

Appeal Decision

Hearing held and site visit made on 19 October 2016

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

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

Decision date: 11 November 2016

Appeal Ref: APP/D0840/C/16/3147298 & 3147305

Land at Predannack Holiday Village, Predannack, Helston, Cornwall, TR12 7AU

- 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 1990 Act").
- The appeal is made by Anthony Keith Bradford and Michelle Bradford ("the Appellants") against an Enforcement Notice issued by Cornwall Council ("the Council") on 9 February 2016.
- The Enforcement Notice is numbered EN14/00299.
- The breach of planning control as alleged in the Enforcement Notice is without planning permission, the material change in the use of land for the stationing of caravans (including chalet style caravans) used for residential purposes.
- The requirements of the Enforcement Notice are: (1) Cease the use of the land outlined in red, and the caravans and chalet style caravans shown in the approximate positions marked 1, 2, 3, 4 and 5 on the plan attached to the Enforcement Notice, for residential purposes. (2) Cease the use of the land for the stationing of caravans (including chalet style caravans). (3) Remove the caravans and chalet style caravans from the land as shown in the approximate positions marked 1, 2, 3, 4 and 5 on the plan attached to the Enforcement Notice. (4) Remove all services, ancillary domestic chattels, sheds and structures and all associated paraphernalia brought onto the land for the purpose of facilitating the unauthorised residential use.
- The period for compliance with the requirements is twelve months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a) of the 1990 Act.

Summary of Decision: The appeal is allowed, the Enforcement Notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Background Information

1. I will refer to:
 - a) The land to which the Enforcement Notice relates as "the Appeal Site".
 - b) The residential use of the Appeal Site as "the Unauthorised Use".
 2. The Appeal Site:
 - a) Is within the Cornwall Area of Outstanding Natural Beauty ("the AONB").
 - b) Lies between Trevelyan Holiday Homes and Predannack Holiday Village.
 - c) Is, with the exception of that part which is used residentially, largely overgrown and is not maintained or used in any productive way. In my assessment the Appeal Site does add to the visual quality of the AONB.
 3. The residential use of the Appeal Site:
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- a) Is confined to a small area furthest away from the road classified as the A3083.
 - b) Comprises the use of 4 x one-bed chalets and 1 x two-bed mobile home.
4. The chalets and mobile home are:
- a) Occupied by single tenants.
 - b) Built on a pre-existing hardstanding originally laid when the Appeal Site and the surrounding land was being used by the RAF.
5. I will refer to the chalets and the mobile home collectively as “the Dwellings”.
6. The Appeal Site has the benefit of planning permission for 21 two-bed chalets. These chalets are not caravans – they are permanent dwellings, the use of which is restricted to holiday use. The holiday use requires a “closed season” broadly the months of November to February (inclusive). However, Officers confirmed that that if an application was made to vary the “closed season” condition it is likely that the Council would allow all year round occupation but limited to “holiday use” only. The layout, design and floor plan of the 21 two-bed chalets is shown on Drawing No. 91868/10¹. I will refer to this permitted development as “the Extant Planning Permission”.
7. Predannack Holiday Village is **not** a holiday village. I will refer to it as “Predannack”. There are about 20 permanent dwellings at Predannack 17 of which can lawfully be used as dwelling-houses. The other three are not used for holiday use.
8. I was advised that the dwellings on the adjacent site at Trevelyan Holiday Homes are used for holiday uses.
9. The Council agreed that there is an acute shortage of low cost rental properties available in this part of Cornwall including the housing needs of people who are in priority need.

Procedural Matters

10. At the Hearing:
- a) After considering how the Council had served the Enforcement Notice the Appellants withdrew that part of their appeal based on Ground (e).
 - b) The Council agreed that the area of land to which the Enforcement Notice relates could be reduced to that requested by the Appellants. On that basis the Appellants withdrew that part of the appeal based on Ground (b).
11. The Appellants submitted a Unilateral Undertaking dated 27 June 2016. In broad terms the Unilateral Undertaking:
- a) Restricts the residential use of the Dwellings to persons nominated by the Council and who are in housing need. Those persons also need to have a connection with the local area.
 - b) Controls the rent paid for the Dwellings.

¹ Document 5

12. The Council are satisfied that the Unilateral Undertaking is fit for the purpose of ensuring that the Dwellings are let to persons in housing need and at an affordable rent.
13. My decision in this appeal is made subject to compliance with the Unilateral Undertaking.

