



Appeal Decision

Site visit made on 19 February 2020

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

Appeal Ref: APP/D0840/W/19/3242301

Land to the south of Noels Meadow, Mount, Bodmin PL30 4DG

- 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 P Millward against the decision of Cornwall Council.
 - The application Ref PA19/01842, dated 14 January 2019, was refused by notice dated 15 October 2019.
 - The development proposed is construction of 5 detached dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 5 detached dwellings at Land to the south of Noels Meadow, Mount, Bodmin PL30 4DG, in accordance with the terms of the application, Ref:PA19/01842, dated 14 January 2019, subject to the conditions set out in the Schedule at the end of this Decision.

Application for costs

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

Procedural Matters

3. The address in the heading above is taken from the Appeal Form as it more accurately describes the location of the site.
4. The application was made in outline with all matters reserved except access.

Main Issue

5. The main issue is whether the site provides a suitable location for the proposed development, having particular regard to local planning policy governing housing in the countryside.

Reasons

6. Policy 3 of the Local Plan¹ enables development to take place outside the main towns under certain circumstances. This includes sites which are specifically identified in Neighbourhood Plans, development that leads to the rounding off of settlements, previously developed land within or immediately adjoining settlements, infill development and rural exception sites for affordable housing brought forward under Policy 9 of the plan.

¹ Cornwall Local Plan 2016

7. I understand that there is no Neighbourhood Plan for this area and the site does not constitute previously developed land. As the proposal is for open market housing, it cannot be justified under Policy 3 on the basis that it would provide a rural exception site for affordable housing.
8. However, I am aware of a separate proposal for development of the site which was the subject of an earlier Appeal Decision². While the appeal was dismissed due to a lack of affordable housing contributions, it was nonetheless found that the proposal would constitute 'rounding off' in the context of Policy 3. The development currently proposed is very similar to the earlier scheme which was also for five detached houses (although it also included a flat over a shop) and the same development plan policies remain in place.
9. Paragraph 15 of the previous Appeal Decision says that due to the gap between Noels Meadow and Pool Cottage, the proposed development cannot be considered infill. However, paragraph 19 advises that due to the presence of Noels Meadow, with its artificial fenced boundary on one side, Pool Cottage on the opposite side and the strength of the boundary hedges, the site can be considered as rounding off. It is also stated, in paragraph 17, that the proposal would not visually extend building into the countryside.
10. My own observations of the site and surroundings suggest little has changed on the ground since the previous appeal. Although I have determined this appeal on its individual merits, the evidence does not convince me to deviate from the conclusions drawn by the previous Inspector, who considered very similar issues based on very similar information.
11. I have had regard to the matters raised by the Council in regard to the current appeal proposal, including the Officers Advice Note³, the aerial photograph of the village and the information presented to the planning committee⁴. However, this mainly repeats matters which were before the Inspector in the earlier appeal and I see little reason to interpret Policy 3 any differently than the previous Inspector did. The development currently proposed would amount to 'rounding off' for the purposes of the Local Plan.
12. I therefore conclude on this issue that the site would provide a suitable location for the proposed development. The scheme would comply with the terms of Policy 3 and there would be no conflict with Policy 9 (which relates to affordable housing exceptions sites).

Other matters

13. Concerns have been raised at the effect of the proposed development on the wider landscape, including the setting of the Cornwall Area of Outstanding Natural Beauty (AONB) and I have taken account of the photograph provided to help illustrate this point. Although the development would inevitably be seen from some vantage points within the adjacent AONB, it would be read in the context of the existing settlement which would minimise the landscape impacts. The setting of the AONB would be preserved.
14. The issue of character and appearance was covered in the previous appeal and found to be acceptable. Due to the similarities between the earlier scheme and

² APP/D0840/W/18/3194168

³ Chief Planning Officers Advice Note: Infill/Rounding-Off, Cornwall Council, December 2017.

⁴ Cornwall Council East Sub-Area Planning Committee, 14 October 2019.

the current appeal proposal, equivalent considerations would apply. As outline planning permission is being sought, design and landscaping issues would be matters for determination at a later stage.

15. I recognise that there is some local opposition to the development. However, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, I have found that the proposed housing would be in compliance with the development plan and the material considerations raised in opposition to the proposal are not sufficient to change my assessment that the development would be acceptable.
16. My decision is based on the very specific circumstances of this case and does not establish a precedent. Differing site circumstances and the potential for cumulative harm would represent matters to be considered if similar proposals were to be advanced elsewhere in the future.

Conclusion

17. For the above reasons, the appeal should therefore be allowed.
18. I have imposed the standard requirement for further details to be approved before development takes place, together with standard time limit conditions. For safety reasons, there are conditions requiring a contamination assessment and potential remediation works. There is also a condition requiring further details of the access arrangements. For clarity, other conditions require the development to be carried out in accordance with the plans (but only in respect of those matters not reserved for later approval) and to be limited to a maximum of five dwellings.

Colin Cresswell

INSPECTOR

(Conditions Attached)

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter 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 the following approved plans: 1842/001 LP and 16001- SD.01 B, but only in respect of those matters not reserved for later approval.
- 4) No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: a) a survey of the extent, scale and nature of contamination; b) the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
- 6) The approved remediation scheme in condition (5) shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of

the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 8) No development shall commence until details of the estate road, turning area, and junctions, surface water drainage, street lighting and means of access to the proposed dwellings, have been submitted to and approved in writing by the Local Planning Authority. Prior to occupation of any unit, the estates road, turning area and accesses shall be constructed in accordance with the approved plans and shall be retained as such thereafter.
- 9) The reserved matters pursuant to condition 1 shall include no more than 5 dwellings, and no more than a total gross floor space of 1000 square metres.