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# Appeal Decision

Site visit made on 28 May 2024

**by C Rose BA (Hons) BTP MRTPI**

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

**Decision date: 19<sup>th</sup> June 2024**

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**Appeal Ref: APP/D0840/W/23/3334770**

**Springfield Meadow, Higher Lane, Mawgan, Cornwall TR12 6AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr L Lugg, MJL Developments Ltd against the decision of Cornwall Council.
  - The application Ref is PA23/01940.
  - The development proposed is the construction of two dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. During the course of the appeal, Areas of Outstanding Natural Beauty became National Landscapes. Therefore, in relation to this appeal, reference to the National Landscape refers to the Area of Outstanding Natural Beauty as referred to by the main parties.

## Applications for costs

3. Applications for costs were made by Cornwall Council against Mr L Lugg, MJL Developments Ltd and by Mr L Lugg, MJL Developments Ltd against the decision of Cornwall Council. These applications are the subject of separate Decisions.

## Main Issues

4. The main issues for the appeal are:
  - whether the proposed development would be in an appropriate location, having particular regard to the local development strategy; and
  - the effect of the proposed development on the character and appearance of the area, having regard to the site's location within the Cornwall National Landscape (NL).

## Reasons

### *Whether appropriate location*

5. The appeal site is located to the rear of four semi-detached dwellings fronting Higher Lane to the southwestern part of Mawgan. Mawgan comprises a mix of dwelling types and designs in clustered groups. Close to the appeal site the group of development mainly fronts Higher Lane and Langweath Lane, although

there is an example of tandem housing on the opposite side of Higher Lane to the appeal site.

6. The Council's overall settlement strategy is set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP). The strategy seeks to maintain the dispersed development pattern of Cornwall, and provide housing based on the role and function of each place. Policy 3 of the Local Plan defines how development will be accommodated, based on this hierarchy of role and function.
7. Mawgan is not a location named within the settlement hierarchy of Policy 3(1) and therefore Policy 3(3) provides that, outside of these named settlements, housing growth is to be delivered through the identification of sites through Neighbourhood Plans; rounding off of settlements and development of previously developed land (PDL) within or immediately adjoining settlements; infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside; and rural exception sites for the provision of affordable housing.
8. In relation to this, a Chief Planning Officer's Advice Note: Infill Rounding Off (Advice Note) has been produced by the Council. The Advice Note is not part of the adopted Development Plan, but it is used for development management purposes and as such I have had regard to it in the determination of this appeal. The Advice Note provides guidance on the locally adopted approach in relation to matters regarding infill, rounding off of settlements and PDL.
9. There is no dispute between the main parties that Mawgan has a range of services and facilities, has a clear form and shape and is a 'settlement' for policy purposes with the proposal of a suitable scale. I have no reason to disagree. Furthermore, there is no Neighbourhood Plan for the area, the part of the site where the dwellings are proposed does not comprise PDL due to the lack of built form or associated surface infrastructure, and the proposal is not for the provision of affordable housing. Therefore, I have assessed if the proposal can be considered to be rounding off of the settlement or infill development.
10. The Advice Note defines 'Rounding off' as providing a 'symmetry or completion to a settlement boundary, it is not intended to facilitate continued incremental growth'. The Advice Note states that 'Rounding off development should not visually extend development into the open countryside and should be predominantly enclosed by edging features. The boundaries of some settlements can be irregular and edges can include lower density development, larger gardens that are important to the character and setting of the settlement and previously developed land.' The Advice Note further states that 'A judgement will be required on a case by case basis whether a site has the appearance of being within the physical boundaries of that settlement'. It defines 'Open Countryside' as 'beyond the physical boundaries of existing settlements where they have a clear form and shape and is part of an expansive area before the next settlement'.
11. I acknowledge that the site adjoins housing development to its north, east and part of its western boundary, and is predominately enclosed by landscape features to its southern boundary and the remainder of the western boundary. Nonetheless, it is adjoined by agricultural land and woodland to its south and west that clearly separate the site from the next settlement. Given this, and by

reason of the open grassed nature of the site, the planted eastern boundary largely screening the adjacent housing development that are set within large plots some distance from the site adding to the semi-rural character of the area, the site does not have the appearance of being within the physical boundaries of the settlement. Development would therefore visually extend development into the countryside, particularly when viewed from the semi-detached houses adjoining the site and from the site access.

12. Furthermore, I agree with the findings of the previous Inspector<sup>1</sup> that the appeal site is at the edge of the existing built form, the group of which clearly tapers from the properties on Langweath Lane towards Springfield and the B3293 to the west, and that despite clear views of the site being restricted from public vantage points, the proposal would not respect the overall form of Mawgan. It would extend built form beyond the rear of Springfield and Numbers 1-4 Springfield Meadows. As such the proposal would not provide a natural symmetry or completion of logical boundaries to the settlement and would extend development into the open countryside.
13. While there is tandem development on the opposite side of Higher Lane extending built form of depth, it follows a fairly regular rear boundary line and is the exception to the development close to the appeal site that fronts the road. The semi-detached housing development adjoining the site, including its parking area, is already of similar depth. The tandem nature of the appeal proposal would extend the depth of development further contrary to the general nature of the adjoining development fronting the road and tapering nature of the immediate built form. As a result, the proposal would not be rounding off in the context of CLP Policy 3(3).
14. 'Infill' is defined in the Advice Note as 'development that would fill a gap in an otherwise continuous frontage which would normally be a road frontage.' Paragraph 1.65 of the CLP states that 'For the purposes of this policy, 'infilling' is defined as the filling of a small gap in an otherwise continuously built up frontage that does not physically extend the settlement into the open countryside'. Due to the position of the appeal site behind existing residential development with fields, woodland and large gardens adjoining, it is not located within a continuous built up frontage. Furthermore, I have found above that the proposal would physically extend the settlement into the open countryside. As a result, the proposal would not be 'Infill' in the context of CLP Policy 3(3).
15. I have had regard to the Advice Note stating that 'The development of other land which does not entirely fit the definition of infilling (part of continual frontage) or rounding off, but would be within the form and shape of the settlement, will be acceptable where there is no significant harm arising to social, environmental or economic considerations'. However, I have found above that the appeal site does not fall within the form or shape of the settlement. As a result, the proposal does not gain support from this part of the Advice Note.
16. CLP Policy 21 supports the best use of land and encourages sustainably located proposals which, use PDL, despoiled, degraded, derelict or contaminated land, increase building density where appropriate taking into account the character of the surrounding area and take account of economic and other benefits of

