



Appeal Decision

Site visit made on 7 May 2024 by S Wilson LL.B. MSc MRTPI

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2024

Appeal Ref: APP/D0840/C/23/3331823

Land southeast of Daisys Old Garden, Lewidden Lane, St Ervan, Wadebridge, PL27 7TB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Kathleen May against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 27 September 2023.
 - The breach of planning control as alleged in the notice is: 'Without planning permission, undertaking the engineering operations to remove a section of hedgerow and create an access onto a classified highway. The approximate location of the access is shown on the attached plan by a blue 'X'.
 - The requirements of the notice are:
 - (1) Remove from the land the gates and posts shown in the approximate location by a blue 'X' on the attached plan.
 - (2) Remove all gravel/hardcore from the access and restore the land to its former condition and profile before the access was created.
 - (3) Reinstate the Cornish hedge as shown and specified on the attached image.
 - (4) Remove all materials arising from compliance with (1)-(3) above from the land and reinstate the land to its former condition before the breach occurred.
 - The period for compliance with the requirements is 6 months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused in respect of the development on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Reasons for Recommendation

Ground (a) – Main Issues

3. These are the effect of the development on highway safety; and whether the development increases the risk of flooding to neighbouring properties.

Highway Safety

4. The site is located in a rural area, at the edge of the small village of Penrose and is comprised of undeveloped land. The site is adjacent to Lewidden Lane, a

class C highway. It is a single metalled track with steep hedge, earth stone banks and vegetative screening that frames the highway, creating a traditional vista often seen in rural areas. This is a positive character trait of the area.

5. The appeal site has cut into and removed a significant section of the hedge and dug an inclined access to the elevated field. The banks of the incline are left steep sided and bare. There are some agricultural and residential accesses along this lane; however, they are generally at road and land level, and the evidence is unclear as to their planning status.
6. The access ground is stony shale, apparently left as excavated, and allows for loose material to be carried onto the highway by both traffic and inclement weather. The plans submitted with the appeal propose to lessen the gradient of the incline and install compacted hardcore to the entrance which would go some way to mitigate the issue of loose material entering the highway from the site.
7. Lewidden Lane, onto which the development gains access and egress, is subject to the national speed limit. The evidence indicates that vehicle speeds are likely to be much reduced due to the narrowness of the lane. A figure of 37mph is suggested to give a baseline to work out visibility splays in accordance with guidance contained within the Manual for Streets (MfS). As a result, the Highway Authority have stated that the visibility splays should be 2m x 15m in both directions. The visibility splays are based on a slower passing vehicle speed of 37mph, whilst the road itself is subject to a national speed limit, which vehicles could reach. Given the narrowness of the lane, the location of the bend and the high hedges I concur with that assessment.
8. The access is substandard, in terms of achievable visibility splays. It appears that the land required to allow the correct visibility splays is under the ownership of the appellant, but this would require the removal of a considerable amount of additional hedgerow. That, in turn, results in the loss of additional hedgerow, which would be inappropriate.
9. The appellant has raised the issue that the access is used infrequently, and for agricultural use, but this cannot be controlled by condition and adequate visibility splays cannot be provided without causing significant harm to the character and appearance of the area. In addition, it cannot also be controlled that only agricultural vehicles with high vantage points are used in order to increase visibility.
10. The appeal proposal is contrary to Policies 1,2 and 27 of the CLP 2016, which seek high quality, sustainable development that demonstrates an understanding of its location, has safe access and does not adversely impact on the highway network.

Flood Risk

11. On my site visit, which was a sunny day, I saw that the access slope was dry. However, where it met the road, it was sodden. The proposals submitted in this appeal includes a bund to divert any surface run off water back towards the field and the installation of a drain where the access meets the road. These measures would mitigate the risk of flooding to other properties as a result of this development. However, this would not overcome the harms identified above.

Conclusion and Recommendation

12. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed, and planning permission refused on ground (a).

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed as set out in my Decision above.

A U Ghafoor

INSPECTOR