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## Appeal Decision

Site visit made on 17 January 2017

**by H Porter BA(Hons) PGDip IHBC**

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

**Decision date: 08 February 2017**

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**Appeal Ref: APP/D0840/W/16/3160310**

**Land adjacent to Mount Brioni, Bridge Road, Seaton PL11 3JN**

- 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 A Jones against the decision of Cornwall Council.
  - The application Ref PA16/05669, dated 20 June 2016, was refused by notice dated 22 August 2016.
  - The development proposed is construction of two pairs of semi-detached dwellings.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr A Jones against Cornwall Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues in this appeal are the effect of the proposed development on the character and appearance of the area; and whether there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

### Reasons

#### *Character and appearance*

4. The appeal site comprises the parcel of land that climbs the steep hillside that rises on the west side of the small settlement of Seaton. While not expressing any significant degree of cohesion in terms of building ages or architectural style, the locality presents a prevailing scale of two to three storeys and a loose urban grain. The informality in the layout and diminutive scale of development reveal the dramatic local topography and pockets of dense vegetation, which combine to create a sense of breadth and openness. While cleared and partially excavated, the appeal site contributes positively to the verdant and spacious character of the area.
  5. The appeal scheme proposes the development of two pairs of semi-detached, four-storey townhouses, set back from Bridge Road by a forecourt and turning area. Steps would run towards the rear of the plot, centrally to the two pairs as well as on either end of the scheme.
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6. At the scale and density proposed, the appeal proposal would be over one storey higher than any nearby development and of a notably tighter urban grain. In combination with the proposed steps, the development would occupy virtually the entire plot width and largely obscure the hillside topography. While the proposed ridge height of the dwellings would be below that of the existing properties on either side, below that of a refused scheme and only slightly above that consented, the proposal would rise sheer from just above the level of Bridge Road to a little under 18 metres in height.
7. The significant scale and overall bulk of the proposal, in combination with the steps, retaining wall and terraced areas, would add to an encroachment of development into the hillside. Overall, the proposal would erode substantially the spaciousness that is intrinsic to the area's character and appearance and contrast with neighbouring development, which responds to the contours of the hill. I am not persuaded that the use of natural stone would assist the assimilation of the development into the steep, vegetal landscape, nor that any smaller scheme would necessarily appear swamped by the surroundings. Despite the use of sympathetic materials and the set-back from the road, the bulk of the proposal would be dominant and prominent, particularly when viewed from the point where Hessenford Road descends from the north towards the settlement, and from the public green space opposite the appeal site.
8. I do not have elevations of the three-storey detached dwellings that have planning permission. While noting the appellant's argument that the appeal scheme would be narrower than the approved scheme, the approved site layout (Drawing no. S1434) illustrates a staging in development, with a wider gap between the houses than is currently proposed. Furthermore, given the ground level changes, views to undeveloped space would be visible above the studio annexes, whereas the appeal scheme would materially increase the scale and bulk of development as it rises from Bridge Road.
9. Overall, I consider the effect of the appeal scheme would be to diminish unacceptably the character and appearance of the area. The proposal would thereby run contrary to the objectives of Policy 2, 12 and 13 of the Cornwall Local Plan, November 2016 (the Local Plan), insofar as they require development to be of a high quality design that considers the existing context and avoids any visual impact. The scheme also fails to conform to the provisions within the Framework, notably the core principles which take account of the character of different areas.

#### *Flood risk*

10. The appeal site consists of a steep hillside that rises from the flat and low-lying area of Seaton Bridge and rises steeply towards the higher ground. Although the appeal site is identified within the Flood Risk Assessment (FRA) as falling within Flood Zone 1, the Environment Agency has identified a portion of the development site as lying inside Flood Zones 2 and 3. Notwithstanding there are different degrees of vulnerability across the site, the highest vulnerability category should be used and the site is therefore at high probability of flooding.
11. Paragraph 99 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk; but where development is necessary, making it safe without increasing flood risk elsewhere. Given the vulnerability of the development to flooding, it is necessary to apply a sequential approach and then, only if this is

passed, an Exception Test. Paragraph 101 of the Framework states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding, and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

12. The appellant has not provided evidence to support the development under a Sequential Test on the basis of the extant permission on the site. While not knowing the specific planning considerations that led to this scheme being granted, I note that it pre-dated the adoption of the Cornwall Local Plan 2016 and the Council's most recent position in terms of alternative sites available. The Council's evidence indicates that sites in Flood Zone 1 are available in or adjoining the locality and a considerable number are reasonably available for residential development within the Liskeard and Looe CAN. On the basis of the evidence available to me under consideration of this appeal, it is clear that the development proposed could reasonably be located in zones with a lower probability flooding. As the development fails the Sequential Test, there is no requirement to evaluate the precautions the appellant has highlighted in order to satisfy an Exception Test.
13. I conclude therefore that there are reasonably available sites for the proposed development in areas with a lower probability of flooding. As such, the development fails to accord with Policy 26 of the Cornwall Local Plan, which requires development to be located where it avoids areas of flood risk in the first instance. The development would also conflict with national policy, specifically in taking full account of flood risk and coastal change, and paragraph 101 of the Framework, which seeks to direct new development to areas with the lowest possibility of flooding.

#### *Planning balance*

14. In consideration of the three strands of sustainable development, the proposal would deliver two additional units of accommodation above the two already permitted on the site; two additional family homes would represent a social benefit in contributing to the vibrancy of local services. The benefits of tidying the site, use of a vacant plot, and encouraging natural surveillance would be marginal, especially as these would not go substantially beyond what would be achieved if the extant scheme were implemented. However, there would also be some additional economic benefits associated with employment during construction. While the appeal proposal may satisfy the economic and social dimensions of sustainable development, considering the impact on character and appearance of the area, and the requirement to locate development in areas with the lowest risk of flooding, the proposal would fail to meet the environmental dimension. The development would therefore not be sustainable as defined in the Framework.

#### **Other matters**

15. In support of the appeal, my attention has been drawn to another 4-storey building in the area and to the design of dwellings on the opposite side of Seaton Valley Countryside Park. In terms of scale, the four-storey building is very much in the minority and is not a useful indicator of the area's prevailing character. While the material palette, gable detail and accommodation above a ground-floor garage may be analogous with the form of other dwellings locally, it is specifically the scale, massing and relationship to the local topography that would be out of keeping. The examples show detached, three-storey houses

and do not represent a direct parallel to the appeal proposal in respect of scale, location or urban grain. In any case, I have determined the appeal on its own merits.

**Conclusion**

16. For the reasons given above and considering all matters raised, I conclude the appeal should be dismissed.

*H Porter*

INSPECTOR