



Appeal Decision

Site visit made on 10 February 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 March 2025

Appeal Ref: APP/D0840/W/24/3353729

Taro Moe, Access to Sewage Works from Porthleven Road, Helston, Cornwall, TR13 8WN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Strike against the decision of Cornwall Council.
 - The application Ref is PA24/03586.
 - The development is proposed development along with replacement garage for 3 Castel Wary Close.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address and description of development from the application form.
3. On the 12 December 2024 a revised National Planning Policy Framework (NPPF) came into force. Whilst I did not seek the parties comments on this, I did invite their comments on its implications in terms of the inability of the Council to now identify a 5 year supply of housing land. I have taken the responses received into account in determining the appeal.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

5. The appeal site largely comprises the extended rear garden to the property known as Taro Moe. To the north and east of the appeal site are detached single storey properties on Castel Wary Close. These include 2 and 3 Castel Wary Close (No.2 and No.3). The Castel Wary Close estate appears to date from the 1960's and whilst some of the properties have been altered it has a pleasant appearance with a sense of spaciousness that derives from the largely single storey properties, set back from the road behind front gardens with off-street parking.
6. The appeal proposal involves the construction of 6 detached dwellings with a new access along the existing driveway for No.3. The new access would require the demolition of the existing detached single storey garage that serves No.3 and the proposal includes a replacement garage at the rear of that property. The appeal scheme follows an approval, in August 2023, for a development of 4 dwellings on a

slightly smaller site with access from a road that serves the sewage treatment facility (located to the south of Taro Moe).

7. Given the extant approval for 4 dwellings and the location of the appeal site, the Council do not object to the principle of the scheme and consider that the design of the proposal would be acceptable and in keeping with its surroundings. I concur with those findings. The Council object, however, to the access arrangements and contend that these would be harmful to the living conditions of neighbouring occupiers, in particular those of No.2 and No.3.
8. As with other properties on the estate, No's 2 and 3 are set back from the road behind a frontage that includes gardens and off-street parking. The road rises to the east and as a consequence No.3 sits at a slightly higher level to No.2. There is a medium sized wall on the common boundary between the two. Both have rear gardens that are well enclosed and private. As such, the spacious nature of both plots contributes to the sense of openness on the estate and gives it a relatively quiet residential feel. Certainly, at the time of my site visit there was no perceptible background noise.
9. The proposed access would effectively run along the driveway to No.3 and then into the main part of the development site. At its closest point, the new access would be some 0.5 metres from the north-west corner of the main house at No.3 and in close proximity to the side elevations of both No.2 and No.3. The Council indicate that the new access would extend some 20 metres along the length of the common boundary of No's 2 and 3. Along this length, its width would vary from some 3.4 metres to some 3.7 metres, effectively a single car width. At the northern end of the new access would be a passing space, to enable vehicles to park off the public highway (Castel Wary Close) whilst vehicles exited from the development. A similar space would be provided at the southern end of the new access opposite the replacement garage for No.3.
10. As I observed in walking around No.3, the proposed access would be sited some 1.5 metres from the large window in its western elevation, which serves the living room. The latter is also served by a large window on the north (front) elevation and there is also a window on the east elevation. Given this proposed relationship and close proximity to the side elevation and gardens of No.3 and the amount of traffic that the development would generate, the impact of the proposed access on the living conditions of the occupiers of this property would be significant.
11. Whilst I note the intention to construct a 1.8 metre high timber fence along the new boundary with No.3, which I assume is the acoustic screen the Appellant refers to, there is no evidence before me to indicate the level of mitigation, if any, that this fence would secure. I am not convinced, therefore, that this fencing would mitigate for the increased level of noise and disturbance that the access would generate. In addition, the new fence would be sited close to and in front of the window on the western elevation of No.3 and would have an overbearing impact on the outlook and light to that window.
12. The outlook from the window on the front elevation to No.3 would largely be of the passing space where vehicles, including service and delivery vehicles, would be parked waiting to access the development. This aspect of the layout on its own highlights the extremely constrained and poor quality of the new access specifically in terms of its design and siting. Located so close to the window it would have a

significant impact on the living conditions of the occupiers. That harm would result not only from the views of vehicles parked in the passing space, as the submitted layout only shows landscaping in this location, but also from engines running and at night their headlights shining into the living room. The noise and disturbance of vehicles using the new access and passing space at the rear would also have the same adverse impact on No.3.

