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## Appeal Decision

Hearing Held on 4 September 2018

Site visit made on 4 September 2018

**by J Wilde C Eng MICE**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> September 2018**

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**Appeal Ref: APP/D0840/W/18/3196176**

**Land off Polgine Lane, Troon, Cornwall TR14 9HB**

- 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 Troon Estates Limited against the decision of Cornwall Council.
  - The application Ref PA17/05617, dated 12 June 2017, was refused by notice dated 3 October 2017.
  - The development proposed is residential development (Class C3) up to 70 dwellings with associated access, landscaping, open space and drainage infrastructure.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The planning application form showed the application as being in outline with access and layout for consideration at this stage. However, both main parties agree that layout is reserved for later consideration and only access is to be considered at this stage. I have therefore determined the appeal on that basis.

### Main Issues

3. The main issues are:
  - a) Whether or not the proposed development would be in accordance with the Local Plan in respect of its housing strategy and,
  - b) The effect of the proposed development on flooding in the locality.

### Reasons

#### *Housing strategy*

4. The appeal site is a greenfield site (of about 4 fields) situated on the edge of the village of Troon, which in turn is about 3km from the town of Camborne. Access to the site would be from Polgine Lane to the north.
5. Policy 3 of the Cornwall Local Plan (LP) is entitled Role and function of places. It outlines a hierarchy for the provision of new development, and I will deal with these in turn. Firstly the policy makes clear that housing, managed through a site allocations development plan document or a neighbourhood plan, will be delivered in a series of named towns. Amongst these is *Camborne*

*with Pool, Illogen and Redruth.* Camborne and Redruth are towns of a significant size about three and a half miles apart joined by the A3047. Pool and Illogen are smaller settlements between the two, centred on the A3047. As I have previously stated Troon is about 2km south of Camborne and is not therefore contained within the named town of Camborne with Pool, Illogen and Redruth.

6. However, policy 3 also states that development at or well related to these named towns will provide an appropriate level of affordable housing in accordance with the requirements of policy 8. Policy 8 deals with the quantum and mix of affordable housing and I have no evidence to show that the proposed development would not accord with this policy.
7. The first question that therefore arises is whether or not the appeal site is well related to the named town of Camborne (with Pool Illogen and Redruth). I acknowledge that purely in distance terms Troon is relatively close to Camborne. However the two settlements are not linked by continuous built form, and where there is development this tends to be ribbon development.
8. Furthermore, the road between Troon and Camborne is not particularly attractive to drive as it is relatively narrow, has traffic calming and considerable parking to negotiate. Delays can also be caused by the railway crossing just to the south of Camborne. The route also has several gradients and would be unattractive to cyclists and walkers. The bus service is also relatively infrequent with just one bus per hour.
9. I note that the Cornwall Strategic Housing Land Availability Assessment (SHLAA) 2016 contains a site in Troon and this is described as being *associated with a town with a Local Plan Housing Target*. However, the SHLAA is a relatively coarse view of potentially available sites and whilst at first glance it may seem to be well related to Camborne purely in a geographical sense I have shown that this is not the case in terms of accessibility. I also note that this site has not come forward. Given the above, I conclude that the appeal site cannot be considered to be well related to Camborne.
10. Policy 3 also allows for housing in areas other than the main towns through a variety of mechanisms, including rounding off, infilling and rural exception sites. The Appellant has made clear in their statement that it is not their contention that the proposed development accords with policy 3 by virtue of the first two mechanisms mentioned above but that the site represents a rural exception site. Policy 3 directs such applications to policy 9. Having said that the Statement of Common Ground indicates that the appellant does consider that the proposed development constitutes infill and/or rounding off and so I will deal briefly with this.
11. Policy 3 allows *infill schemes that fill a small gap in an otherwise built frontage and do not extend the settlement into the open countryside*. The proposed development cannot by any stretch of the imagination be construed as filling a small gap in an otherwise built frontage, and it would without doubt extend the settlement into the open countryside. Rounding off applies to *development on land that is substantially enclosed and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road)*. The appeal site is not enclosed to the east or indeed to a portion of its southern boundary other than by hedges, and I do not consider that they can be seen as

acting as a barrier to future growth. It follows that the proposed development cannot be defined as either infilling or rounding off.

