



Appeal Decision

Site visit made on 19 July 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal Ref: APP/D0840/W/21/3289006

Land adjacent to Laflouder Farm House, Laflouder Lane, Mullion, Cornwall TR12 7HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr & Mrs A Witheywood against the decision of Cornwall Council.
 - The application Ref PA21/05504, dated 25 May 2021, sought approval of details pursuant to condition No 1 of planning permission Ref PA18/09039, granted on 4 December 2018.
 - The application was refused by notice dated 21 October 2021.
 - The development proposed is for a single residential dwelling.
 - The details for which approval is sought are the access, appearance, landscaping, layout and scale.
-

Decision

1. The appeal is allowed and details submitted pursuant to Condition No 1 attached to planning permission Ref PA18/09039 dated 4 December 2018, namely access, appearance, landscaping, layout and scale details, in accordance with the application Ref PA21/05504 dated 25 May 2021, are approved subject to the following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Block Plan 12.2020.02B, Proposed 12.2020.03A, and Proposed 12.2020.04.
 - 2) Before any of the development hereby permitted is brought into use, parking and turning areas shall be laid out and constructed in accordance with approved drawing no. 12.2020/02B and the said areas shall not thereafter be obstructed or used for any other purpose.
 - 3) Before the development hereby permitted is commenced, a scheme to deal with any instability of the ground shall be 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 unstable ground, the measures to be taken to avoid risk to buildings when the site is developed, and a timetable for the implementation of those measures. The approved scheme shall be fully implemented as per the approved timetable which shall ensure completion of the scheme before the development hereby permitted is first occupied.
 - 4) Before the development hereby permitted is commenced, the proposed tree protection measures as detailed in the Arboricultural report and plan prepared by L.H Williams dated 8 September 2021 and the accompanying Tree Protection Plan shall be undertaken/erected in the positions

approved and thereafter retained until completion of the development. Nothing shall be stored or placed in any fenced area, nor shall the ground levels within those areas be altered.

Preliminary Matters

2. The principle of a dwelling on this site has already been approved under outline planning permission reference PA/18/09039. The appeal relates to the reserved matters proposal following this previous outline permission.

Main Issues

3. The main issue is the effect of the development on the character and appearance of the area, including the scenic beauty of the Cornwall Area of Outstanding Natural Beauty (AONB).

Reasons

4. The site is an area of land on the edge of the village of Mullion, adjacent to residential areas on Laflouder Lane and Laflouder Fields. The site is currently overgrown, positioned adjacent to a Byway Open to All Traffic (BOAT), which is a lane.
5. The site is within the AONB. Paragraph 176 of the National Planning Policy Framework (the Framework) requires that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues."
6. The house proposed would be two storey of a modern design, with a mix of materials including timber cladding to the exterior at first floor level. The house would be positioned away from the boundaries of the plot, allowing for vegetation landscaping along these boundaries.
7. The area has a mix of housing types, from the historic older properties like those along Laflouder Lane, to the more modern dwellings on Laflouder Fields. In this mixed context the contemporary approach taken with the design is acceptable and the appearance of the house as proposed would be to a suitable standard. The house would not appear incongruous in this mixed setting.
8. There are listed buildings nearby, such as Laflouder Thatch. However, whilst not of a traditional design reflecting the older buildings of this area, the design itself for the proposed house is good quality and it is set within an area of mixed old and new housing. The proposal would have no adverse impact to the setting of heritage assets such as listed buildings.
9. The dwelling would be towards the edge of the village and due to the topography of the site it would be visible, but it would be generally seen against the backdrop of other dwellings. It would not be in an isolated rural location and would not be particularly prominent. In terms of scale, a single two storey dwelling as proposed would be suitable within this particular plot. The proposal of house and garage would not overdevelop the site. The landscaping would also soften the visual impact of the dwelling and garage as proposed.
10. The proposed associated garage would be subservient to the house and be of a design and scale that would be appropriate within this setting.

