



Appeal Decision

Site visit made on 20 December 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/D0840/W/22/3301213

Mapowders Farm, Stratton, Bude EX23 9NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Oseman against the decision of Cornwall Council.
 - The application Ref PA21/04977, dated 3 May 2021, was approved on 16 December 2021 and planning permission was granted subject to conditions.
 - The development permitted is change of use of land to dog training/exercise area.
 - The condition in dispute is No 3 which states that:
Modification works to the arrangement at the junction of Howard Lane and A3072 shall be completed within six calendar months of the date of this decision notice. Those works shall be completed in accordance with the details submitted and include:
 - Remove/burn off white hatching lines from central hatched area;
 - Re-lining/painting of 3rd hatching mark in;
 - Re-lining/painting of Howard Lane junction markings as indicated;
 - Painting of new separator heavy/longer white line to shorten the existing right turn lane and create area for drivers turning in to Howard Lane;
 - Remove/burn off existing bifurcation/direction arrows and paint in new bifurcation/direction arrows at revised right turn lane entry position.
 - The reason given for the condition is: In the interests of highway safety and in accordance with policy 27 of the Cornwall Local Plan Strategic Policies 2010-2030.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is reasonable and necessary having regard to the effects on highway safety.

Reasons

3. From the evidence and from my observations on site, it appeared that the use of land as a dog training/exercise area and associated development had commenced in accordance with the permission granted, save for the works to the junction required by condition 3, which had not been undertaken.
4. The appeal site is accessed from the A3072 which connects Bude with Holsworthy, via a short length of rural road, known as Howard Lane. Offset from the site on the opposite side of the appeal site is the large business premises, Homeleigh Garden Centre, which, at the time of my visit, was busy with visiting members of the public. There is a dedicated left turn lane between the carriageways of the A3072 which serves a road that also provides access to the Garden Centre. Due to the site's position in relation to the same, traffic using the left hand lane for the Garden Centre on approach from the east may

conflict with traffic wishing to turn into the appeal site from a westerly direction.

5. Howard Lane is a classified highway, and accesses a small number of dwellings other than just Mapowders Farm. It is also alleged to be used as a cut through when the main road to Bude is closed. However, it is narrow with very limited passing places, particularly steep in places and it appears that a lack of maintenance has resulted in a poor surface. Whilst there is nothing specifically prohibiting its general use, it is not likely to be a desirable one where preferable alternative options exist, i.e. the A3072.
6. The appellant's traffic survey of vehicle movements accessing Howard Lane suggests that for the specified three-hour durations on four weekdays when the business was closed, there was a range of 21 – 27 movements using the A3072/Howard lane junction on each occasion.
7. From the appellants' evidence, the appeal proposal, whilst only accessing a short length of Howard Lane, is predicted to increase the number of movements into and out from the junction by a range of potentially 20 – 32 cars, i.e. 40 – 64 movements into and out from the junction each week. In my view, this is a material increase in the use of the junction above the level of use demonstrated by the appellants.
8. The parking area intended to serve the business would be for a maximum of four cars. This appears to tally with the predicted maximum number of visitors predicted for group classes. However, whilst any delineated parking spaces could be controlled, there are other areas which could be used for parking if needed. Furthermore, a condition preventing more than four cars being parked or limiting the visitor numbers as such would not be strictly enforceable without placing an undue burden on the Council to monitor the situation and would fail the tests for planning conditions as set out in the Planning Practice Guidance¹. The need for supervision and or weather-related reasons put forward as to why the scale of the business and related traffic movements will be inherently constrained to such limited numbers cannot be strictly relied upon either.
9. Given the materiality of the predicted increase in vehicular movements accessing the junction and inability to specifically restrict the same by way of planning condition, negotiations were held between the parties and other local representatives. It appears that a plan was subsequently devised and submitted by the appellants, Plan Ref OSE/21.04, detailing the works which are listed in condition 3 in the interests of completeness.
10. The main point made by the appellants is that they should not have to bear the entire cost of the works as they were not originally forecast within the start-up costs and to do so would render the business unviable. It appears that the appellants were advised during the course of the appeal application that the need for the markings arose specifically from the proposed business use of the site. That the costs were not forecast as part of formulating the business plan is not a relevant consideration and very limited evidence is available to suggest that the viability of the business is reliant on avoiding such costs.
11. In any event, I witnessed for myself the speed with which users are passing the junction, the frequency of use of the right-turn lane and, given the

¹ Planning Practice Guidance, paragraph 003 Reference ID: 21a-003-20190723

increased use of the junction, consider that there is a need to clarify the road layout in order to avoid potential collisions. The costs of undertaking such works are necessary to ensure highway safety, for even the relatively modest number of users that the business would attract. The responsibility of the cost is not strictly a matter for me, but as it is the appellants' endeavour to establish a permanent business base, it logically follows that the costs of ensuring the safety of its clientele would fall to them.

12. Whilst I note the appellants' suggestion that Homeleigh Garden Centre has not had to fund the provision of the right turn lane or any further highway improvements as part of its recent extension, there is limited evidence of this and it is also relevant that the proposal itself would effect a further change to the highway which should be made safe.
13. For the reasons set out above, I consider that the condition is reasonable and necessary having regard to the effects on highway safety to ensure compliance with Cornwall Local Plan Policy 27. This Policy seeks to ensure that developments provide safe and suitable access to the site for all and do not cause a significantly adverse impact on the local or strategic road network that cannot be managed or mitigated.

Other Matters

14. Though it is alleged that the appeal site has always received a regular number of visitors in connection with former businesses, i.e. equestrian, café or childminding uses, none of these appear to have been formalised through a previous planning permission or Certificate of Lawfulness² and there is no record of the likely number of visits in connection with the same. As such, this point does not attract any weight in the overall balance.

Conclusion

15. For the reasons outlined above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

² Certificate of Lawfulness of an existing use or development under Section 191 of the Town and Country Planning Act 1990