12. Policy 9 states that *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 will be supported where they are clearly affordable housing led and would be well related to the physical form of the settlement and appropriate in scale, character and appearance.*
13. The proposed development would be adjacent to the existing built up area of Troon and there is no argument from the Council that it would not be affordable housing led. Nor do they consider that the proposed development would not be well related to the physical form of the settlement.
14. The question that arises is whether or not the proposed development would be appropriate in scale. To my mind this can be assessed in terms of a number of factors, including actual numbers of houses and/or the area of land taken up by the development and the services available in the settlement to service the new residents.
15. I acknowledge that the policy itself does not give guidance as to what an appropriate scale may be, but nevertheless cannot accept the appellant's position that appropriate scale should be considered only in light of the harm (or lack of) caused by the development, such that if a development can be considered sustainable it should be allowed. To use such a definition to my mind could lead to a situation where the overall thrust of the development plan, in terms of location of development, could be seriously overridden, and this can itself be considered to be harmful in terms of the plan led process.
16. In respect of numbers the policy gives some guidance as it states that *the number, type, size and tenure of the affordable dwellings should reflect identified local needs as evidenced through the Cornwall Housing Register or any specific local surveys completed using an approved methodology.*
17. The latest information given to me at the Hearing<sup>1</sup> indicates that there are 932 persons in need of affordable housing in the parish of Camborne, of which Troon forms a part. Of these about 15 have expressed Troon as their first choice, with a further 33 or so as their second choice. It follows that, with a minimum of 35 affordable homes proposed, and assuming that type, size and tenure were suitable, it would take only about 37% of the persons shown as putting Troon as their second choice to accept a property for the proposed affordable houses to be taken. On the surface therefore the proposal, in terms of number of affordable houses, would be in line with the policy.
18. However, whilst accepting that 35 affordable homes is not an unreasonable number given the accepted need, it is also necessary to assess whether or not the total number of homes can be considered to be appropriate in scale in relation to the settlement of Troon. The Council have suggested that the proposed development would represent about an 11% increase in the number of dwellings in Troon and I have been supplied with no evidence to contest this.
19. In terms of extent, the proposed development would take up four fields (with an area over 4 Ha) and would effectively fill with development the area

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<sup>1</sup> From the Council's Homechoice Housing Register.

between Polgine Lane to the north and Magor Avenue in the south. The facilities available within Troon itself are limited, with a convenience store, post office, fish and chip shop and pharmacy. I do acknowledge however that there is a primary school.

20. Overall however, I consider that the total quantum of development, with the potential for 35 market houses, in relation to the number of existing houses, allied to the land take and the limited facilities means that the proposed development would not be appropriate in scale in relation to the settlement of Troon.
21. My attention has also been drawn to the National Planning Policy Framework (the Framework), which defines rural exception sites as *small sites used for affordable housing in perpetuity where sites would not normally be used for housing*. At paragraph 68 the framework makes the point that small and medium sized sites can make an important contribution to meeting the housing requirement of an area.
22. Following directly on from this, the paragraph goes on to say that local planning authorities should identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare (my underlining). It seems to me therefore that the Framework gives an indication as to the extent of what may be considered to be small and medium sized sites. At over four Hectares the appeal size would be greatly in excess of the one Hectare mentioned in paragraph 68. I also note that the Town and Country Planning (Development Management Procedure) (England) Order 2010 defines major development as where 10 or more dwellinghouses are to be provided.
23. Overall therefore, whilst the above figures do not necessarily give a definite figure as to what can be considered small, they do give some guidelines in terms of the size of the site and the quantum of housing. It follows that I do not consider that a development of 70 houses can be considered to be small. Conflict in relation to the size of the site therefore exists with policy 9 of the LP.

#### *Flooding*

24. The appeal site lies in Flood Zone one and there is no evidence that the site itself is subject to flooding. However, the site, and the settlement as a whole, are underlain with old mineworkings, precise details of which are unrecorded. I note that the study prepared by Mining Searches UK on behalf of the appellant notes *that a mine shaft is indicated to lie within the eastern part of the site and that there is a strong possibility of unrecorded mining features associated with the poorly recorded mineralised veins*. The report also acknowledges that there are two old quarries within the site.
25. My attention has also been drawn to an incidence of subsidence, again in close proximity to the appeal site, and to the collapse of an adit several years ago, which has subsequently been repaired and is the subject of regular checks.
26. I have been given evidence of flooding incidences in Troon in close proximity to the appeal site. These are due to surface water and the surcharging of the combined foul and storm sewer and include inundation of properties by water. I acknowledge that at the same time as the recently recorded event in Troon

there may well have been incidences elsewhere in Cornwall. Nevertheless, this does not to my mind nullify or lessen the event in Troon.