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<sup>1</sup> APP/D0840/W/22/3291660

agricultural land. I acknowledge the site is in a location that would provide future occupiers access to services and facilities. However, the proposal is not of a type that meets the descriptions of land within CLP Policy 21 (a, b and d). In respect of CLP Policy 21(c), I deal with character and appearance, and therefore if the increase in building density is appropriate, in the main issue below.

17. It follows from the above that I conclude that the proposed development is not in an appropriate location, having particular regard to the local development strategy. As such, the proposal is contrary to Policies 1, 2, 3, 7 and 9 of the CLP. Taken together, these policies seek to provide homes based on the role and function of each place, direct new housing to locations within or adjoining settlements and restrict housing development in the countryside that does not provide affordable housing on exception sites or comprise special circumstances.

#### *Character and appearance*

18. The site lies within the NL, and I am required to have regard to the purpose of conserving and enhancing its natural beauty. Furthermore, paragraph 182 of the National Planning Policy Framework (the Framework) requires that great weight be given to conserving and enhancing landscape and scenic beauty in the NL.
19. The proposal would introduce significant built form, albeit notably reduced from the previous proposal, and associated paraphernalia onto the site visually extending development into the protected landscape. I have found above that this would not follow the existing pattern of development with the site not appearing as part of the settlement. Although I acknowledge that the dwellings would be flat roofed, set down into the site and identify above that views of the site from the public domain are restricted, the open character of the site is free from significant built form and contributes to the character and appearance of the area. Therefore, by reason of the introduction of significant built form and encroachment into the undeveloped part of the site, the proposal would be harmful to the landscape and scenic beauty of the NL.
20. In light of the above and the identified harm to the character of the surrounding area, the proposal does not gain support from Policy 21(c) of the CLP. This harm is not overcome by the appellant advising that the site has no other viable use.
21. It follows from the above that the proposal would harm the character and appearance of the area having regard to the site's location within the Cornwall National Landscape. As such, the proposal would result in conflict with Policies 1, 2, 3, 12 and 23 of the CLP, Policy C1 of the Climate Emergency Development Plan Document (February 2023) (CEDPD) and policies PD-P1, PD-P2 and PD-P11 of the Cornwall Area of Outstanding Natural Beauty Management Plan 2022-2017. These policies seek to ensure, amongst other things, that development is of high-quality design which respects surrounding areas and enhances the quality of place and conserves and enhances the landscape character and natural beauty of the protected landscape. The proposal would also be contrary with the provisions of the Framework in relation to achieving well-designed and beautiful places which are sympathetic to local character including the surrounding built environment and landscape setting, and conserving and enhancing landscape and scenic beauty.

22. In relation to this matter the decision notice also references Policy T1 of the CEDPD. However, as this policy relates to Sustainable Transport, it is not determinative in relation to this main issue.

### **Other Considerations**

23. My attention has been drawn to the Council's 'Call for sites' report but this sets out an approach to consultation and engagement as part of evidence building and does not contain any policies. Whilst I note the latest declining housing completions, it is noteworthy that the Council can currently demonstrate a five year supply of deliverable housing sites. As a result, I give these matters limited weight in my consideration of the appeal.
24. My attention has also been drawn to an appeal decision<sup>2</sup> in St Ruan and housing accommodation at the Council's Truro office grounds but I have limited information with regard to plans or reports and they are in different locations. As such, I cannot be sure that they are directly comparable to the current appeal proposal. Furthermore, I am required to consider the appeal proposal on its merits with the appeal in St. Ruan involving the exercising of planning judgement, which is what I have done in this case.
25. I have had regard to the proposal not leading to harm to living conditions, drainage, flood risk and the provision of a safe and suitable access. Nonetheless, as these are requirements of local planning policy and national guidance, they are neutral factors in my consideration of the appeal.
26. I acknowledge that the proposed development would provide benefits in terms of the provision of dwellings in an accessible location aiding the supply of housing at the time that the Council have declared a 'Housing Emergency', employment during the construction phase and future residents spend on local services and facilities. However, the development plan generally accords with the Framework so it is not outdated and given the scale of the proposal, the benefits would be limited and do not outweigh the identified harm above, to which I attach significant weight.
27. The appeal site is within the zone of influence of the Fal and Helford Special Area of Conservation. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

### **Conclusion**

28. For the reasons given above, I find that the proposal would conflict with the development plan when read as a whole. No material considerations, including the Framework, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

*C Rose*

INSPECTOR

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<sup>2</sup> APP/D0840/W/22/3298255