape and visual effects.

Other Matters

41. The appeal site lies within the St. Austell Critical Drainage Area, as defined by the Environment Agency (EA) and the LPA. However, it is within Flood Zone 1 (low risk) and the appellant's Flood Risk Assessment includes a drainage strategy which comprises a network of adoptable and non-adoptable underground pipes, a cut-off ditch along the western boundary of the site and private, communal and highway soakaways. This would reduce the existing rate and volume of surface water runoff from the site and reduce the risk of downstream flooding. Neither the EA nor the LPA have raised land drainage concerns. The proposal would be unlikely to increase the risk of flooding.
42. The proposed development would increase the volume of traffic on the local highway network. I have travelled along sections of this road network at various times of the year, including the A390. From my own experiences, this main road is congested at peak times, especially during the summer months when many visitors make their way to and from the numerous attractions, hotels and holiday accommodation in and around St. Austell.
43. During the peak morning and evening periods the proposal would be likely to increase congestion along the A390 in St. Austell. To address this, the section 106 agreement includes a financial contribution towards the costs of implementing the DSATS. Amongst other things, this Strategy is intended to alleviate congestion within the town. In addition, the appellant has offered to provide a Travel Plan (TP) to encourage residents of the proposed scheme to pursue more sustainable modes of transport. I note that the LPA's highway

¹⁷ As defined in footnote 11 of 'the Framework'.

- engineers were content with these arrangements and no highway concerns were expressed within the reasons for refusal. The proposal would be unlikely to harmfully increase congestion along the A390 and the local road network.
44. The appellant's Transport Assessment, which includes an interrogation of recorded road accidents, reveals that there are no inherent road safety issues along the local highway network. There is no cogent evidence to refute the findings in this Assessment. The proposal would be unlikely to pose a significant risk to users of the local highway network.
45. The appeal site is within an Air Quality Management Area. This has been designated due to 'exceedences' of nitrogen dioxide objectives. The proposal has the potential, both during the construction and operational stages, to impact upon local air quality. However, having considered the Air quality Assessment that was submitted in support of the application, I concur with the appellant and the LPA that, on balance, the mitigation that would be provided towards implementing the DSATS and the provision of a TP would, in all likelihood, result in a negligible impact upon local air quality.
46. The proposal would increase noise and disturbance in the area, especially during the construction phase. However, the construction works would be for a limited period and a planning condition, requiring the submission of a Construction Environmental Management and Phasing Plan, could be attached to an approval. A condition to this effect would limit the impact upon the living conditions of neighbouring residents including those at the nearby hospice. There is no cogent evidence to demonstrate that the proposal would result in harmful noise disturbance or significantly erode the living conditions of neighbouring residents.
47. I am aware of concerns regarding the capacity of existing infrastructure, and in particular education, to accommodate housing growth within Cornwall. However, those with responsibility for providing infrastructure have not objected to the scheme and, as I have noted above, the proposals include financial contributions towards the cost of educational infrastructure. There is no cogent evidence to demonstrate that the development would place an undue strain on existing services and facilities.
48. There is also no cogent evidence to substantiate concerns that the proposed loss of farmland would result in any significant impact upon the agricultural industry. In meeting the housing needs of the local community agricultural land of a similar quality to the appeal site would have to be released.
49. I have carefully considered the local opposition to the scheme, including the concerns of the local Member, the Parish Councils, Town Council and local Member of Parliament. I also note the Government's 'localism' agenda. Whilst I do not set these concerns aside lightly, local opposition is not in itself sufficient grounds for withholding permission. The Government has stated¹⁸ that responsibility comes in putting power back in the hands of communities: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and facilities. The Government's planning policies are set out in 'the Framework'.

¹⁸ 'Housing and Growth' Department for Communities and Local Government 6 September 2012.

50. Several years have passed since 'the Framework' was published and the requirement to supply specific deliverable sites sufficient to provide five years worth of housing. Withholding permission for necessary housing where 5 years HLS cannot be demonstrated requires any adverse impacts to significantly and demonstrably outweigh the benefits. This balancing exercise was undertaken by the LPA's officers and resulted in a recommendation of approval. I am required to undertake the same exercise.

The Planning Obligation

51. Attached to the Appeal Questionnaire are details from consultees setting out the necessity for the planning obligations.

52. Given the shortage of affordable housing within the area the scheme includes necessary provision for this type of accommodation. The proposed footpaths and cycle links and LEAP would all be necessary to ensure incoming residents have adequate access and recreational facilities available to them.

53. Some incoming residents would increase the pressure on scarce educational resources. Financial contributions would therefore be necessary to safeguard the quality of local education. The level of contribution accords with a recognised formula and would be related in scale and kind to the proposals.

54. The contributions towards the DSATS would be necessary to ensure there would be no harmful increase in congestion along the A390. It would also ensure there was no significant reduction in air quality in St. Austell. This contribution would also be related in scale and kind to the proposals.

55. I agree with both main parties that the section 106 agreement accords with the provisions of paragraph 204 of 'the Framework' and Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have therefore taken it into account in determining the appeal.

