
Appeal Decision

Site visit made on 25 July 2017

by C Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/D0840/17/3173733

Annears Garage, A390 From Bridge Street to Porcupine, Tywardreath Highway, Par PL24 2RN.

- 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 Steve Annear against the decision of Cornwall Council.
 - The application Ref PA16/07195, dated 3 August 2016, was refused by notice dated 19 October 2016.
 - The development proposed is a two storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Cornwall Local Plan (the Local Plan) was adopted shortly after the application was refused by the Council. I have therefore determined this appeal with regard to the adopted version of the Local Plan and not the emerging plan referred to in the decision notice.

Main Issue

3. The main issue is whether the site provides a suitable location for the proposed development, having particular regard to flood risk.

Reasons

4. The appeal site comprises an area of hardstanding associated with the adjacent motorcycle showroom (St Blazey Moto X). It is situated close to the frontage of the A390, next to existing residential development on the edge of St Blazey. Both parties agree that the site is within Flood Zone 2 and the Council has objected to the proposal on that basis.
5. Paragraph 101 of the National Planning Policy Framework (the Framework) states that a 'sequential test' should be applied to proposals for development, the purpose of which is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
6. The Planning Practice Guidance (the PPG) advises that the area to apply the sequential test across will be defined by local circumstances relating to the

catchment area for the type of development proposed. This may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. In this case, the Council has conducted a sequential test based on the St Blazey, Fowey and Lostwithiel Community Network Area (the CNA). This is the geographic area which is used to establish housing targets within the Local Plan.

7. It is argued by the appellant that many locations within Cornwall are subject to flood risk and the Council has not taken full account of the need for growth and regeneration in areas constrained by flooding. However, I note that the Level 1 Strategic Flood Risk Assessment (the SFRA) indicates that it should be possible to deliver growth outside flood zones. Whilst this statement applies to the whole of Cornwall, the local flood map of St Blazey provided by the Council suggests that there are areas of land relatively near the appeal site which are situated outside the flood zone. Nonetheless, the SFRA does acknowledge that development that is specifically required for regeneration may be necessary within Flood Zones 2 and 3.
8. My attention has been drawn to a planning permission for housing development at Wadebridge¹ which was approved on the basis of its sustainable location, despite being within Flood Zone 3 and alternative sites being available with a lower flood risk. However, I understand that the former development plan for the area aimed to focus growth in that specific town centre location. That is not the case in the current proposal, even though the Council accept that the site is in an accessible location and constitutes previously developed land. Although both the Framework and the new Local Plan encourage the re-use of previously developed sites, they also aim to steer growth away from areas at risk of flooding. I am not aware of any policies that explicitly permit development of unallocated brownfield land in flood zones. Overall, there is little to suggest that the need to apply the sequential test is overridden by other policies, or that the search area for the sequential test should be applied to a more localised area than the CNA.
9. Appendix A of the officer report lists 3 sites within the CNA with permission for housing (a total of 6 building plots in total). These are situated in Flood Zone 1 and were said to be available on the market. It is indicated that there were other building plots in the CNA with planning permission for housing development which were also advertised for sale. The evidence therefore suggests that when the application was determined by the Council there were building plots available in areas with a lower risk of flooding that would have been capable of accommodating the proposed development.
10. While I am not aware of any guidance that prevents the inclusion of sites with planning permission, the appellant refers to an appeal at Devoran Boatyard² where the Inspector found that sites which already have planning permission should not have been treated as being 'reasonably available' for the purposes of the sequential test. Although I do not have access to all the information that was before the Inspector in that appeal, it is clear from the decision that the Council were unable to demonstrate a 5-year supply of housing sites at that time and housing needs were not being met. Consequently, sites in addition to those which already had planning permission were needed in order to address housing needs. In the current appeal, the Council state that based

¹ Council Ref: PA/13/09213

² Appeal Decision: APP/D0840/W/16/3143424

on current monitoring information, they are now able to demonstrate a 5-year supply of deliverable housing land.

