



Appeal Decision

Site visit made on 20 April 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

Appeal Ref: APP/D0840/W/21/3279381

Land North East of Fir Tree Cottage, Green Lane, Wheal Rose TR16 5DF

- 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 Mrs M Commons against the decision of Cornwall Council.
 - The application Ref PA20/04503, dated 3 June 2020, was refused by notice dated 2 February 2021.
 - The development proposed is one residential dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for one residential dwelling at Land North East of Fir Tree Cottage, Wheal Rose TR16 5DF in accordance with the terms of the application, Ref PA20/04503, dated 3 June 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to an application for outline planning permission. Approval is sought for access at this stage. All other matters are reserved for subsequent consideration. There is a proposed site plan drawing that shows the setting out of an access and widening of the lane at that point. The Council has suggested that ownership constraints may prevent those works being carried out, so for the avoidance of doubt I have considered the appeal simply on the basis that an access would be made to the lane at the point indicated.
3. The Council has confirmed that the site is within the settlement boundary defined in the St. Agnes Parish Neighbourhood Development Plan 2018-2030 and on that basis, the principle of development is deemed to be acceptable. I have no reason to disagree with that position.
4. A previous appeal for development at the site found that there would be harm to highway safety due to inadequate visibility at the point that an access lane to the north of the site met a county highway. While the Inspector observed the limited passing opportunities on the lane, this appears to be an observation, with the appeal Decision citing harm from this due to the potential for vehicles to need to wait on the county highway. Despite some confusing details on the submitted drawings, it has been confirmed that access would be via a different stretch of lane to the south of the site.
5. As with the lane to the north, there are limited passing opportunities along the now proposed access to the site. However, there is ample space for vehicles to pass close to the public highway, so the proposals are not comparable. Moreover, the Council's appeal statement confirms that the concern relates to

the constrained nature of the access as it passes a nearby dwelling known as Meadowside.

Main Issue

6. With regard to the above, the main issue is the effect on highway safety, with regard to the characteristics of the access lane at Meadowside.

Reasons

7. At Meadowside, the width of the lane leading to the site is restricted by a high hedge bank and the dwelling itself. It has been estimated in the representations as being only 1.95m wide. I understand that movement of the bank near to Trewan House may also be resulting in a gradual narrowing of the lane at that point, but there is no substantive evidence that it is likely to become impassable. Moreover, the Council's officer report confirms that for dwellings that have been permitted on the other side of Meadowside to the site, visibility of and along the lane, including for any vehicles having to reverse, is adequate.
8. Alongside Meadowside, the lane makes an approximately 90 degree turn around the corner of the house into an area used as parking by its occupiers. From here, a further approximate 90 degree turn leads to the final stretch of lane to the proposed site access point. These characteristics could prevent large vehicles reaching the site and future occupiers may have to make alternative arrangements to receive deliveries and the like. This may be inconvenient for future occupiers, but would not result in tangible harm in planning terms.
9. That said, there is potential that delivery vehicles unable to reach the site could cause obstruction to the lane, leading to inconvenience for other nearby residents. There is anecdotal evidence that such has already happened on occasion, but it is unlikely to be at such regular frequency that it would create harmful living conditions.
10. In coming to this view, I have had due regard under the Public Sector Equality Duty contained in the Equality Act 2010 to any potential adverse effects on disabled occupiers of neighbouring houses. However, the timescale of any disruption that may occur would likely be short and there appeared to me to be limited facilities or services within walking distance. Therefore, while some disabled people may be more dependent upon their cars generally, there is no apparent reason that any such inconvenience in this case would disadvantage those who may display any protected characteristics defined in that Act, any more than those who do not.
11. It may not be possible for large emergency service vehicles to access the site. However, there is no substantive evidence that ambulance crews would not be able to reach residents, nor that there would be no methods of ensuring that any future building could comply with other legislation in respect of access for fire fighting. I, therefore, give this matter little weight.
12. The 90 degree turn alongside Meadowside, significantly obstructs forward visibility between this location and the site. The surface of the lane is very poor at this point, so traffic speeds would necessarily be low. From my observations, the width of the lane is such that vehicles approaching the turn from the site would be forced towards the side of the parking area furthest away from the

building in order to make the turn out of the parking area. While that driver may not gain sight along the lane until the last minute, this would result in the vehicle being positioned in clear sight of a driver heading towards the site. The risk of collision is, therefore, minimal.

13. I understand that there have been incidences of vehicles striking Meadowside and the occupiers are fearful of this occurring in the future. However, damage to property, including the dwelling and surface of the track, is ultimately a matter for the parties involved and I give it little weight in my Decision.
14. With regard to the above, I conclude that the proposal would not harm highway safety. There would, therefore, be no conflict with Policy 27 of the Cornwall Local Plan 2010-2030 that seeks to ensure that development provides a safe and suitable access to the site for all people.

Other Matters

15. Ownership of the lane serving the site is uncertain, as is the existence of a right of way for the appellant along it. However, planning control relates to the use of land and the grant of planning permission is not dependent upon existence of those rights.
16. I note that historic mine workings in the area could have created unstable ground conditions. However, there is no substantive evidence of high risk at the site or the precise location of potential risk on the access track. This matter does not, therefore, lead me away from my overall findings on the appeal.
17. I note that the appellant may not have discussed this, or previous proposals with neighbouring residents. However, while that may have caused frustration to those living nearby, it is not a prerequisite of making a planning application and has little to do with the planning merits of the case.

Appropriate Assessment

18. The site is within the zone of influence of the Fal and Helford Special Area of Conservation (SAC) and the Penhale Dunes SAC (the Habitats sites). The Penhale Dunes SAC is designated for its shifting dunes, salicion arenariae, humid dune stacks, fixed dunes, shore dock, early gentian and petalwort. The Fal and Helford SAC is designated for its saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries and reefs.
19. The Cornwall European Sites Mitigation Supplementary Planning Document 2021 (the SPD) sets out that increases in population are placing greater pressure from recreational activity on the features of interest for which the Habitats sites are designated. It sets out mitigation strategies through strategic access management and monitoring (SAMM). SAMM is to be funded by contributions from new residential development and such would allow adverse impacts on the integrity of the sites to be avoided.
20. The appellant has made payment to the Council for the mitigation and completed an undertaking under Section 111 of the Local Government Act 1972 to clarify the details. The payment provides sufficient funds for SAMM in relation to this development, as detailed in the SPD. On this basis, I am satisfied that adverse effects on the integrity of the Habitats sites will be avoided.

Conditions

21. A condition is required to secure a drainage scheme in order to ensure that there was no increased surface water discharge to land at a lower level, including Meadowside. It is not, however, the responsibility of this development to mitigate existing surface water discharge or flood risk that would not arise as a consequence of this proposal.
22. In the interests of highway safety, due to the constrained nature of the access, a condition is necessary to secure a construction traffic management plan. A condition is also necessary to prevent access onto the northern access lane that was previously deemed to result in harm to highway safety.
23. I have not imposed a condition relating to matters of external appearance as this relates to the reserved matters. Nor have I imposed a condition requiring the suggested works relating to the widening of the lane to be carried out. They are beyond the pinch-point at Meadowside and it is not clear how they would ease the situation there. Furthermore, the condition of the track beyond the proposed access points to minimal use of that stretch. For these reasons, the works are not necessary to make the development acceptable in planning terms.

Conclusion

24. For the reasons given, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of the development hereby permitted, a scheme for the disposal of surface water shall be submitted to and approved in writing by the Local Planning Authority. The details shall be implemented prior to the occupation of the dwelling hereby permitted and shall thereafter be maintained as such.
- 5) Prior to the occupation of the dwelling hereby permitted details of a scheme to prevent access to the site onto the access lane to the north of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the occupation of the dwelling hereby permitted and shall thereafter be maintained as such.
- 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 approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i) construction vehicle details (number, size and type);
 - 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 the construction of the development;
 - vi) wheel washing facilities; and
 - vii) measures to control the emission of dust and dirt during construction.