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# Appeal Decision

Site visit made on 28 February 2023

**by S Harrington MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 March 2023**

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**Appeal Ref: APP/D0840/W/22/3301828**

**Land South of Lynwood House, Mousehole, Cornwall**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Esther Freud against Cornwall Council.
  - The application Ref PA22/02429, is dated 9 March 2022.
  - The development proposed is erection of 1 dwelling, including the provision of wildlife habitat and widened culvert.
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## Decision

1. The appeal is dismissed and planning permission for erection of 1 dwelling, including the provision of habitat and widened culvert is refused.

## Preliminary Matters

2. The description of development provided on the application form includes elements which are not an act of development and does not provide a clear description of the development proposed. The altered description in the banner heading above is more precise, and adequately describes the development. I have also used the site address from the appeal form for similar reasons.

## Background and Main Issues

3. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has provided reasons that they would have refused planning permission for, had they retained jurisdiction to do so. The appellant has had the opportunity to respond to these in their final comments therefore, they would not be prejudiced by my taking these into account and forming the main issues. With these reasons for refusal in mind, I consider the main issues to be:
  - The effect of the proposed development on the character and appearance of the area, having regard to the site's location within Mousehole Conservation Area (CA) and the Cornwall Area of Outstanding Natural Beauty (AONB); and
  - The effect of the proposed development on highway safety.

## Reasons

### *Character and appearance*

4. The appeal site is an undeveloped sloping site which is broadly triangular in shape and is located to the east of Mousehole Lane and adjacent Mousehole Primary School. The site is well vegetated and features a number of mature trees.
5. The site falls within the AONB and the CA. Under Section 72(1) of the Listed Building and Conservation Areas Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Furthermore, Section 85 of the Countryside and Rights of Way Act 2000 requires that I have regard to the purpose of conserving and enhancing the natural beauty of the AONB and paragraph 176 of the National Planning Policy Framework (Framework) requires that great weight is given to conserving and enhancing the landscape and scenic beauty of the AONB.
6. From my observations I consider the special qualities, and thus significance, of the CA derive from both traditional period buildings, including modest cottages featuring primarily slate and granite materials, and the pattern of development. This illustrates the growth of a historic fishing village from its tightly-grained urban form created by narrow winding streets, leading to a less dense pattern of development as built form rises with the surrounding topography away from the harbour.
7. The appeal site is situated near the edge of the CA, in an area featuring less dense development, and a mix of period properties, including the school and Lynwood House, as well as more modern dwellings of traditional appearance particularly along Mousehole Lane.
8. The site is visible from Mousehole Lane as a rising green area of land seen in the context of the school buildings, Lynwood House and surrounding built form. I find the site contributes to the significance of the CA due to providing a natural green setting to historic built form which reflects the lower density pattern of development of this part of the CA.
9. I note the appellant has sought to amend the design in light of previous concerns raised and the proposed development would utilise timber and slate materials. The building would also be seen in context with contemporary extensions at the adjacent school which includes prominent timber clad elevations. However, the historic origins of the school building are still evident and emphasised by the use of a contemporary design solution to the extensions.
10. While the proposed development would sit into the hillside, it would be visible from Mousehole Lane. Despite the use of natural slate and existence of established hedging and vegetation, the roof structure would be a noticeable and prominent feature, particularly given the orientation of the dwelling. The introduction of the proposed built form into an otherwise undeveloped green area, which provides an important backdrop within, as well as a lower density character of this part of the CA, would result in harm to the character and appearance of the area. Notwithstanding, under the terms of the Framework, the harm to the CA would be 'less than substantial'. Such harm should be

weighed against the public benefits of the proposal which I return to in the planning balance below.