27. The surface water from the individual properties on the site would drain into soakaways with the surface water from the new roads etc. being directed into infiltration lagoons. Foul sewerage would go into the existing system, and the appellant considers that improvements to the existing system could be undertaken, at the appellants' expense, such that any future flooding could be avoided. The Council in turn point to recent revised Charging Rules for New Connection Services issued by OFWAT, particularly paragraph 26, which states that *such charges may not include any amount for Network Reinforcement Costs*.
28. To my mind however the situation could be resolved by the implementation of a Grampian Condition that would prohibit any occupation of the proposed dwellings until the requisite improvements had been undertaken. This would cater for the possibility of flooding problems arising from the foul water generated by the site.
29. In terms of the storm water generated the Council have concerns that given the unknown underground situation with regard to mineworkings, flooding problems could be induced in areas close to the site by water escaping from infiltration lagoons or individual soakaways. I acknowledge that boreholes have been drilled in the areas proposed to locate infiltration lagoons and that in theory more could be required through a planning condition. However, only a finite number could be reasonably required and to my mind these could not ensure, with absolute certainty, that no water would escape from the proposed development into unrecorded underground mineworkings. Furthermore, as each proposed dwelling would have individual storm drainage in the form of soakaways it would be virtually impossible to be certain that a proportion of these would not also exit into such workings.
30. Paragraph 163 of the Framework makes clear that when determining planning applications, local planning authorities should ensure (my underlining) that flood risk is not increased elsewhere. Paragraph 19 of the Planning Practice Guidance<sup>2</sup> (PPG) states that within each flood zone, surface water and other sources of flooding also need to be taken into account in applying the sequential approach to the location of development. Paragraph 33 of the PPG states that *nor should it normally be necessary to apply the sequential test to development proposals in flood zone 1, unless the Strategic Flood Risk Assessment for the area, or more recent information, indicates that there may be flooding issues now or in the future* (once again, my underlining).
31. Given the undoubted occurrences of flooding in close proximity to the site, the presence of unrecorded mineworkings and associated subsidence, and the fact that it would be extremely difficult to actually ensure that flood risk would not be increased, I consider that the sequential test should be undertaken. As, in this case it has not been, then conflict exists with the Framework and the PPG.
32. Conflict would also exist with policy 26 of the LP. This policy seeks to ensure, amongst other things, that development is sited and designed in such a manner that it increases flood resilience of the area, taking account of the

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<sup>2</sup> Ref ID 7-019-20140306

area's vulnerability to the impacts of climate change and the need to avoid areas of flood risk, in the first instance, taking into account the vulnerability of the use proposed and also minimises, or reduces and where possible, eliminates flood risk on site and in the area.

*Planning balance*

33. I have found that the proposed development would conflict with the LP in respect of the housing strategy and flooding. Against this has to be balanced the provision of at least 35 affordable houses, and I give significant weight to this. Nevertheless, the harm that has been identified still outweighs the positive aspects of the proposal.

**Conclusion**

34. For the above reasons, and having taken into account all other matters raised, the proposal conflicts with the development plan taken as a whole and with the approach to flooding enshrined in the Framework. The proposal does not represent sustainable development and I therefore conclude that the appeal should be dismissed.

*John Wilde*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

David J Pritchard B.Sc MA MRTPI	Director of planning, Marrons Planning
Jonathan Price	Principal Civil Engineer WSP Parsons Brinkerhoff

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms Chantal McLennan  
Ms Jackie Smith

### **INTERESTED PERSONS:**

Mrs Rachel Goodman	Representing the Troon Residents Action Group
Mrs Vaughan	Local resident
Mr Atherfold	Ward Member
Mr Carter	Local resident
Mr Rowe	Local Resident
Mr James	Local Resident

### **DOCUMENTS HANDED IN DURING THE HEARING**

- 1 Flood Risk Assessment.
- 2 Details of appearances for the appellant.
- 3 Unilateral Undertaking.
- 4 Rebuttal Statement.
- 5 Charging rules for new connection services.
- 6 Letter giving notification of the hearing.
- 7 Draft Conditions.