11. For these reasons the proposed dwelling would conserve the scenic beauty of the AONB. It would not have an adverse impact to the landscape setting of the dwelling. The proposal is therefore in accordance with policies 1, 2, 12 and 23 of the Cornwall Local Plan Strategic Policies 2010 – 2030, and Policy MD9 of the Cornwall AONB Management Plan 2016 - 2021. These policies require development to not compromise the special qualities and characteristics of the AONB designation, with great weight given to conserving the landscape and scenic beauty within or affecting the setting of the AONB, amongst other things. The proposal is also in accordance with the relevant sections of the NPPF, including paragraph 176.

International Ecology Sites

12. Natural England (NE) confirm that the site is within the 'zone of influence' (ZOI) for Fal and Helford Special Area of Conservation (SAC). NE stated that *"without mitigation, new residential and tourist development is 'likely to have a significant effect', when considered in combination, upon the interest features of the SAC due to the risk of increased recreational pressure caused by that development."*
13. It is clear therefore that without mitigation new residential development such as the single dwelling proposed would have a likely adverse impact to the integrity and special features of this SAC, and so an appropriate assessment is required.
14. The Council has produced a Supplementary Planning Document (SPD) entitled European Sites Mitigation in July 2021. This was after the outline permission was issued, but nonetheless it is an issue that all parties are now aware of and should be addressed at this reserved matters stage. This sets out mitigation through a financial contribution towards 'Strategic Access Management and Monitoring', which includes patrols and new signage, for example.
15. The appellant has provided a copy of the submitted agreement (dated 24 August) to make a payment towards the necessary mitigation, to safeguard the integrity of this SAC. This is in accordance with the SPD requirements. A Cornwall Council receipt has been provided also. With this mitigation, through a set mitigation strategy, I am satisfied that there would be no likely adverse impact to the SAC from this development.

Other Matters

16. As set out above, the principle of a house at this site has already been approved by the Council and this matter has not been re-assessed with this appeal.
17. A tree survey has been submitted and a tree protection condition is necessary to safeguard trees which are to remain. I have no substantive evidence that there would be significant root damage or that the works would result in consequential increases in flood risks. Drainage conditions, requiring details to be agreed by the Council, were imposed at outline stage.
18. The assessment of the site from an ecological perspective was undertaken by the Council at outline stage, and ultimately a dwelling was approved at this site. I have no substantive reason to consider that the dwelling as now proposed in detail would have harmful impacts to protected species for example.

19. The access would lead onto the BOAT lane. Being for 1 dwelling only it would not likely result in significantly increased traffic or result in any highway safety issues.
20. The proposed dwelling is set a significant distance from other neighbouring residential properties which would avoid any unacceptable overlooking impacts or loss of privacy. There would be no significant loss of living condition quality for neighbours to the site.
21. I am aware of the ownership issue that was raised at Reserved Matters stage. It is my understanding that the appellants are aware of the legal extent of their land ownership and also that the development proposed is all within land they own. As such, this is not a reason to dismiss this appeal.

Conditions

22. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
23. I have imposed the plans condition, as this allows for certainty. I have also included the Council recommended condition that relate to parking provision, as this will be necessary to avoid on-street parking which could have highway impacts. Details of addressing land stability for the proposed dwelling is also required, due to the layout proposed with the dwelling close to a steep embankment. There is also a condition requiring tree protection as set out in the submitted Arboricultural Report/Tree Protection Plan details.
24. I am satisfied that there is sufficient justification for imposing a pre-commencement condition, given that they relate to land stability and tree protection, which could be impacted by the construction phase.
25. I have not imposed either recommended conditions from the Council restricting permitted development rights as I am not persuaded that these are reasonably necessary to safeguard neighbour living conditions, visual amenity, or for any other purpose. There are conditions and restrictions within the Permitted Development Order for such developments and I see no substantive reason to impose further restrictions.

Conclusion

26. For the reasons given I conclude that the appeal should succeed, subject to the conditions attached and those imposed at outline stage.

Mr S Rennie

INSPECTOR