

Appeal Decision

Site visit made on 6 August 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Appeal Ref: APP/D0840/W/19/3228515

Meanders, St Nicholas Park, Lostwithiel PL22 0BA

- 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 Chris Marwood against the decision of Cornwall Council.
 - The application Ref PA18/09234, dated 2 October 2018, was refused by notice dated 15 January 2019.
 - The development proposed is erection of one new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development on the application form referred to two new dwellings. The appellants have clarified that this was an error, and the application was dealt with by the Council on the basis that the proposal was for a single dwelling. I have therefore used the description from the appeal form.
3. The application was made in outline, with all matters reserved for future consideration. A Block Plan showing an access and site layout was included with the application. This drawing was marked "indicative", and I have considered it solely on the basis that it was submitted for illustrative purposes.
4. The Lostwithiel Neighbourhood Plan 2015 -2030 (the Neighbourhood Plan) was made on 11 March 2019, after the determination of the application by the Council. The Neighbourhood Plan is therefore now part of the development plan for the area. Both parties have had the opportunity to comment on the change in status of the Neighbourhood Plan in their appeal submissions.

Main Issue

5. The main issue is whether the site is a suitable location for a dwelling, having regard to the policies of the development plan and the character and appearance of the surrounding area.

Reasons

6. The appeal site lies on the north-western edge of the town of Lostwithiel. It is located beyond a short cul de sac, which serves bungalows on both sides of the road. The line of dwellings to the north of the road continues with another bungalow, and Meanders, which are served by a private drive. The land to the south of the private drive, however, is undeveloped garden land, part of which forms the appeal site. Recent residential development to the south of the

- appeal site extends further to the west, so that the appeal site and wider garden area form a green enclave, with residential development on three sides.
7. Despite the presence of housing to the north and south, the appeal site retains a visual connection with the open countryside. The attractive wooded hill to the west is a very evident feature when looking out over the appeal site from St Nicholas Park. The grassed appeal site slopes down to the valley at the foot of the open hills beyond. Consequently, although the land is domestic garden, it retains a settlement edge character, with a strong link to the open countryside beyond. The construction of a dwelling on the site would reduce the open views from St Nicholas Park, and therefore harm its distinctive, natural setting.
 8. Figure 2.1 of the Neighbourhood Plan identifies the appeal site and adjacent land as being unsuitable for development. Figure 2.2 shows that the site lies outside the Development Boundary. The appellant contends that part of the site falls within it. However, the boundary runs along the private drive to the north, 7 St Nicholas Park to the east, and the rear of the properties in The Brambles to the south. Whilst the thickness of the lines on Figures 2.1 and 2.2 may encroach onto the land, it is clear that the appeal site is considered unsuitable for development and is not included within the Development Boundary.
 9. The Neighbourhood Plan explains at paragraph 172 that, rather than identifying specific sites for housing, a Development Boundary has been drawn, within which all development should be contained. When determining the Development Boundary, all areas of surrounding land were examined for their suitability for housing, in order to identify areas for inclusion that could contribute to meeting the housing need. Paragraph 173 explains the thorough consultative process that was pursued in adopting the final Development Boundary, which included three suitable sites that could deliver 64 dwellings.
 10. Policy HH2 of the Neighbourhood Plan supports well-designed proposals within the Development Boundary, provided they comply with other development plan policies. Proposals outside, but adjoining the Development Boundary, are only supported where they are small scale, necessary to meet evidenced local housing need, and provide 50% affordable housing. Outside the Development Boundary, housing proposals are only supported in exceptional circumstances set out in national policy. The Policy itself does not expressly prohibit development outside the Development Boundary, but the supporting text at Paragraph 172 sets the context within which it should be interpreted. The appeal proposal is not for affordable housing and does not meet any of the exceptional circumstances. It is therefore contrary to the aims of Policy HH2 of the Neighbourhood Plan.
 11. The appellant highlights that, at the time the application was made, the Neighbourhood Plan was still in preparation, and the appeal site lay within the Lostwithiel Development Envelope. However, it is not within the scope of this appeal for me to consider whether the Council gave appropriate weight to the emerging Neighbourhood Plan and previous Development Boundaries at the time of its decision. As the Neighbourhood Plan has been made, it is now part of the development plan, and the legislation requires that I determine the appeal in accordance with it, unless material considerations indicate otherwise¹.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

12. I am mindful that, with housing development on three sides, the proposal could be considered as “rounding off” under Policy 3 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (the Local Plan). The appellant highlights the advice on this matter contained within the Chief Planning Officer’s Advice Note: Infill/Rounding Off (CPOAN). The CPOAN is not part of the development plan, and therefore carries limited weight. However, it does provide useful advice on what is meant by “rounding off”. It recognises that judgement will be required on a case by case basis whether a site has the appearance of being within the physical boundaries of a settlement. It also advises that Neighbourhood Plans may introduce a settlement boundary to provide additional guidance on housing location.
13. The Neighbourhood Plan has a clearly defined policy for where housing development should be located, and it does not include any provision for rounding off outside the Development Boundary. The Neighbourhood Plan has become part of the development plan more recently than the Local Plan. Therefore, in accordance with Section 38(5) of the Planning and Compulsory Purchase Act 2004 (as amended), I conclude that the restriction on housing outside the Development Boundary, under Policy HH2, should take precedence over the potential for rounding off under Policy 3 of the Local Plan.
14. The appellant argues that the site is a sustainable location for a dwelling, as evidenced by the permission that was granted for Meanders relatively recently. However, the National Planning Policy Framework (the Framework) makes it clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
15. The development would result in the provision of an additional dwelling, which would make a small contribution to the Framework’s aim of significantly boosting the supply of homes. The appellant’s offer to accept a requirement for self-build could also enable someone to build their own home. However, the scale of the development means that the benefits would be very modest, and therefore of limited weight. I note that no neighbours raised an objection to the development, but this is a neutral factor that does not weigh in favour of the development.
16. For the above reasons, I conclude that the site lies outside the Development Boundary and would have a harmful impact on the character and appearance of the surrounding area. The proposal would, therefore, be contrary to Policy HH2 of the Neighbourhood Plan, which seeks to ensure that, other than in specified exceptional circumstances, all new housing development is contained within the Development Boundary.

Conclusion

17. Paragraph 12 of the Framework says that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan) permission should not usually be granted. I therefore conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR