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## Appeal Decision

Hearing held on 17 June 2014

Site visit made on 17 June 2014

**by John Wilde C.Eng M.I.C.E.**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 July 2014**

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**Appeal Ref: APP/P1133/A/14/2216346**

**Land at Higher Woodway Road, Teignmouth, Devon**

- 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 Inox Capital Investment Ltd against the decision of Teignbridge District Council.
  - The application Ref 13/02636/MAJ, dated 3 September 2013, was refused by notice dated 23 December 2013.
  - The development proposed is residential development comprising up to 40 dwellings, highway access and incidental development.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. On 6 May 2014 the Council adopted a new local plan (LP) which covers the period 2013-2033. It is against this plan that the proposed development must be considered.

### Application for costs

3. At the Hearing an application for costs was made by Teignbridge District Council against Inox Capital Investment Ltd. This application is the subject of a separate Decision.

### Main Issue

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

### Reasons

5. The appeal site consists of several separate agricultural fields with a total area of about 3.7Ha, situated to the north of Higher Woodway Road and dwellings off Thatcher Drive and Higher Holcombe Road. The fields slope steeply upwards towards a ridgeline that travels in a north-west/south-east direction.

### *Policy situation*

6. The site is outside of the settlement boundary of Teignmouth and within an area defined within the LP as Undeveloped Coast. Policy S22 of the LP informs

that land outside of settlement boundaries will be strictly managed and goes on to give five categories of development which may be acceptable in such locations. Three of these uses do not relate in any way to the proposed development. Of the remaining two categories, the first is for, amongst other things, affordable homes for local needs.

7. The proposed development would contain up to 40 dwellings of which 30% would be affordable, and at the Hearing the appellants stressed the need for affordable housing in Teignmouth, a matter I will return to in due course. In respect of policy S22 however, a large proportion of the proposed dwellings would be open market housing, and to my mind, this level of market housing places the proposed development in conflict with policy S22.
8. The second category is for development to support biodiversity and geodiversity, and the appellants have pointed to the extensive planting, green areas and landscape management that would result from the proposed development. However, it seems to me that this is, to an extent, mitigation and a by product of the scheme rather than its overall main aim and intention. I cannot therefore accept compliance with policy S22 on this point.
9. Policy EN2 of the LP makes clear that new development within the Undeveloped Coast will be regarded as inappropriate except where it has regard to the Shoreline Management Plan and is a minor alteration in line with policy WE8 or is required for, amongst other things, the purposes of agriculture or forestry. The proposed development would not comply with any of the allowed categories and therefore the proposed development would also conflict with policy EN2.

#### *Character and appearance*

10. The proposed dwellings would only be located within the lower portion of the appeal site, with the upper portion becoming either a conservation area or an area for allotments. In this way the appellants consider that any visual impact would be minimised and, with appropriate planting, the ridgeline of the hill would not be breached with discernable development.
11. I have been supplied with a Landscape and Visual Assessment Report<sup>1</sup> (LVAR) on behalf of the appellant. This includes photographs of the site from various locations in Teignmouth and across the estuary in Shaldon. The report concludes that the proposed development would *not cause any detrimental landscape or visual effects*.
12. I cannot agree with this statement, and note that the LVAR also accepts that *as the northern ridgeline descends close to the undeveloped north-east corner of field 2 from some viewpoints due to the angle of view the houses will appear closer to or on the ridgeline*. This is amplified in part 2 of the LVAR where, when commenting on the view from Ness Point in Shaldon it is noted that *the proposed housing in field 2 would stand above the houses in Higher Holcombe Road and appear on the Ridgeline but not on the skyline*.
13. From my own observations the appeal site is currently seen from this and other, particularly higher locations, as an open green strip between the sky and the existing housing below. I note that the LP states in paragraph 5.3 that *the open stretches of the Undeveloped Coast have their own special character and,*

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<sup>1</sup> Formulated by Floyd Matcham (Dorset) Ltd

*where possible, should remain open.* The proposed development would replace the current openness with built form. Whilst I accept that, with time, the built form would become somewhat obscured by planting, the landscape would nonetheless be changed and would not be as open as at present. This would to my mind be detrimental to the character and appearance of the area.

14. I also note that the LVAR accepts that the proposed development would remove most of the hedgebank on the southern site boundary. Whilst I accept that the hedge could be re-planted, the LVAR also makes the point that *mature boundary vegetation makes an important contribution to the character of the landscape. Loss or damage to mature hedgerows or hedgerow trees could significantly alter the character of the application site and could not be replaced in the short/medium term.*
15. In light of the foregoing I conclude that the proposed development would be in conflict with policy EN2 of the LP in respect of its effect on the character of the undeveloped coast.

#### *Benefits of the scheme*

16. As mentioned previously, the proposed scheme would provide about 13 affordable houses. I have been supplied with a letter dated 10 March from Teign Housing that indicates a significant need for such housing in Teignmouth, and this need is confirmed by the Council's Affordable Housing Officer who talks of a high current demand.
17. The Council do however have an overall 5 year housing land supply and it seems to me that to give significant weight to specific identified housing needs in specific locations would undermine and to an extent negate the primacy of the adopted development plan. Nonetheless, given the identified need the provision of affordable housing carries some weight in the overall planning balance.
18. The scheme would provide extensive planting and a managed conservation area at the top of the site which could benefit the Cirl Bunting population, as well as a footpath link. The appellant sees these as being significant benefits that lend considerable support to the proposal. It seems to me however a moot point as to whether the majority of these proposals can be considered as actual benefits or merely mitigation. I accept that, to an extent, a managed landscape can be considered to be a better ecological environment for a range of flora and fauna, but give only very limited weight to these considerations.

#### *Balancing exercise*

19. I have found that there is an in-principle policy objection to the proposed development in relation to policies EN2 and S22 and also that the scheme would harm the character of the undeveloped coast, which would provide further conflict with policy EN2. These matters carry considerable weight. In contrast the matters in favour of the development, when considered in the round, carry only limited weight. It follows that the appeal should be dismissed.

#### *Section 106 Agreement*

20. Following the Hearing, but in a timescale approved by myself, a Section 106 Agreement was provided by the appellants. This agreement would provide for

a variety of contributions to mitigate the effects of the proposed development as well as, amongst other things, the affordable housing. Normally it would be incumbent on me to assess these contributions against the tests outlined in Community Infrastructure Levy Regulation 122. However, as I have found against the proposed development on the two main issues, this is not necessary in this case.

**Conclusion**

21. In light of my above findings and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Wilde*

Inspector

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Neal Jillings BSc(Hons) MA MRTPI  
Mr Robin Saltmarsh  
Mr Marcel Ven

Jillings Hutton Planning  
Inox Group  
Inox Group

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

Mr Jeremy Ebdon  
Ms Olwen Maidment

Teignbridge District Council  
Teignbridge District Council

### **INTERESTED PERSONS:**

Commander C M Cole  
Mr David Evans  
Mr M A Rae  
Dr Vaughan Lancaster-Thomas  
Mr Colin Hoare  
Mr Brook Verrall  
Ms Elizabeth Lancaster-Thomas

All local residents/landowners

## **DOCUMENTS**

- 1 Letter dated 28 May and distribution list confirming the date and time of and venue for the Hearing.
- 2 Report to Planning Committee dated 16 December 2013.
- 3 Various extracts from the emerging (now adopted) local plan.
- 4 Letter from Strategic Planning-Children's Services dated 25 September 2013.
- 5 Statement from Mr Evans.
- 6 Statement from Dr Lancaster-Thomas.
- 7 Statement from Ms Lancaster-Thomas.
- 8 Statement from Mr Hoare.
- 9 Statement from Mr Rae.
- 10 Appeal Decision 2213954.
- 11 Appellants' response to costs application.

## **PLANS**

- A A4 version of 1406-L1.01
- B Drawing 012014-200-5P Proposed Highway Access.
- C Plan showing route of proposed footpath and planted areas.

## **PHOTOGRAPHS**

- 1 Photos at various locations showing the progress of landscaping.