
Appeal Decisions

Site visit made on 13 February 2017

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 10 April 2017

Appeal Ref: APP/D0840/W/16/3142299

Land at OS6179, Lower Trehurst Farm, Menheniot PL14 3RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Colin Maddever against the decision of Cornwall Council.
 - The application Ref.PA15/02786, dated 24 March 2015, was refused by notice dated 20 July 2015.
 - The development proposed is the construction of an agricultural and equine building together with a sand school and an associated yard area.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

3. This is the effect of the proposal on the living conditions of the occupiers of Higher Lodge.

Reasons

4. Higher Lodge is a dwelling that sits to the north of the appeal site. There is a garden area to the immediate south of the dwelling, and beyond that, some woodland. At the far end of that woodland is a Cornish bank that forms the boundary with the appeal site.
5. Amongst other things, Policy 12 of the Cornwall Local Plan says that development proposals should protect individuals and property from overlooking and unreasonable loss of privacy; overshadowing and overbearing impacts; and unreasonable noise and disturbance. Ordinarily, one might take the view that the degree of separation between the development proposed, and Higher Lodge, coupled with the degree of screening involved, renders the development acceptable.
6. However, amongst the residents of Higher Lodge is a child who, because of her medical condition, uses the woodland as a quiet area in which she can calm down and recharge her batteries. It seems that she often retreats to the boundary for solitude and relaxation. The visible presence of the proposed development, and the activity associated with it, would clearly act as an intrusion into the peaceful quality of the woodland that currently pertains.

7. The submitted medical evidence relating to the child concerned makes it clear that the child is, and would be, frightened of horses and their handlers and the development would make her reluctant to use the woodland for its existing purpose. As a result, the child would be driven into the confines of the house, where she would have a very narrow life experience and considerably reduced educational opportunities.
8. In those circumstances, it seems to me obvious that the development would have a significant adverse impact on the quality of life of the child, and, as a result, the living conditions of the occupiers of Higher Lodge. This brings the proposal into clear conflict with Policy 12.
9. The essence of the case advanced by the appellant is that the Council was wrong to rely on the medical evidence put forward by the occupiers of Higher Lodge and should have carried out an 'independent' assessment before deciding to refuse planning permission. To my mind, that analysis is flawed. I see no good reason why the evidence provided for the occupiers of Higher Lodge, by suitably qualified medical experts, with direct experience of the child concerned, should be considered incorrect, or somehow lacking in good faith. The Council was perfectly correct to rely on it at application stage. Likewise, I have taken it at face value in dealing with the appeal.
10. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR