



## Appeal Decision

Site Visit made on 28 October 2020

**by T Gethin BA (Hons), MSc, MRTPI**

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

**Decision date: 19 November 2020**

---

### **Appeal Ref: APP/D0840/W/20/3257119**

### **Two Hoots, Callington Road, Carkeel, Saltash, Cornwall PL12 6PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Leonard Screech against the decision of Cornwall Council.
  - The application Ref PA19/09852, dated 5 November 2019, was refused by notice dated 17 February 2020.
  - The development proposed is described as change of use of workshop (general industrial class B2) to dwelling (dwellinghouse class C3).
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is whether the proposed development would provide safe and suitable access to all users, with particular regard to highway safety.

### **Reasons**

3. Situated to rear of the dwelling known as Two Hoots, the appeal site contains, amongst other aspects, a single-storey building, a driveway/track and an area for parking and turning. Providing access to the A388 highway, the driveway entrance is located opposite a junction which includes a ghost island/right turn lane serving the nursery/garden centre. The A388 is relatively busy and there are no pedestrian crossing facilities on the highway or separate footways in the vicinity of the site.
4. The appellant sets out that he has been running his haulage business from the site – which involves various vehicles coming and going at various frequencies – for several years and has used the existing building during this time as a workshop for light/general industrial purposes. Although the submitted evidence appears to support this, the Council indicates that such uses are not authorised and that the last authorised use appears to be agricultural. In relation to this, I note that the planning history detailed by the appellant does indicate that various planning permissions approved an agricultural use of the site/building.
5. Within the context of an appeal under section 78 of the Town and Country Planning Act 1990, it is not within my remit to formally determine the lawful use of land. If a person wishes to ascertain whether an existing use is or would be lawful, the correct approach is for an application to be made under section 191 or 192 of the Act for a certificate of lawful use. However, even if I were to

- discount the appellant's current use of the site, it is likely that there would be some vehicle movements associated with the site's authorised agricultural use.
6. Accordingly, rather than increasing vehicular traffic accessing and egressing the site, it seems to me that the proposed development would instead simply replace the vehicle movements associated with the site's lawful/existing use. Although visibility from the entrance is limited and highway conditions in the vicinity of the entrance are far from ideal, the appeal proposal cannot therefore reasonably be described as increasing the risk of collision and reducing highway safety in relation to vehicular movements to and from the site.
  7. Notwithstanding this, the use of the site for residential purposes would be likely to involve different activities and movements, and the needs of residential users would also be likely to be different to that of users of the site's lawful/existing use. It seems to me that the lack of non-vehicular forms of access to and from the site is therefore unlikely to be particularly problematic in relation to the lawful/existing use, which is likely to involve limited need or demand for access on foot. However, the lack of safe and suitable non-vehicular access options – such as a pedestrian crossing facility and separate footways – would mean that residential occupiers of the site would be likely to be very reliant on the private vehicle for access and to serve their daily needs, such as in relation to shopping and recreation activities.
  8. The appellant has queried where occupants would want to walk given that the site is within the countryside. Amongst other aspects, it has also been put to me that the appellant and his family have no problems walking across the highway, that there have not been any recorded accidents associated with accessing the site for over 15 years, and I note that the recent removal of some trees to the northwest of the site entrance has improved visibility in one direction. Be that as it may and irrespective of whether traffic obey the speed limit, the lack of a suitable crossing facility and/or separate footways indicates that it would not be safe to walk across or along the relatively busy highway, which has a speed limit of 40 miles per hour in the vicinity of the site.
  9. Accordingly, the lack of a suitable crossing facility and/or separate footways connecting the site to local services and facilities – such as in nearby Carkeel or the nursery/garden centre which has a café and sells groceries and various household items – would mean that walking to and from the proposed development would be unsafe. The appeal proposal would therefore not provide safe and suitable access to all users and the conflict between pedestrians and vehicles on the highway would unacceptably harm highway safety.
  10. Even though the site is already developed, this would be unacceptable in relation to the proposed residential use. I am also mindful that the National Planning Policy Framework (Framework) advises, amongst other things, that opportunities to promote walking, cycling and public transport should be pursued in development proposals, that priority should first be given to pedestrian and cycle movements and that the scope for conflicts between pedestrians, cyclists and vehicles should be minimised. I have little evidence of these being pursued in this case, nor that there are no other suitable sites for residential development in the locality.
  11. For the above reasons, I conclude that the proposed development would not provide safe and suitable access to all users, with particular regard to highway safety. I therefore find that it conflicts with Policy 27 of the Cornwall Local Plan

Strategic Policies 2010-2030. Amongst other aspects, this requires all development to provide safe and suitable access to the site for all people and not cause a significantly adverse impact on the road network that cannot be managed or mitigated. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving safe and suitable access to the site for all users and acceptably mitigating significant impacts on highway safety.

### **Other matters**

12. My attention has been drawn to a recent appeal decision on a nearby site. However, the circumstances of that scheme do not appear to be particularly comparable to the appeal proposal. I have therefore determined the appeal on its merits, based on the evidence before me.
13. It has been put to me that the proposed development is on a brownfield site with a building in situ and that the appeal proposal does not therefore propose new development and should thus not be treated as such. Be that as it may, the local and national policies that I have found a conflict with cover development proposals in general and development includes changes of use.
14. The Council has not indicated that the proposed development would be unsuitable in relation to other planning considerations. However, this does not provide justification for development that conflicts with the development plan, and the harm I have identified in relation to highway safety is sufficient for me to find against the proposal and indicates that it would not constitute the best use of land.

### **Conclusion**

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

*T Gethin*

INSPECTOR