
Appeal Decision

Site visit made on 3 February 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/D0840/W/19/3239950

Land north of Westlands, Helebridge Road, Marhamchurch, Bude EX23 0HZ

- 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 M Ford of Mark Ford Builders Ltd against the decision of Cornwall Council.
 - The application Ref PA19/05045, dated 11 June 2019, was refused by notice dated 22 July 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - highway safety; and
 - protected species.

Reasons

Highways

3. The site is a small field which is accessed via a narrow, unmade byway apparently known as Foundry Lane, which serves as an access for at least 2 existing dwellings. Foundry Lane forms a right-angled junction with Helebridge Road, which runs through the centre of Marhamchurch. Currently virtually no left-hand visibility exists for vehicles leaving the junction to join Helebridge Road, as this is obstructed by a substantial hedgebank.
4. Manual for Streets (MfS) indicates that driver visibility from a junction joining a road with a speed limit of 30 miles per hour (mph) should extend across at least 40 metres, or 43 metres when adjusted for bonnet length. This is based on the safe stopping distance of a vehicle travelling at 30 mph, and thus applied to help reduce the likelihood of collision.
5. A 1.2 metre footway has been proposed along the hedge bank to the left of the access, together with corresponding widening of the footway to its right. This would allow a driver waiting at the junction to safely pull forward further than is currently possible, increasing visibility to the left. The Road Safety Audit submitted by the appellant however confirms that visibility to the left would still be less than 20 metres, and vulnerable to further obstruction by vegetation

growing on the hedgebank. Even in the event that this vegetation was kept constantly trimmed flush, which seems improbable, left hand visibility from the access would fall significantly below the standard outlined within MfS. The situation would be little better for drivers approaching from the left, given that a bend in the road would also limit the visibility of vehicles waiting at the junction. In neither regard would visibility be significantly improved were vehicles to creep out a little further into the carriageway.

6. Manual for Streets 2 states that unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem. There are no records of accidents in the immediate vicinity, or connected to past use of the junction. Helebridge Road itself was very lightly used during my early afternoon weekday visit, and I have no reason to believe that this was unusual. Equally however, I have no reason to doubt that the road becomes busier at other times, given that it provides the principal route through Marhamchurch, access to the nearby school, and to other local facilities. In this regard the scheme is not supported by data which shows the level of road use adjacent to the junction, the speeds at which vehicles typically travel, or the current and projected use of the junction. In the absence of such evidence, there is little basis for me to find that acceptance of a lower standard than that set out in MfS would be appropriate.
7. The proposed footway would effectively narrow the section of Helebridge Road to the left of the access to a single lane. In the absence of prioritisation, the parties disagree over whether this would have a calming effect, or in fact cause traffic speeds to increase. In my view it appears likely that the effects would be mixed and somewhat unpredictable, and that the narrowing of the road would additionally introduce a distraction for drivers. The combination of potentially increased speed and distraction would in turn increase the risk of collision between a vehicle leaving the junction and one approaching from the left.
8. My attention has been drawn to a recent planning permission for construction of a dwelling adjacent to the site. This has been built, is occupied, and makes use of the junction to access Helebridge Road. This site however differed from the appeal site, insofar as it previously contained a domestic garage. Whether or not the garage was actively in use at the time of the related application, in planning terms a legitimate and apparently long-established pattern of vehicular use of the junction in relation to that site could be identified. Having been identified this could then form a baseline for assessing risk.
9. The same is not true in relation to the appeal site. This is because, though past and continuing use of the site for commercial and domestic storage purposes has been claimed, and the site is indeed described by the appellant as a 'builder's yard', no evidence has been set before me which proves that this use is lawful. I cannot therefore be satisfied that the risks currently entailed in accessing the site form a legitimate starting point for considering the acceptability of risks that would arise in relation to the appeal scheme.
10. For the above reason, and also given that no evidence quantifying current and projected use of the junction has otherwise been provided, I cannot attach any weight to the claim that the development would lead to a reduction in vehicle movements through it.
11. It is stated that any improvement to an inadequate access is a safety gain. I accept that this would be true in relation to vehicles which use the junction at

present, and I again consider this to be a valid point where such vehicles do so in relation to demonstrably lawful uses. It would additionally hold true in relation to other vehicles exercising the general right of access along Foundry Lane, assuming that this actually occurs in practice. Such benefits would not however outweigh or justify the additional risks that would arise from the development.

12. The provision of the footway is also presented as a safety gain, as no footway currently exists along the section of the road in which it would be introduced. Though this would fall well below the width recommended in MfS, I see no reason why it would not see use. The more limited width would however mean that the footway was vulnerable to obstruction by growth of vegetation from the adjacent hedgebank, and/or by pedestrians moving in opposite directions. In the event that this occurred, any displacement of pedestrians into the road would be hazardous. In this regard, though pedestrians are currently required to walk in the road, the safest place to do this is on the opposite side, given that visibility for drivers and pedestrians alike is much better. Furthermore, the current width of the road allows vehicles to give pedestrians a reasonably wide berth, which would no longer be the case once the road was narrowed. The footway would therefore potentially give rise to new risks for pedestrians. As such the benefits provided would be limited overall, and again would not outweigh the harm associated with use of the junction.
13. The Traffic Advisory Note (TAN) submitted by the appellant states that the site lies within walking and cycling distance of the centre of the settlement. Future occupants could also make use of home delivery services and might consider car sharing or using the bus. The appeal statement also notes that people could work from home. I see no reason to disagree with any of these points. However, whilst car share and home delivery would themselves presumably involve vehicular use of the access, it would not be possible to require future occupants to walk, cycle, use the bus or work from home. Consequently, as none of these considerations would be likely to prevent the risks arising from vehicular use of the access, they attract very little to no weight in favour of the scheme.
14. A number of appeal decisions featuring highways safety matters have been drawn to my attention. These relate to different locations, roads and contexts. As any consideration of highway safety requires a site-specific assessment, the findings in these appeals are not directly transferable to the appeal site. I have therefore considered the appeal scheme on its own merits.
15. For the reasons outlined above I conclude that the development would have an unacceptable impact and effect on highway safety. It would therefore conflict with saved Policy 27 of the Cornwall Local Plan 2016 which requires that all development should provide safe and suitable access, and which reflects similar provisions within the National Planning Policy Framework (the Framework).

Protected species

16. The application was supported by a Preliminary Ecological Appraisal dated 19 June 2018 (PEA). The PEA contains no statement of limitations, though such appraisals are generally valid for 12 months. Thus the PEA was very close to expiry at the point the application was made, and it indeed expired shortly afterwards.

17. The PEA assumes that reptiles are present in part of the site, and outlines mitigation measures on this basis. No other protected species were identified as present, or likely to be affected by the development. I see no reason to question these findings. However, in view of the passage of time, the potential for change can be reasonably assumed, requiring up to date evidence.
18. At a late stage in the appeal process the appellant submitted an update from the ecologist responsible for the PEA. This confirmed that the findings set out within the PEA remained valid. On this basis, subject to mitigation measures being secured by condition, there would be no harm caused to protected species.
19. For the reasons outlined above I conclude that the development would not have an adverse effect on protected species. It would therefore comply with Policy 23 of the Cornwall Local Plan Strategic Policies 2010-2030, which amongst other things states that development should conserve, protect and where possible enhance biodiversity; and related provisions set out within the Framework.

Other Matters

20. The TAN makes reference to permitted development rights relating to conversion of agricultural buildings. However, as the site does not contain an agricultural building, these permitted development rights hold no relevance.
21. Notwithstanding uncertainty over the lawful use of the site, the Council accepts, and the appellant emphasises, that the general principle of residential development at the location in question is acceptable. This does not however alter the fact the safe access to the main highway network could not be achieved, or that the scheme would therefore conflict with the development plan taken as a whole.
22. The development would provide a single dwelling, the construction and future occupation of which could each generate support for local services. Future occupants could also become involved in community activities. The scale of the social and economic contribution made in each of these regards would however be very limited. Related benefits would not therefore outweigh the harm caused by the development.

Conclusion

23. For the reasons outlined above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR