



Appeal Decision

Site visit made on 17 September 2024 by S Wilson LL.B. MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/D0840/W/24/3343366

Bowls Barn, Castle Road, Ludgvan, Penzance, TR20 8HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Messrs P W J, K J and J Osborne against the decision of Cornwall Council.
 - The application Ref is PA22/09836.
 - The development proposed is the demolition of a building and construction of a dwelling and garage.
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Decision

1. The appeal is dismissed.

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.

Applications for costs

3. An application for an award of costs has been made by Messrs P W J, K J and J Osborne against Cornwall Council. This is subject of a separate decision.

Preliminary Matters

4. The scheme seeks outline planning permission with all matters reserved except access. I have therefore considered it accordingly and the plans as being indicative of the proposed development.

Main Issue

5. The main issue is the effect of the proposed development on highway safety.

Reasons for the Recommendation

6. The application site comprises a former agricultural building and surrounding land, which is situated in the settlement of Ludgvan. Enforcement notice EN18/01161, served 25 October 2019, stated the use of the site was '*a mixed-use comprising hobby workshop, domestic stable for the keeping of recreational horses, domestic storage and allotment*' and required the use of the building as a commercial workshop and its associated storage to cease within six calendar months.

7. The Cornwall Local Plan (LP), Policy 27, identifies that all development should provide safe and suitable access to the site and not cause a significantly adverse impact on the local road network. This policy is in line with the National Planning Policy Framework (December 2023) (the Framework) paragraphs 114 and 115 which identify that decisions should take account of whether safe and suitable access to a site can be achieved.
8. The proposal is for development, the access to which has very limited intervisibility between vehicles exiting from the access and those travelling south-eastward along Castle Road into Ludgvan. The transport statement submitted concedes that emerging visibility is restricted. This is due to a stone wall boundary of Bowls Farm House and the position of Bowls Farm House which abuts the highway to the north-west of the access. The property has a Cornish hedge boundary which adjoins the access point and restricts the visibility of the access, both from the highway travelling south-east and when exiting the access.
9. I observed that the highway is a single carriageway, single lane and that the national speed limit applies within the lane adjacent to the appeal site. Vision to the south-east on exit from the access is restricted somewhat by an earth bank. This is not as restricted as the vision to the north-west, but it adds to the impediment. As I observed on my site visit, which I appreciate is only a moment in time, vehicles travelling south-eastward along the public highway appeared to do so at relatively high speeds and whilst approaching the access, it is not possible to see the access despite good forward visibility. Encountering an emerging vehicle here would be a surprise to a motorist exercising reasonable care and there is limited space to manoeuvre in the event of an encounter due to the single lane and vegetative and earth boundaries at this location.
10. The appellants' submissions regarding the lack of reported collisions at this location is acknowledged. However, the elements set out above does not rule out incidents for its proposed use. The elements set out above would accumulate to make the concept of 'peep and creep' hazardous and from my own on site experience, egress from the site has poor visibility and clear lines of sight could not be achieved until my vehicle was in the middle of the highway. I conclude that safe and suitable access for all users cannot be achieved using the access without creating an unacceptable, significantly adverse, impact on highway safety.
11. The appellants argue a fall-back position that there is an existing lawful use of the access, and that the proposed residential development would not be any more harmful than the existing situation. The Council's evidence sets out, given the semi-rural location and the likely reliance on the private motor vehicle, that trips generated by the proposal would be 6-8 trips a day to achieve access to facilities and services. The suggestion is that this would replace the current rate of 1 or 2 trips to attend the welfare of recreational horses.
12. On the other hand, the appellants' transport statement states that the hobby workshop and domestic store is visited 4-5 times a day and in fact describes it as an agricultural store/workshop contradicting the current lawful use. Given that the enforcement notice served in 2019 required the use of the commercial workshop and associated commercial storage to cease then I have doubts that these figures are realistic for a hobby workshop and domestic storage. Furthermore, the statement sets out that the appellants' father visits the

allotment twice a day. I have no substantive evidence to support that contention that visits are twice daily throughout the whole year.

13. The transport statement appears to agree with the Council in the number of trips to be generated (7) by the single dwelling although they appear to state the modern era requires less trips due to homeworking, amongst other things. Given the semi-rural nature of the site and the limited access to local facilities and services there is a likely reliance on the private motor vehicle. I remain unconvinced that the existing lawful use of the appeal site equates to an equivalent use of the access as a residential dwelling and conclude that the fall-back position is inadequate to overcome the harms found above.
14. Accordingly, the proposal fails to comply with Policy 27 of the LP and the relevant paragraphs of the National Planning Policy Framework insofar as they seek to achieve safe and suitable access and egress for all users without an unacceptable impact on highway safety.
15. The proposal would provide benefits in terms of an additional unit towards housing supply, and economic benefits in terms of employment during construction and through the future spend of occupants within local businesses. However, those benefits are limited due to the scale of the proposal and would not outweigh the significant harm identified regarding the proposal's impact on highway safety.

Other Matters

16. The appellants have referred me to a number of planning applications previously determined by the Council and have also referred me to a range of planning appeal decisions. However, I have not been provided with details of those cases, their particular circumstances or the policies considered to determine them. I therefore considered the appeal proposal on its own merits.
17. The appellants argue that the Council's lack of enforcement of a nearby development, which subsequently sought a Certificate of Lawfulness (LDC), is evidence that the local highway network can safely absorb more houses. I have not been provided with the facts of that case other than the LDC itself. LDC's are determined as a matter of law without consideration of their planning merits. Therefore, access would not be a matter at the heart of that application, regardless of the outcome. Consequently, I afford that case little weight.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet INSPECTOR