Policy

14. As at the date of the Hearing the Council did not have a Development Plan for the area within which the Appeal Site is situated. I was referred to those policies of the emerging Cornwall Local Plan 2010 to 2030 ("the Local Plan") set out at paragraph 1(b) of the Agenda² which I handed out at the Hearing.
15. The Local Plan has been the subject of examination by an Inspector appointed by the Secretary of State. The Inspector's Report was published on 26 September 2016. He recommends that the Local Plan can be made sound with changes set out in the Main Modifications. The Main Modifications were agreed by the Council and a decision to adopt the Local Plan is expected in the near future. I consider that significant weight should be given to the policies of the Local Plan because of their advanced stage towards adoption. I was advised that all of the policies which I was referred to are in full accordance with the National Planning Policy Framework ("the NPPF").
16. I was also referred to various paragraphs of the NPPF, also listed in paragraph 1(b) of the Agenda.

Reasons - Ground (a) and the deemed planning application – that planning permission should be granted for what is alleged in the Enforcement Notice.

Does the Unauthorised Use harm the character or appearance of the AONB?

17. The Local Plan explains in respect of the AONB that:

- a) Great weight should be given to conserving the landscape and scenic beauty within the AONB.
- b) Proposals must conserve and enhance the landscape character and natural beauty of the AONB and provide only for an identified local need.

My Assessment.

18. I have noted that the Appeal Site is within the AONB and I have described its present condition. Ordinarily the Unauthorised Use would not be acceptable within an AONB for the obvious reason that the presence of the Dwellings does not conserve the landscape and scenic beauty within the AONB.
19. However, I have also explained that the Appeal Site could be developed at any time with up to 21 dwellings – see paragraph 6 above. If that development was carried there would be five or possibly seven chalets built on that part of the Appeal Site where the Dwellings are currently stationed and the adverse impact on the AONB of what could lawfully be built would, in my judgement, be as great, or possibly greater than the Unauthorised Use. There is no evidence before me that the Appeal Site would not be developed in accordance with the

² Document 2.

Extant Planning Permission at some point in the future. The Appellants are currently offering that part of the Appeal Site which is not the subject of the Unauthorised Use for sale with the benefit of the Extant Planning Permission.

20. The Council are of view that Unauthorised Use of the Appeal Site is more detrimental to its character and appearance than the lawful holiday use would be. I accept that the holiday chalets that could be built pursuant to the Extant Planning Permission would be unlikely to be occupied permanently throughout the year. I was informed that well run holiday parks are probably occupied between 30 and 32 weeks per year.
21. However, it was clear from my site visit to Predannack that the 17 dwellings that are used permanently as dwelling-houses have very little impact on the character and appearance of the surrounding area. Likewise the Unauthorised Use is very well screened by existing vegetation around the boundaries of the Appeal Site and cannot be easily seen from any public vantage point.
22. Having regard to the Extant Planning Permission and the development that would result from it I conclude that the Unauthorised Use does not conflict with the relevant policy for the protection of the landscape including the AONB. Accordingly, and having regard to the matters explained above, there is no harm to the AONB arising from the Unauthorised Use.

The Accessibility to Facilities and Services for the Occupiers of the Dwellings

23. The Council's concerns are that the Occupiers of the Dwellings would be heavily reliant on the private motor car to access facilities and services in the local area.

My Assessment

24. The three settlements that are closest to the Appeal Site are The Lizard, Ruan Minor and Mullion. I will refer to these as "the Three Settlements". I went to the Three Settlements to see at first-hand what facilities and services are available.
25. I agree with the Council that the occupiers of the Dwellings are unlikely to walk to any of the Three Settlements because there is no footway or street lighting along the A3083 (the Helston to The Lizard road) which runs past the Appeal Site and along which pedestrians would have to walk (at least for part of the journey) to any of the Three Settlements. The A3083:
 - a) Carries fast moving traffic including large vehicles.
 - b) Is not particularly wide.
 - c) Is not conducive to pedestrian use.
26. I am aware that none of the existing occupiers of the Dwellings cycle to the Three Settlements (due to their personal circumstances). However, I consider, having regard to the distance of the Three Settlements from the Appeal Site, that cycling would be an alternative mode of transport to the private car for some occupiers of the Dwellings.

27. There is also a regular bus service as evidenced by the timetable for service No. 37³ which passes along that part of the A3083 fronting the Appeal Site. Buses will stop to pick up passenger by request. The buses go to the Three Settlements and on to the major settlements of Helston and Redruth. The Three Settlements provide access, amongst other things, to some shopping facilities, schools, medical practices, Churches, Post Offices, Public Houses, cafes, restaurants, pharmacies, hairdressers, an art gallery and a small library. I was advised that there are employment opportunities in Helston as well as a cinema and leisure centre.
28. I have also been advised that Predannack has 17 dwellings in permanent residential use and I was informed that the occupiers of only eight of those dwellings have access to a car. Similarly, only one of the occupiers of the Dwellings has access to a car. I was informed that those that do have cars tend to offer lifts to the non-car owners living at Predannack or in the Dwellings. Alternatively, those without access to a car could use the bus service referred to above.
29. I therefore conclude, for the reasons explained above, that the Occupiers of the Dwellings would have reasonable access to facilities and services without unacceptable reliance on the private motor car.

Is the Appeal Site in an acceptable location for affordable housing?

30. The Local Plan explains that:

- a) Communities need new housing to meet their local needs.
- b) In many communities housing can only be delivered on sites outside the existing built-up area.

31. The Local Plan allows for rural exception sites. It explains that development proposals on sites outside but adjacent to the existing built up areas of villages or hamlets whose primary purpose is to provide affordable housing to meet local needs will be supported where they are clearly affordable housing led and would be well related to the physical form of the settlement.

My Assessment

32. There is no dispute that:

- a) The Appeal Site is adjacent to the built up area of Predannack.
- b) The primary purpose of the Dwellings (as evidenced by the Unilateral Undertaking) would be to provide affordable housing to meet local needs.

33. Further, the Council do not claim that the Dwellings are not well related to the physical form of the Predannack.
34. The Council considers that the Unauthorised Use does not comply with this policy because they consider Predannack is not a village or hamlet. I accept that Predannack is not a historic settlement which has existed for hundreds of years (like so many in Cornwall) but nonetheless it has seventeen dwellings in which residents of Cornwall reside on a permanent basis. I am aware that

³ Document 6

there are many traditional hamlets in Cornwall that are of a similar size to Predannack.

35. In the context of the Local Plan I consider that a hamlet is the smallest of rural communities. I am aware that Officers consider that hamlets that would qualify for affordable housing would be those which have some facilities on hand which the occupiers of the Dwellings could take advantage of. However, the policy makes no reference to the need for facilities within the hamlet. On the contrary the Appellants informed me that the Council had long sought to be able to get affordable housing to small settlements in remote areas.
36. As explained above those who live in the Dwellings and at Predannack have the benefit of a regular bus service. I am aware that there are many villages and hamlets in Cornwall that do not have such a service and this can lead to significant problems of rural isolation.
37. The Unilateral Undertaking restricts in perpetuity the occupation of the Dwellings as those having local housing needs. Further, this scheme is not dependent on any funding through the provision of market housing.
38. I consider that Predannack is a hamlet that qualifies for affordable housing as a rural exception site under the terms of Policy 9 of the Local Plan. Accordingly, the Appeal Site is in an acceptable location for this affordable housing scheme.

Conditions

39. The area of land covered by the Unilateral Undertaking is the same as the Enforcement Notice. I do not intend to reduce the area of land to which the Enforcement Notice relates as the Enforcement Notice is to be quashed and planning permission granted. I consider that it is preferable that the land which has the benefit of the planning permission should be the same as that to which the Unilateral Undertaking relates. However, I consider that the number of caravans should be restricted to five and their position should be that shown on the plan attached to the Enforcement Notice. I will impose conditions to achieve that. This ensures that the number and position of the caravans remains as is currently the case and any change would need to be the subject of an application to the Council.
40. The Council have suggested that a landscaping condition be imposed. I consider that the existing landscaping is sufficient and the imposition of a formal condition serves no useful planning purpose.

Overall Conclusion

41. For the reasons given above I conclude that the appeal should succeed on Ground (a) and planning permission will be granted.

Formal Decision

42. The appeal is allowed, the Enforcement Notice is quashed and planning permission is granted on the application deemed to have been made under Section 177(5) of the 1990 Act for the development already carried out, namely the use of the land at Predannack, Helston, Cornwall, TR12 7AU, as shown on the plan attached to the Enforcement Notice, for the stationing of caravans (including chalet style caravans) used for residential purposes subject to the following conditions:

1. No more than five caravans (including chalet style caravans) shall be stationed on the land.
2. The caravans (including chalet style caravans) shall be stationed in the approximate positions shown as 1, 2, 3, 4 and 5 on the plan attached to the Enforcement Notice.

Tim Belcher

Inspector

APPEARANCES

FOR THE APPELLANTS

Stephen Bott BA(Hons), MRTPI

Planning & Development

Christopher Tofts BEng, Solicitor

Stephens Scown LLP

FOR CORNWALL COUNCIL

Peter Blackshaw BA(Hons), MRTPI

Principal Development Officer
(Appeals)

Alan Mason

Principal Development Officer
(Enforcement)

DOCUMENTS

- Document 1 – Unilateral Undertaking dated 27 June 2016 – Section 106 Town and Country Planning Act 1990.
- Document 2 – The Hearing Agenda.
- Document 3 – Mr Toft’s document entitled “Policy Summary”.
- Document 4 – Aerial photograph – identifying Trevelyan Holiday Homes, the Appeal Site and Predannack.
- Document 5 – Site Layout Plan 91868/10.
- Document 6 – Bus Timetable – Service No. 37.