



Appeal Decision

Site visit made on 6 June 2016

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 June 2016

Appeal Ref: APP/D0840/C/15/3130294

Tregoss Barton, Tregaminion, St Keverne, Helston, Cornwall, TR12 6QG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Jonathan Melville-Smith against an enforcement notice issued by Cornwall Council.
 - The Council's reference is EN15/00575.
 - The notice was issued on 12 June 2015.
 - The breach of planning control as alleged in the notice is without planning permission, the material change in the use of land for stationing of four caravans for residential holiday use, a single horse trailer converted to provide shower support facilities and the operational development to erect two timber buildings for residential holiday use and a timber shed used as a compost toilet on the land.
 - The requirements of the notice are
 - 1) Cease the use of the land and the caravans on the land for residential purposes.
 - 2) Cease the use of the land for the stationing of caravans.
 - 3) Disconnect and remove all services connected to the four caravans shown in the approximate position each outlined in blue on the plan attached to the notice and remove the four caravans from the land.
 - 4) Disconnect and remove the single horse trailer shower facility from the land shown in the approximate position outlined in orange on the plan attached to the notice.
 - 5) Cease the use of the timber building on the land in the approximate position outlined in green on the plan attached to the notice for residential purposes.
 - 6) Cease the use of the timber tree house building on the land in the approximate position outlined in brown on the plan attached to the notice for residential purposes.
 - 7) Disconnect and remove all services connected to the timber building on the land outlined in green on the plan attached to the notice.
 - 8) Disconnect and remove all services connected to the timber tree house building on the land outlined in brown on the plan attached to the notice.
 - 9) Dismantle and completely remove the timber building on the land shown in the approximate position outlined in green on the plan attached to the notice.
 - 10) Dismantle and completely remove the timber tree house building on the land shown in the approximate position outlined in brown on the plan attached to the notice.
 - 11) Cease the use of the timber building used as a compost toilet on the land shown in the approximate position outlined in pink on the plan attached to the notice.
 - 12) Dismantle and remove the timber building on the land shown in the approximate position outlined in pink on the plan attached to the notice.
 - 13) Remove all material and debris from the site resulting from compliance with (1) to (12) above.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
 - **Summary of Decision: planning permission refused and notice upheld**
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Preliminary Matters

1. A planning application for the continued use of land for the stationing of four holiday units and two supporting service caravans was refused in March 2015 on four grounds: unsustainable location; effect on the AONB; impact on neighbours; and suitability of non-mains sewage disposal.
2. The Cornwall Structure Plan was revoked in May 2013 and the Cornwall Local Plan 2010 – 2013 has yet to be adopted.

The appeal on ground (a) and the deemed planning application

The appeal site and its surroundings

3. The appeal site is located in a small hamlet within an Area of Outstanding Natural Beauty (AONB), an Area of Great Scientific Value and an Area of Great Historic Value. It is within the North-East Lizard Peninsula in the Cornwall and Isles of Scilly Landscape Character Study which is characterised by a high plateau incised by small valleys influenced by the proximity of the coast.
4. The site is accessed by a single lane road and has a public footpath crossing through the site to the road. It generally slopes down from the fields to the road and comprises the main house of Tregoss Barton and ancillary buildings. There are a number of structures the subject of the allegations dispersed around the site. These include two gypsy caravans with adjacent modern 'service' caravans, a timber tree house, and a timber building named 'Jack Sparrow' which, between them, provide four units of residential holiday accommodation. Additionally there is a horse trailer converted into a shower room and a timber structure used as a compost toilet. The various structures and caravans appear to have service connections.
5. The nature, style and decoration of the caravans and structures is very imaginative, colourful and creative, imparting what can best be described as a fairytale impression.

Main issues

6. From my inspection of the site and its surroundings, and from the written representations made I consider that the main issues in this appeal are the effect of the development on the character and appearance of the area and on the living conditions of nearby residents, and whether any harm caused is outweighed by any economic need.

Reasons

Character and appearance of the area

7. The structures and the caravans on the site have created a form of development that has little regard to characteristic styles and form of vernacular buildings in the locality. They are visible from within and outside the site from the public footpath and the vegetation, which was in full leaf at the time of my site inspection, does little to soften their appearance. In approaching the site along the footpath, the immediate view is one of various structures and caravans and this competes with the longer distance views of the rolling open countryside and the sea. The

siting, design and decoration of the structures and caravans are harmful to visual amenities. They are incongruous in appearance and prominent in the countryside thereby diminishing the intrinsic qualities of the countryside.

8. The National Planning Policy Framework (the Framework) seeks to protect and enhance valued landscapes and at paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and AONBs, which have the highest status of protection in relation to landscape and scenic beauty. The development fails to conserve the landscape and scenic beauty of this part of the AONB and fails to accord with the policies of the AONB Management Plan¹, which is a material consideration to which I attach significant weight, particularly Policy PD6 which supports tourism that conserves and enhances local landscape characteristics and Policy PD8 which relates to high quality sustainable development.
9. I conclude on the first issue that the development is harmful to the character and appearance of the area.

Living conditions

10. Turning to the effect of the proposed development on the living conditions, concern has been expressed by the occupants of nearby dwellings including Tregaminion Farm and Morvah. Separation distances between these properties with the site are not substantial and there is potential for the loss of privacy due to the position of caravans at the north part of the site in close proximity to Tregaminion Farm. Although reference is made to guidelines regarding separation distances between habitable rooms to prevent overlooking and loss of privacy, in my view these are less relevant here due to the nature of the holiday use and the propensity for users to spend considerable time in the open. Additionally outdoor living often takes place into the evenings with the frequency of barbeques, open fires, and potentially noisy behaviour associated with an outdoor lifestyle being greater than that associated with permanent dwellings. The overall effect of this would be harmful due to it being intrusive and adversely affecting living conditions.
11. Complaints have also been made in respect of the compost toilet although I note this is used only by one of the caravans and I have had regard to the representations of the Devon Community Composting Network.
12. I conclude that the development adversely affects the living conditions of nearby residents and this would conflict with one of the core planning principles of the Framework at paragraph 17 which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Economic need

13. Paragraph 28 of the Framework supports sustainable economic growth in rural areas and tourist facilities in appropriate locations which respect the character of the countryside. There is no doubt about the importance of tourism to the Cornish economy as highlighted in the 'Value of Tourism 2011 Cornwall' report submitted by the appellant.

¹ Cornwall AONB Management Plan 2011-2016

14. The appellant states that the accommodation is unique and not available elsewhere on more formalised caravan sites, although no assessment of any unmet need has been submitted. Occupancy figures for 2012, 2013 and for 2014 indicate an increasing number of booked nights. It is stated that some 6 persons are employed as part of the Tregos Barton holiday business including the appellant, students and volunteers (involving a formal internship agreement) although no financial details have been provided to support this or to indicate the extent to which the business supports the waged economy. Although the application is supported by a letter from the appellant's accountant, this provides only general comments.

Other considerations

15. The appellant refers to an appeal decision concerning the change of use of a former agricultural building into a two storey holiday letting unit at Trevissick Farm (APP/D0840/15/3006349). In that case the Inspector held that the Framework's definition of sustainable development is not entirely focussed on accessibility. I agree with that view. Much of the attraction of Cornwall is its wild natural beauty and locational remoteness. Tourism development of an appropriate scale can contribute to the rural economy even though the location may not be accessible by public transport, but could be accessible to others, such as walkers on the south west coastal path or to cyclists.

Planning balance

16. I have concluded that the development is harmful to the character and appearance of the AONB and I attach substantial weight to this. It is also harmful to the living conditions of nearby residents to which I add lesser weight. Although the economic argument is somewhat superficial, and the business appears to rely to some extent on internships, I am satisfied that there would be some degree of financial benefit to the rural economy arising from the use of the site. However, any such benefits would be outweighed by the harm caused to the AONB and to living conditions of neighbours and such harm could not be mitigated by the imposition of conditions.
17. For the reasons given above and having taken account of the views of the parish council, I conclude that the appeal should be dismissed.

The appeal on ground (f)

18. An appeal on this ground is that the steps to comply with the notice are excessive and lesser steps would overcome the objections.
19. The appellant accepts the removal of the shower facility from the horse trailer would be necessary under requirement 4 but considers that it would be excessive to require the removal of the horse trailer under requirement 13.
20. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the

notice in this case do not exceed what is necessary to remedy the breach. The requirements do not preclude the appellant doing what he is lawfully entitled to do in the future once the notice has been complied with.

21. The appeal on this ground fails.

Formal decision

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

P N Jarratt

INSPECTOR