11. The Local Plan aims to make provision for 900 homes in the CNA over the period 2010 to 2030. According to the Cornwall Housing Implementation Strategy October 2016 (the Implementation Strategy) 412 dwellings had already been completed and a further 293 dwellings had planning permission in April 2016. Therefore, on the basis that the existing planning permissions are implemented, further provision for 195 dwellings needs to be made in the CNA up to 2030 in order to meet the Local Plan target.
12. The Cornwall Strategic Housing Land Availability Assessment January 2016 (the SHLAA) identifies a number of potential development sites within the CNA with capacity for 974 dwellings in total. The appellant points out that some of these sites are situated within flood zones and are therefore not sequentially preferable to the appeal site. However, paragraph 3.6 of the Implementation Strategy indicates that the SHLAA figures are adjusted to exclude sites which may harm protected landscapes or where there is potential risk from flooding. A further 30% discount is then applied. As a result of this adjustment, the capacity of potential SHLAA sites within the CNA is shown to be 579.
13. Based on historical rates on completion, the Implementation Strategy assumes that 207 dwellings will become available in the CNA on smaller windfall sites of less than 10 dwellings by 2030. When this is added to the 412 dwellings already completed and the 293 that have planning permission, it is predicted that the Local Plan target of 900 will be exceeded. While some of the extant permissions may not be implemented, there is a stock of 579 sites identified in the SHLAA which could potentially be developed. Overall, current monitoring information indicates that housing land is likely to come forward from a variety of sources within the CNA sufficient to meet the Local Plan housing target.
14. The circumstances of this appeal are therefore somewhat different from that of the Devoran Boatyard case. It has been reasonably demonstrated that the combination of sites that already have planning permission and those which are anticipated to come forward through windfall are sufficient to address the CNA housing target without necessarily having to develop on land which is at risk of flooding. The Council's sequential test (Appendix A of the officer report) indicates that amongst these sites, there are vacant building plots coming forward capable of accommodating development similar to the appeal proposal. This leads me to conclude that the proposal does not meet the provisions of the sequential test at this moment in time.
15. I acknowledge that the Environment Agency has raised no objection to the appeal proposal. However, it seems to me that the Environment Agency's involvement was to ensure that the development would be appropriately flood resilient as part of the 'exception test' to be undertaken following the successful completion of a sequential test. Part of the exception test is also to ensure that the development provides wider sustainability benefits to the community that outweigh flood risk. However, I have not considered the provisions of the exception test any further because the Framework is clear that they only apply if the sequential test is passed.
16. Nonetheless, the Framework states that the overall purpose of the planning system is to contribute to the achievement of sustainable development, which has three dimensions; economic, social and environmental. With regard to the

potential economic benefits of the proposal, the appellant argues that there is a functional need for the proposed dwelling in terms of providing security and enabling his son to live close to the site. I am informed that the intention is for his son to expand the business and organise a motocross race team. These activities would require travel and would involve being at the site during unsocial hours late at night and early morning.

17. However, the proposal would be against the background of long established local and national planning policies which control development in flood zone locations. In recognition of this, the evidence requires an appropriately high level of scrutiny. While I appreciate that the proposed dwelling would be convenient to the business, the evidence provided is not particularly detailed and does not clearly demonstrate that the dwelling would be essential to the success of the enterprise. Therefore, based on the information before me in this appeal, I am unable to give these considerations substantial weight capable of overcoming non-compliance with the sequential test. Although I recognise that the proposed dwelling may result in some other benefits (including supporting the local community and reducing the need to travel) it seems to me that these benefits would be relatively minor.
18. I therefore conclude that the site would not provide a suitable location for the proposed development. There would be conflict with Policy 26 of the Local Plan, which indicates that development should be sited to avoid flood risk. There would also be conflict with the objective of the Framework to steer new development to areas with the lowest probability of flooding.
19. For the above reasons, and having regard to all other matters raised, the appeal should be dismissed.

C Cresswell

INSPECTOR