
Appeal Decision

Site visit made on 7 December 2020

by John Wilde CEng MICE

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

Decision date: 21 December 2020

Appeal Ref: APP/D0840/W/20/3244273

Former Council Highways Depot, Access to Tredavoe, Newlyn, Penzance, Cornwall

- 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 Mat Carter, Waterdance Ltd, against the decision of Cornwall Council.
 - The application Ref PA19/05594, dated 28 June 2019, was refused by notice dated 6 November 2019.
 - The development proposed is construction of a building for use for net making and storage with associated parking area and service yard. Proposed visibility splay at junction with B3315.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a building for use for net making and storage with associated parking area and service yard. Proposed visibility splay at junction with B3315 at Former Council Highways Depot, Access to Tredavoe, Newlyn, Penzance, Cornwall in accordance with the terms of the application, Ref PA19/05594, dated 28 June 2019, subject to the conditions contained in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:-
 - a) The character and appearance of the area, and
 - b) The adjacent boundary wall.

Reasons

Character and appearance

3. The appeal site lies to the west of Newlyn and about 1km from its centre. Access to the site is gained from a relatively narrow lane which in turn joins the B3315 at a junction with extremely limited visibility to the left. The site was formally a Council highways depot but is now being slowly reclaimed by vegetation. The site is therefore rural in nature but cannot be construed to be completely natural and untouched. It is however beyond the clear physical boundary of Newlyn, and therefore in planning terms within the open countryside, and within an Area of Great Landscape Value (AGLV).

4. There is a housing estate on the other side of the road to the appeal site but nothing on the same side until the settlement of Tredavoe some way to the south. To the west of the appeal site is a valley and a few buildings can be seen in the distance on the far side of this valley. These are the only properties visible from the site apart from the roofs and upper stories of a few of the properties belonging to the estate on the other side of the road.
5. The proposed building would be relatively large with a footprint of about 480 Sqm and a height to the ridge of 5.75m. It would however be set into an existing bank with vegetation and only be readily visible from the access to the site, as would the proposed car parking. Notwithstanding the latter however, the proposed development would cause some harm to the character and appearance of the AGLV. There would therefore be conflict with policy 23 of the Cornwall Local Plan (LP), which makes clear that in AGLVs development should maintain the character and distinctive landscape qualities of such areas.
6. Policy 3 of the Cornwall Local Plan (LP) is entitled *Role and function of places* and identifies that new development will be accommodated in accordance with a hierarchy. The policy identifies main towns for development and indicates that outside of these housing will be delivered through the identification of sites through Neighbourhood Plans, rounding off of settlements, infill schemes or rural exception sites. The proposed development would not be in accordance with any of these categories and therefore conflict with policy 3 would exist.
7. Policy 5 of the LP requires that in the countryside employment land should be of a scale appropriate to its location or demonstrate an overriding locational and business need to be in that location. I will return to this policy in my planning balance.

Boundary wall

8. To facilitate highway safety the proposed development includes the reduction in height of a stone wall at the junction with the B3315, and the removal of a number of trees that surmount the wall. The wall is considered to be a non-designated heritage asset by virtue of its association with the Stable Hobba Smelting Works and the engineered leat channel, and I have been given no significant evidence that would lead me to contest this designation.
9. Whilst the wall is not in a particularly good state of repair, with several noticeable cracks, reducing it in height and losing several of its associated trees must in my view be construed as harming its significance.
10. Paragraph 197 of the National Planning Policy Framework (the Framework) makes clear that the effect of a proposed development on the significance of a non-designated heritage asset should be taken into account when determining the application, and that a balanced judgement will be required having regard to the scale of any harm and the significance of the asset. I will once again return to this in my planning balance.

Benefits of the proposed development

11. The proposed development would enable a local fishing enterprise to re-locate, centralise (at present it operates out of five separate locations) and

expand its operation, making it more efficient and increasing its employment levels by up to 16 people. I also note that for every fulltime fisherman employed a further 2.25 full time equivalent jobs are created.

12. My attention has been drawn to the fulsome comments made by the Council's own economic growth manager and his conclusion that *the application will contribute to a wide range of economic strategies designed to help improve the economic position of Cornwall*. I also note that in the West Penwith Community Network Area (in which the appeal site is located) there has been a reduction in the delivery of employment space since the start of the LP plan period.
13. I have been made aware of two alternative employment sites put forward by the Council, and that the appellant has been in contact with the owners of both. One of these sites has apparently little intention of actually developing the site and the other would involve only a short term lease.
14. My attention has also been drawn to Objective 1 of the LP and paragraph 84 of the National Planning Policy Framework. The former, amongst other things, seeks to remove unnecessary barriers to jobs, business and investment through a positive framework, and specifically mentions the fishing industry. The latter stresses that *planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements*. Paragraph 1.23 of the LP also affirms that the fishing industry, amongst others, will be supported by the Council into the future.

Planning balance

15. I have found that the proposed development would cause harm to the character and appearance of the AGLV, although this harm would be mitigated by the positioning of the development and the fact that, whilst the site is in the open countryside, it is far from pristine. Due to this harm there would be conflict with the LP. In respect of policy 5 of the LP a need has been demonstrated for the proposed development and I consider that it would be of an appropriate scale. I also note that the justification for policy 5 states that *realising the development potential of Cornwall's maritime sector will be critical to the region's future, long term prosperity*. There would therefore be no conflict with policy 5.
16. There would also be harm to the significance of the non-designated heritage asset, although the asset is not in a particularly good state of repair and it would be renewed on a new alignment up to 600mm in height. Given the very limited visibility at the junction, there would also be a significant public benefit in terms of highway safety. This benefit, combined with those that I have outlined above, to my mind outweighs the identified harm and conflict with development plan policy. Furthermore, the significant economic and social benefits outweigh the limited environmental harm that has been found. The proposed development can therefore be defined as sustainable. In arriving at this conclusion, I have taken note that the site is not directly served by public transport, this does not however change my overall conclusion regarding sustainability.

Conditions

17. As the scheme impacts on a heritage asset, I have imposed a condition requiring a scheme of archaeological recording, and as the scheme will be built on the site of a former depot, I have also imposed a condition requiring a scheme to deal with contamination. To prevent future flooding, I have imposed a condition requiring the submission of drainage details and in the interests of highway safety I have imposed conditions requiring a construction traffic management plan, the construction of the improved access and parking and turning areas.
18. In the interest of visual and residential amenity I have also imposed conditions requiring lighting and landscaping schemes. Finally, for certainty I have imposed a condition detailing the submitted drawings.

Conclusion

19. In light of the above, and having taken into account all other matters raised, I conclude that the appeal should be allowed.

John Wilde

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: JG02, JG03, Plan 1 (block plan), G(5) floor plan, G(2) D elevations.
- 3) No development shall take place until a programme of archaeological recording work including a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions, and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 4) No development shall commence until a scheme to deal with any soil contamination has been submitted to and approved in writing by the local planning authority. The scheme shall include on site investigations and an assessment to identify the extent of contamination and the measures to be taken to avoid risk when the site is developed. The approved scheme shall be fully implemented and completed before the development hereby permitted is first occupied.
- 5) No development shall take place until the following details are submitted to and approved in writing by the local planning authority:
 - i) Details of the final drainage schemes including calculations and layout;
 - ii) A construction surface water management plan;
 - iii) A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features;
 - iv) A timetable for construction;
 - v) Confirmation of who will maintain the drainage systems and a plan for the future maintenance and management, including responsibilities for the drainage systems and overland flow routes.

The surface water drainage systems shall fully manage surface water flows resulting from the developed site up to the 1 in 100 year peak

rainfall event plus a minimum allowance of 40% for the impact of climate change. The approved scheme shall be implemented in accordance with the timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details for the lifetime of the development.

- 6) No development shall take place until a Construction Traffic Management Plan and programme of works has been submitted to, and approved in writing by, the local planning authority. The plan shall provide for:
- i) Construction vehicle details;
 - ii) Vehicular routes and delivery hours;
 - iii) The parking of vehicles of site operatives and visitors;
 - iv) Loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction;

The approved Plan shall be adhered to throughout the construction period for the development.

- 7) Before any other engineering works are carried out on the site, the access shall be laid out and constructed in accordance with Drawing Nos JG 02 and JG 03 with its gradient, surfacing, drainage and sight lines having first been approved in writing by the local planning authority. The submitted details shall include the mitigation measures recommended in section 4.7 of the submitted Heritage Impact Assessment and the access completed fully in accordance with approved plans and details. The access shall be retained as approved thereafter.
- 8) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The landscaping scheme shall also include:
- i) a full schedule of plants;
 - ii) details of the mix, size, distribution and density of all trees/shrubs/hedges;
 - iii) cultivation proposals for the maintenance and management of the soft landscaping.

The protection measures proposed shall be completed in accordance with the approved scheme before the development hereby permitted commences and shall thereafter be retained. Notice shall be given to the local planning authority when the approved scheme has been completed.

All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice shall be given to the local planning authority when the approved scheme has been completed. Any trees, plants or shrubs which die within a period of five years from the

completion of the development, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other of a similar size and species as those originally planted.

- 9) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the development commences. The lighting scheme shall be implemented in accordance with the approved details and retained as such thereafter.
- 10) Before any of the development hereby permitted is brought into use, parking and turning areas shall be laid out and constructed in accordance with the approved block plan, and the said areas shall not thereafter be obstructed or used for any other purpose.