Planning Conditions

56. For the avoidance of doubt and in the interests of proper planning it would be necessary to specify the approved plans. The main parties agree that as some of these plans contain details required by some of the other conditions suggested by the LPA such other conditions would be unnecessary.

57. To safeguard the living conditions of neighbouring residents and to ensure there was no significant reduction in air quality, it would be necessary to attach a condition requiring the submission and approval of a Construction Environmental Management and Phasing Plan. In the interests of public health, conditions would be necessary to address any land contamination, ground instability and ensure there is no risk from historic mine workings.

58. In the interests of nature conservation interests conditions would be necessary to secure the proposed ecological mitigation and enhancement, as well as scheme to limit the effects of external lighting. To safeguard the character and appearance of the area conditions would be necessary requiring: the landscaping works to be undertaken within an agreed timescale; the approval of sample materials and; works to proceed in accordance with the submitted Arboricultural Method Statement.

59. Conditions requiring the development to be undertaken in accordance with an approved TP would be necessary to secure a meaningful modal shift in travel, thereby limiting an increased risk of congestion and deterioration in air quality. Separate conditions regarding the provision of car parking spaces and the internal access roads would be necessary in the interests of highway safety and to ensure the free flow of traffic.
60. A condition requiring the drainage works to be provided in accordance with an agreed timetable would be necessary to avoid land drainage problems.
61. Planning conditions to the above effect would accord with the provisions of paragraph 206 of 'the Framework'.

Planning Balance/Overall Conclusion

62. When the adverse effects of the scheme are considered alongside the likely benefits to biodiversity, the site's proximity to services and facilities and the inevitable harm that arises from developing 'greenfield' sites, overall, the proposals would fulfil the environmental role of sustainable development.
63. The proposed development would be outside the DE and would conflict with the provisions of LP policy 3. However, this conflict would be outweighed by the provisions of 'the Framework'. The moderate harm that I have found to the character and appearance of the area would not significantly and demonstrably outweigh the very considerable benefits of the scheme. The proposal would comprise sustainable development and permission should therefore be granted.
64. I recognise that my findings will disappoint some residents and their elected representatives. However, with all of the evidence now tested and having undertaken the necessary planning balance, there are insufficient grounds for dismissing the appeal.
65. Whilst withholding permission may be a more popular decision, failure to release this site for housing would further delay the provision of much needed housing, including affordable dwellings which are urgently required to alleviate the housing needs of the local community. There is greater force in the planning arguments for granting permission.
66. Given the above and having regard to all other matters raised, including the case law drawn to my attention, I conclude that the appeal should succeed.

Neil Pope

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss J Astbury <i>She called</i>	Solicitor, Cornwall Council
Mr P Blackshaw BA (Hons), MRTPI	Principal Development Officer
Cllr G King	Member for Mount Charles Division, Member of the Central Sub-Area Committee and Member of the Strategic Planning Committee

FOR THE APPELLANT:

Mr V Fraser QC <i>He called</i>	Instructed by Mr S Harris, Emery Planning
Mrs C Brockhurst FLI, BSc (Hons), DipLA	Partner, Tyler Grange LLP
Mr S A Harris MRTPI	Director, Emery Planning

INTERESTED PERSONS:

Cllr T French	Member of Cornwall Council
Cllr W P Leach	St. Austell Bay Parish Council
Cllr D Yeo	Pentewan Valley Parish Council
Cllr B Palmer	St. Austell Town Council
Mr G Smith	Resident
Mrs L Hyde	Resident
Cllr M Neill	St. Austell Bay Parish Council
Mr N Chatterjee	Resident

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	The Council's Opening Submissions
Document 2	Cllr French's Statement
Document 3	Cllr Leach's Statement
Document 4	Cllr Yeo's Statement
Document 5	Cllr Palmer's Statement
Document 6	Plan showing approved layout for Phase I
Document 7	St. Austell Bay Parish Plan 2014-17 and Notes from the Parish Council
Document 8	St. Austell Town Plan 2012
Document 9	Letter from Ms A Murfitt
Document 10	Extracts from Committee Report – PA13/00956
Document 11	Section 106 Planning Obligation
Document 12	The LPA's Closing Submissions
Document 13	The appellant's Closing Submissions
Document 14	The appellant's Costs Application
Document 15	The LPA's response to the Costs Application

SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall be begun within three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following plans: i) red line site location plan (0473-2-101); ii) planning layout (0473-2-102-A); iii) street scenes (0473-2-103-A); iv) external works layout (0473-2-104-1-A); v) external works layout (0473-2-104-2-A); vi) vehicle tracking layout (0473-2-105-A); vii) external detailing (0473-2-106-A); viii) materials layout (0473-2-108-A); ix) garages (0473-2-109); x) house type booklet (0473-2-Issue 2); xi) block B (0473-2-235A); xii) parking matrix (0473-2-Issue 2); xiii) soft landscape proposals (Wain 19059-11 sheets 1-5); xiv) hard landscape proposals (Wain 19059-12 sheets 1-3); xv) tree protection plan (Wain 19059-03A); xvi) landscape specification (Wain 19059 spec); xvii) park play area (Wain 19059 - 13); xviii) preliminary drainage layout (0193 - PDL/001 C); xix) preliminary highway layout (0193 - PHL/001B); xx) preliminary highway layout for section 38 adoption (0193 - PHL/002B); xxi) road long sections (0193 - PHL - 101B).
3. The development hereby permitted shall not commence until a Construction Environmental Management and Phasing Plan (CEMPP) has been submitted to and approved in writing by the Local Planning Authority (LPA). The CEMPP shall include, a Dust Mitigation Plan, incorporating the mitigation measures set out in Appendix C of the Kairus Ltd Air Quality Assessment report dated 9 May 2014 and details of the following: construction hours; expected number of vehicles per day; car parking for contractors; site compounds details including surfacing and drainage; specific measures to be adopted to mitigate construction impacts in pursuance with the Environmental Code of Construction practice (including wheel wash facilities) and; a scheme to encourage the use of public transport amongst contractors. The development shall be carried out in accordance with the approved CEMPP.
4. The development hereby permitted shall be carried out in accordance with the ecological mitigation and enhancements set out in section 4 of the Hutchinson Ecological Associates report dated June 2014.
5. The development hereby permitted shall not commence until a timetable for undertaking the hard and soft landscape works identified in condition 2 above has been submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved timetable. Any trees, shrubs or plants which within a period of five years from the completion of the development become diseased, die, damaged or are removed shall be replaced in the next planting season with others of a similar size and species.
6. The development shall be undertaken in accordance with the Arboricultural Method Statement prepared by ACD Arboriculture and dated 30 January 2014.
7. The development shall not be occupied until details of the external lighting of the public areas have been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be carried out in accordance with the approved details and the approved lighting shall thereafter be retained

without alteration. No further external lights in the public areas shall be installed without the written approval of the LPA.

8. The development shall not commence until a Travel Plan (TP) has been submitted to and approved in writing by the Local Planning Authority (LPA). The TP shall be based upon the measures set out in Appendix H of the Awcock Ward Partnership Transport Assessment dated 5 February 2014. No part of an approved phase of the development shall be occupied until the implementation of those parts identified in the approved TP as capable of being implemented prior to occupation. Those parts of the approved TP that are identified therein as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented in accordance with the approved TP.
9. No dwelling shall be occupied until the parking spaces for use in conjunction therewith and private accesses adjacent to the highway have been constructed, drained and surfaced in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved parking spaces shall thereafter be retained for the parking of vehicles.
10. No dwellings shall be occupied until the estate road carriageways and footways to be constructed in association with the development hereby permitted have been laid out and constructed in accordance with details submitted to and approved in writing by the Local Planning Authority.
11. Prior to the commencement of development an assessment of the site to identify any ground instability and details of the location, condition and means of capping any mine shafts within the site shall be submitted to and approved in writing by the Local Planning Authority (LPA). If instability is identified a scheme for on-site investigations, an assessment to identify the extent of any unstable ground and the measures to be taken to avoid risk to buildings and people when the site is developed, shall also be submitted to and approved in writing by the LPA. The approved scheme shall be implemented and completed before the development hereby permitted is first occupied.
12. Unless otherwise agreed by the Local Planning Authority (LPA), development other than that required to be carried out as part of an approved scheme of remediation must not commence until criteria 1 to 2 below have been complied with. If unexpected contamination is found after development has begun, development must cease on that part of the site affected by the unexpected contamination to the extent specified by the LPA in writing until criterion 3 below has been complied with in relation to that contamination.

Criterion 1: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment (including controlled waters) must be prepared, and approved in writing, by the LPA. The approved scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The approved scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after

remediation.

Criterion 2: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the LPA. The LPA must be given at least two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and be subject to the approval in writing of the LPA.

Criterion 3: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the LPA. An investigation and risk assessment must be undertaken conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of criterion 1, which is subject to the approval, in writing, of the LPA. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the LPA in accordance with criterion 2.

13. No development shall commence until details of measures and a timetable for addressing the elevated levels of heavy metals detected in the south west corner of the site and noted in the Ruddlesden Geotechnical Ltd report dated February 2013, have been submitted to and approved in writing by the Local Planning Authority (LPA). If these measures require the removal of trees that are shown to be retained on the plans approved under condition 2 above, details of a scheme for replacement tree planting and a timetable for implementation shall be submitted to and approved in writing by LPA before any existing trees are removed. The development shall be undertaken in accordance with the approved details/timetables.
14. No development shall commence until a timetable for undertaking the approved drainage works listed as part of condition 2 above and details of the management of the drainage works have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved timetable. Thereafter the drainage works shall be managed and retained in accordance with the approved details.
15. No dwellings or garages shall be constructed on the site until samples of the natural slates, natural stone and external render have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved samples.