13. The noise and disturbance generated by the development would be in a location where no such similar activities take place at present and where, as I observed on site, the area has a pleasant tranquil feel to it. Both parties appear to agree that the proposal would generate some 36 vehicle trips per day. That is a significant increase in comings and goings in a location where no such similar activities take place at present. Overall, the more intensive use of such a narrow new access in close proximity to No.3 would result in significant harm to the living conditions of existing and future occupiers of that property.
14. Whilst I accept that the relationship of the new access with No.2 is better, given the close proximity of the new access to the side elevation and gardens of that property and the fact that No.2 sits at a lower level to No.3, the occupiers of that property would also suffer from an unreasonable level of noise and disturbance. That harm would arise from the large increase in vehicular movements on what is effectively their neighbour's driveway. The impact would be felt along the full extent of their communal wall. The top half of this wall is constructed from breeze blocks, which would not provide any mitigation (I have assumed this wall would be retained as there is no indication otherwise on the submitted layout). The headlights of vehicles entering and exiting the development would result in further harm. The latter would also impact on the occupiers of the properties opposite the new access on Castel Wary Close.
15. Reference has been made to the potential for new landscaping to mitigate for the increase in noise and disturbance. There is no evidence before me to indicate how landscaping could be so effective in this respect. In addition, no scheme has been submitted and there are no margins on the submitted layout where any meaningful landscaping could be incorporated. The new access is narrow and constrained by properties either side and there is no space for planting within its design. Any proposal to provide planting within the side curtilage to No.3 would be oppressive and further harm the outlook and light to the existing living room window. In relation to No.2, the new access would be hard up against the common boundary to that property.
16. I also agree with the concern raised by the Council in relation to the safety of the proposed shared access for pedestrians. A large length of the new access would not have any pavements and vehicles waiting in the passing spaces may not have the visibility to initially see pedestrians on the access. There is no pedestrian refuge and as such there would be the potential for vehicle pedestrian conflict. Whilst I accept that this issue alone would not be sufficient to refuse planning permission it adds further support to the findings in relation to the constrained and restricted nature of the proposed access.
17. The Council have referred to policies 12 (Design), 13 (Development standards) and 16 (Health and well-being) of the Cornwall Strategic Policies 2010-2030 (CLP) and policy C1 of the Climate Emergency Development Plan Document (DPD). These require new development, amongst other matters, to protect individuals and

property from unreasonable noise and disturbance, protect and alleviate risks to people and the environment from unsafe, unhealthy and polluted environments and contribute to the well-being of communities through minimising harmful impacts.

18. As I have found above the appeal proposal would not secure a high quality environment for existing or future occupiers. It would significantly compromise the quality and value of the amenities that adjoining occupiers currently enjoy and would not provide a pleasant level of amenity for future occupiers, thus conflicting with a number of the policy requirements referred to above. The appeal proposal would also conflict with paragraphs 8 and 135 of the NPPF, in particular, paragraph 135 f) which states that developments should “*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*”.
19. The Appellant refers to the fact that no noise assessment was requested. That may be so, but it does not negate the need for the impact of the proposal on living conditions to be properly assessed, and for the decision maker, in undertaking that assessment, to use their experience and judgement in reaching a finding. The fact that the Highway Authority raised no objection to the proposal also reflects, in my view, their remit in assessing highway impact and safety. There is no highway reason for refusal or reference to any conflict with paragraph 116 of the NPPF.
20. Reference has been made as to why the proposed access for the 4 dwelling scheme, approved in August 2023, has not come forward and it is also suggested that the current access provides a safer and easier route to local services and facilities than that previously approved. I note that interested parties would challenge that last statement, but, whilst I understand this reference, that scheme is not before me and I am not being asked to make a finding in relation to alternative accesses. There is also no substantive evidence before me to indicate whether all potential options for accessing the development site have been fully explored or whether the appeal scheme represents the only viable access option.
21. The Appellant suggests that 36 trips is not an undue intensification, which, as I have found above, is a statement I disagree with. As to no objections from No’s 2 and 3, it is unclear to me from the representations I have been sent whether that is the case or not as they are simply summarised by reference to the objectors name. Even so, that does not negate the need for the proposal to be assessed in relation to its impact on the living conditions of existing and future occupiers.
22. The Appellant has also referred to the potential to use noise reducing glazing to the windows of No.3 (and possibly No.2) and that this can be secured by a condition. No’s 2 and 3 are outside the appeal site and it would appear that this glazing could only be secured through a Grampian style condition. No such condition has been put forward. There is also no evidence to indicate that the Appellant has any control over these properties or that they have permission from the owners to carry out such works. There is, therefore, no evidence before me that those actions could come forward within the time limit imposed on a permission. Even if such glazing could be secured, the design and siting of the proposed layout would remain unacceptable for all the reasons I have given above.
23. Turning to the precedents put forward by the Appellant, in my experience it is rarely possible to find two sites whose context and circumstances are similar or directly comparable. This is the case here and I concur with the Council that neither of the