11. In view of the above, the proposal would be harmful to the character and appearance of the area and AONB, and would fail to preserve the character and appearance of the CA. It would therefore conflict with policies 1, 2, 12, 23 and 24 of the Cornwall Local Plan Strategic Policies 2010-203 (LP) which in combination seek to, amongst other things, ensure that high quality design, which conserves and enhances the landscape character and natural beauty of the AONB and maintains the special character and appearance of conservation areas. For similar reasons, it would also conflict with policies PD-P1 and PD-P11 of the Cornwall AONB Management Plan 2022-2027.

#### *Highway safety*

12. The appeal site is accessed by a shared lane which serves other dwellings. Visibility at the junction of this lane and Mousehole Lane is restricted due to stone walling to either side of the junction.
13. Although I noted that there is better visibility to the south, stated by the Council to be some 18m, visibility to the north is severely restricted. Furthermore, given the narrow character resulting in the need for vehicles to be close to the edge of the carriageway if passing oncoming vehicles, any attempt to edge out of the junction could result in conflict with other vehicles or pedestrians, given the lack of a footway to the north of the junction.
14. The junction is utilised by existing dwellings, and it has been put to me that movements from service vehicles such as waste collection and Royal Mail would not increase, and the proposed development would reduce the appellants need to drive into the village. Furthermore, it has been put to me that the lane is also currently utilised by a property on Mousehole Lane, which advertises holiday let parking. Even if this is the case, noting the existing undeveloped nature of the appeal site, the proposed development would result in additional vehicular movements from future occupiers and associated visitors over and above the current use of the lane, utilising an access severely restricted in visibility.
15. It has also been put to me that a mirror could be utilised to improve visibility. However, I have no details before me of if this would successfully achieve the required visibility and no mechanism to secure this in perpetuity. Therefore, I afford this limited weight.
16. Consequently, the proposed development would not provide a safe and suitable access to the highway network and therefore have a harmful effect on highway safety. It would conflict with LP Policy 27 which seeks to provide safe and suitable access and not cause a significantly adverse impact on the local road network. For similar reasons, the proposed development would also conflict with paragraph 110 of the Framework.

#### **Other Matters**

17. I note the appellants' comments about the Council's handling of the application. This has little to do with the planning merits of the case, which I have considered on the basis of the evidence before me.

18. The Council have not raised any concerns in relation to the effect of the proposal on neighbouring occupiers living conditions, carparking or any effects in relation to drainage and flooding. On the evidence before me, I see no reason to disagree.
19. It has been stated that the proposed development would feature a 'de-constructable' construction method and utilise further low impact construction methods such as ground screw foundations. Even if this is so, if the appeal were to be allowed, the planning permission would be granted for a permanent dwelling. Therefore, in this instance, even if there is the ability of the proposed development to be removed with minimal impact on the site, this does not weigh in favour of the appeal.

### **Heritage and Planning Balance**

20. The benefits of the proposed development include the contribution of a single dwelling to the local housing stock in a location close to services, facilities and public transport; creation of a mixed wildlife habitat; the partial increasing of the width of the access lane; and the creation of employment opportunities during the construction phase, with further economic benefits through the spend of future occupants within the local economy.
21. However, given the scale of the proposed development, the benefits would be limited. I also note correspondence from the Environment Agency in relation to a new channel linked to flood defence works due to take place. Even if this were a wider public benefit, there is nothing in the evidence before me to lead me to believe that the flood defence works are intrinsically linked with the appeal development and therefore, I afford this limited weight.
22. Taking all of these matters into account the public benefits of the proposal would not, either individually or in combination, be sufficient to outweigh the less than substantial harm that would be caused to the significance of the CA.
23. In the overall planning balance, as well as the above noted benefits, the proposed development would not lead to harm with regard to neighbouring occupiers living conditions, carparking and demonstrates adequate surface water drainage. However, these would be a neutral factor in the planning balance. Consequently, the benefits of the proposed development are not sufficient to outweigh the harm that I have identified and the conflict with the development plan as a whole .

### **Conclusion**

24. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

*S Harrington*

INSPECTOR