



Appeal Decision

Site visit made on 10 March 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021

Appeal Ref: APP/D0840/W/20/3255682

Sunnyside, Higher Fraddon, Cornwall TR9 6NL

- 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 Paul Owen and Mr Tobias against the decision of Cornwall Council.
 - The application Ref PA19/08111, dated 6 September 2019, was refused by notice dated 28 January 2020.
 - The development proposed is described as '*erection of dwellinghouse with detached garage – resubmission of refused planning application (PA18/02797 – refusal date 1 November 2018) no fee required as resubmitted within 12 months of refusal date*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposed development would create satisfactory living conditions, with reference to noise.

Reasons

3. The site comprises a plot of land at the corner of the main road through the settlement of Higher Fraddon and the shared access road to a pig farm and an adjoining anaerobic digestion plant. A short distance beyond these facilities on higher land to the east and south east is a curving section of the A30 trunk road, which at this point is a dual carriageway carrying four lanes of traffic.
4. Paragraph 180 of the National Planning Policy Framework (the Framework) requires decisions to ensure that development is appropriate for its location and, in doing so, avoid noise giving rise to significant adverse impacts on health and the quality of life.
5. Noise from the A30 can be heard around Higher Fraddon. The proposed dwelling would have its windowed principal elevation to the south, partly towards the A30. Whilst it is suggested that several residents in Higher Fraddon are not dissatisfied with the level of noise in the area, the appellants' noise assessment¹ records that noise at the appeal site would exceed acceptable levels for the proposed development. The data suggests that future occupants would experience significant adverse impacts within the outside areas and also from inside the dwelling if windows were left open.
6. In order to reduce noise within the dwelling, a ventilation system could be provided which would negate the need for windows to be opened for this

¹ 24 hour noise assessment by Michael Latham Acoustics (2018)

purpose. However, it would not be reasonable to impose a situation where windows would have to remain shut, as to do so would create an uncomfortable sense of confinement for future residents, particularly during the summer. Moreover, this would not resolve the levels of noise that would be experienced within the outside spaces, particularly the area which would be set between the dwelling and the A30. In these circumstances, it also appears unlikely that boundary treatments would provide any significant attenuation.

7. Whilst I recognise that there was once a dwelling at the site, there is negligible evidence of this now, and it cannot therefore be seen as a compelling precedent for future development. Reference has also been made to planning permissions granted for housing nearby, including at an adjacent site², and a large-scale housing scheme which may come forward. However, very limited details of the circumstances of these cases have been provided, although I note that permission at the adjacent site was granted prior to the adoption of the development plan, within a materially different planning policy context. On the evidence before me, these matters do not serve to justify the living conditions that would be created here.
8. Consequently, I conclude that the proposal would not create satisfactory living conditions, with reference to noise. It would conflict with the residential amenity aims of Policies 2, 12, 13 and 16 of the Cornwall Local Plan: Strategic Policies Document 2010–2030 (adopted 2016) and the Framework.

Other Matters

9. I have had regard to concerns raised by interested parties about the suitability of the location, highway safety and overlooking. However, these matters have not influenced my findings against the main issue. I have also been referred to the Council's procedural conduct, but this matter is not germane to this section 78 appeal, which is focused on the planning merits of the case.

Planning Balance and Conclusion

10. The scheme would provide a single dwelling to local supply, which constitutes a benefit of modest weight. This would not outweigh the harm I have identified regarding the failure of the proposed development to create satisfactory living conditions. I therefore find that the proposal would conflict with the development plan when read as a whole and that there are no other considerations, including the Framework, that outweigh the conflict.
11. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

² Ref PA14/04231