examples are comparable to the appeal scheme. In relation to Penzance, the Council indicates that this involved the redevelopment of a Council Depot which would have generated a number of vehicle trips. In addition, that it was sited just off the town centre, close to the railway and bus station. The layout of this scheme also appears to show a 6.4 metre wide access between two of the new dwellings.

24. The site at Redruth involved a smaller quantum of development and the layout provided shows that one side of the access was next to a school. Whilst the other side sits next to Sybwedhen, which I assume is a dwelling, no further background has been provided, for example, as to whether this was an existing access, what the relationship to that property was and the extent to which the layout would accommodate service, delivery and emergency vehicles, as in the appeal scheme. Based on the evidence before me neither of these examples are therefore comparable to the appeal proposal. Even so, each application should be considered on its individual merits having regard to its local context and the specific circumstances of the case. That is the approach that I have adopted here.
25. Accordingly, I find that the appeal proposal would result in significant harm to the living conditions of existing and future occupiers contrary to policies 12, 13 and 16 of the CLP, policy C1 of the DPD and paragraphs 8 and 135 of the NPPF.

Other matters

26. The Council's Delegated Report indicates that the appeal site falls within the zone of influence for the Fal and Helford Special Area of Conservation (SAC) where a financial contribution is sought from all new dwellings to fund agreed mitigation measures. The Delegated Report states that the Appellant has already signed an undertaking pursuant to section 111 of the Local Government Act 1972 and paid its contribution. Even so, in view of my findings on the main issue I have not considered the implications of the proposal on the SAC further.

Planning balance and conclusions

27. The NPPF states that existing development plan policies should not be considered out of date simply because they were adopted prior to the NPPF's publication. Each policy should be assessed and due weight given to it based on its general conformity with the NPPF. In this respect policies 12, 13 and 16 of the CLP and policy C1 of the DPD are consistent with and remain in generally conformity with the NPPF's aims and objectives. Even so, following the publication of the NPPF the Council can no longer demonstrate a five year supply of housing land supply. Paragraph 11 d) ii of the NPPF is, therefore, engaged and requires planning permission to be granted unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."*
28. The appeal proposal would boost housing supply, would generate employment during construction and is in a sustainable location, benefits that are supported by other policies in the development plan and NPPF. The employment would, however, be short term, the contribution to housing supply is modest and the

appeal proposal is for market housing and does not seek to address any identified affordable needs. I, therefore, accord these benefit moderate weight.

29. On the other hand, as I have found, the appeal proposal would have a significant adverse impact on the living conditions of existing and future neighbouring occupiers. The proposal would result in an extremely poor living environment and would not secure a high standard of amenity for existing and future occupiers. This adverse impact leads to conflict with various development plan policies that remain up to date as they are consistent with those in the NPPF and thus should be accorded significant weight.
30. I accept that the appeal proposal would contribute to meeting future housing supply but in this instance the harm I have identified would significantly and demonstrably outweigh the benefits of the appeal scheme when assessed against the policies in the NPPF, taken as a whole. Consequently, the presumption in favour of sustainable development envisaged in the NPPF does not apply in this instance. The NPPF is not a material consideration in this instance that indicates a decision other than in accordance with the development plan.
31. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR