

Appeal Decision

Site visit made on 16 July 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2019

Appeal Ref: APP/D0840/W/19/3226696

Wainhomes SW Ltd, Swanvale Sales Office, Penhale Road, Falmouth, Cornwall TR11 5UZ

- 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 Wainhomes (South West) Holdings Ltd against the decision of Cornwall Council.
 - The application Ref PA18/09138, dated 08 October 2018, was refused by notice dated 19 March 2019.
 - The development proposed is the erection of two detached dwellings.
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Decision

1. The appeal is allowed and outline permission is granted for the erection of two detached dwellings at Wainhomes SW Ltd, Swanvale Sales Office, Penhale Road, Falmouth, Cornwall TR11 4HB in accordance with the terms of the application Ref PA18/09138, dated 08 October 2018, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout and scale, (hereafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
 - 2) An application for approval of reserved matters must be made no later than the expiration of 3 years from the date of this decision and the development hereby approved shall commence no later than 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
 - 3) The development hereby permitted shall be carried out in accordance with Drawing No 1369/PO1 Rev B (Site Location Plan).
 - 4) No development shall commence until a detailed plan and specifications showing tree protection fencing around Root Protection Areas for all trees to be retained around the site boundary subject of this permission, (to accord with British Standard BS5837-2012), has been submitted to and approved in writing by the LPA. The approved Tree Protection Fencing shall be erected before demolition works commence and no development, storage of building materials or excavation for services shall take place within these areas and the tree protection fencing shall remain in place for the duration of the construction process.

Application for Costs

2. An application for costs was made by Wainhomes (South West) Holdings Ltd against Cornwall Council. This application is the subject of a separate decision.

Procedural Matters

3. The planning application was made in outline with all matters reserved and I assessed the appeal on that basis, treating drawing Nos P03 Rev B, P04 Rev B, P05 Rev B and P06 Rev B as illustrative only.
4. As there were multiple site addresses given within the evidence, I sought clarity on this matter from the appellant, and this is reflected in the banner heading above.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The site is a plot of land containing a temporary marketing suite and car park. Neighbouring dwellings are to the north and west, with the site largely open to Trenoweth Road and King Charles Street to the south and east respectively. The surrounding area is formed of modern housing interspersed with planned landscaped areas and public open spaces. Although the houses at the lower side of Trenoweth Road are set back into their plots, the area is equally characterised by two storey houses positioned close to their front boundaries, enclosing the street scene.
7. The site is identified as 'amenity land' within the Council's software. However, unlike the clearly planned and laid out green infrastructure that punctuates the area, it has never been formalised as such, and it reads instead as a somewhat anomalous and unplanned space in an otherwise designed suburban environment.
8. Across Trenoweth Road to the south is a large public park. From limited areas of the park the site is seen partially against the skyline but also within the immediate context of surrounding houses, with those to the west on higher land enclosing the site. Given the site's relationship to existing buildings, in addition to its separation beyond Trenoweth Road, it does not provide a notable impression of openness when viewed from the park. As such, I do not consider that the site, with or without the marketing suite, makes a significant contribution to the character and appearance of the area.
9. The drawings show a pair of detached two storey dwellings which would conform to the density, appearance and scale of development within the area. The location of the south unit would be close to the pavement and have an enclosing affect within the street scene. However, this would conform with the siting of other houses, harmonising particularly with the adjoining properties to the north and west. I do not consider that the scheme would be harmfully imposing or towering given that houses in the area are commonly set within sloping land and viewed from below.
10. The layout shows the retention of the tree lined boundaries to the north and west. Additional planting could be landscaped within the front and rear

gardens, creating an appearance consistent with other properties in the area. I am therefore satisfied that the plans indicate that an appropriately designed development of two houses can be sited within the land, which would simply consolidate the built environment without a harmful effect on the openness of the adjacent park nor the wider area.

11. Consequently, I conclude that the proposed development would not harm the character and appearance of the area. It would accord therefore with Policies 2 and 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP) and Paragraphs 9 and 127 of the National Planning Policy Framework (the Framework) insofar as they require development to be well-designed and add to the overall quality of their location.

Other Matters

12. Third parties, the Town Council and the Local Planning Authority (LPA) have identified the site to be publicly accessible open space. A statutory declaration has been provided which evidences an agreement to provide public space within the area. However, as it makes no reference to the appeal site, it does not enable its identification as such. The status and title of the plan provided within the Appendix 2 of the LPA's statement is unclear, and I understand that it relates to an application that did not contain the appeal site within its defined boundary. Although the site is shown undeveloped within Appendix 3, the plan does not clearly identify the site to be public open space. The appeal site also appears to be outside of the defined site boundary in relation to that scheme.
13. As such, whilst I appreciate that the site may be used for informal recreation from time to time, and there may have been a suggestion that it was established and would be retained as such, there is no substantive or reliable evidence before me that the land which forms the appeal site was or is formally designated for public recreation, nor that the land owner is required, by way of planning obligation or otherwise, to allow public access to the site.
14. Furthermore, I have already found that the site makes an inconsequential contribution to the character and appearance of the area and is therefore of insignificant value in terms of visual amenity. Given such, the evidence does not lead me to believe that the appeal site is open space within the definition given in the annex to the Framework. In which case, the provisions of Paragraph 97 of the Framework are not applicable nor are the open space elements of Policies 12, 13, 16 and 25 of the CLP.
15. The location of the appeal site is one where the principle of residential development is accepted by the development plan. Although third parties have asserted an absence of need for the housing, and I note the Council's undisputed housing land supply position, the development plan does not set a cap on residential development in this area, and this is consistent with the government's intention to significantly boost the supply of housing.
16. The land is set down below Nos 28 and 42 Penhale Road and their boundaries with the appeal site are screened by trees, vegetation and fencing to the extent that occupants would be adequately shielded from unacceptable overlooking. No 28 Penhale Road is already bordered by five other properties. However, its relationship with the proposed houses would be acceptable, and the scheme would not cause material harm to the living conditions of its occupants when considered individually or cumulatively with existing houses. Overall, I find the

effect on the living conditions of adjacent residents to be acceptable and commensurate to existing relationships within this residential environment.

17. There is no substantive evidence that the introduction of two houses would have a materially harmful effect on the infrastructure of the area by way of noise, congestion or the movement of construction vehicles, or place undue pressure on existing open space provision. I note representations regarding the timing of the application and a suggestion that allowing this appeal could lead to the further development of green space elsewhere. However, each case is assessed on its own individual merits, and I understand from the evidence that other green space, such as the adjacent park, is formally recognised for its role as green infrastructure and secured as such through extant legal agreement.

Conditions

18. The LPA has requested conditions to be applied. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the PPG. As the drawings accompanying the appeal are only illustrative, in the interest of clarity it is only necessary to refer to the Site Location Plan. Noting the value of a number of the existing trees within the site, and the necessity of high-quality landscaping in this case, it is essential to impose a condition ensuring that appropriate trees will be retained during development.

Conclusion

19. I have found that the proposal would accord with the development plan and that there are no other considerations that indicate a decision should be made other than in accordance with the development plan.
20. Therefore, for the reasons outlined above, and taking all matter raised into account, I shall allow the appeal.

Matthew Jones

INSPECTOR