
Appeal Decision

Site visit made on 17 January 2017

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 8 February 2017

Appeal Ref: APP/D0840/C/16/3147945

Pendarves Woodland, Camborne, Cornwall, TR14 0RT

- 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 Dr Karen Sumser-Lupson against an enforcement notice issued by Cornwall Council.
 - The enforcement notice, numbered EN15/00385, was issued on 9 March 2014.
 - The breach of planning control as alleged in the notice is:
 - The material change of use of land for the stationing of a caravan in the approximate position marked 'blue' on plan 2 attached to the notice.
 - The material change of use of land for the stationing of a Library Van in the approximate position marked 'pink' on plan 2 attached to the notice.
 - The material change of use of land for the stationing of a shipping container for storage purposes in the approximate position marked 'orange' on plan 2 attached to the notice.
 - The material change of use of land for the stationing of a bus for residential purposes in the approximate position marked 'brown' on plan 2 attached to the notice.
 - The erection of a dwelling house, currently being used as a forestry office in the approximate position marked 'green' on plan 2 attached to the notice.
 - The requirements of the notice are;
 - 1) Permanently cease the use of the land for residential purposes.
 - 2) Permanently remove from the land the caravan in the approximate position marked 'blue' on plan 2.
 - 3) Permanently remove from the land the Library Van in the approximate position marked 'pink' on plan 2.
 - 4) Permanently remove from the land the shipping container in the approximate position marked 'orange' on plan 2.
 - 5) Permanently remove from the land the residential bus in the approximate position marked 'brown' on plan 2.
 - 6) Permanently cease use of the dwelling house in the approximate position marked 'green' on plan 2 for residential purposes and use as a forestry office.
 - 7) Disconnect and remove all services connected to the dwelling house in the approximate position marked 'green' on plan 2.
 - 8) Demolish and remove the dwelling house in the approximate position marked 'green' on plan 2.
 - 9) Permanently remove the gazebo and all domestic items and chattels from the land.
 - 10) Permanently remove all material and debris from the land resulting from compliance with 1-9 above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
 - **Summary of decision: notice corrected and varied, appeal dismissed, notice upheld and planning permission refused.**
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Procedural Matter

1. The allegation refers to a number of breaches including the erection of a dwelling house.
2. The Council's inspection of the timber building in February 2014 revealed a large room with a lounge area with wood burner and sofas, an office area with desk computer and printer and a kitchen area fully equipped with pots, pans, kitchen table and range cooker. Further rooms included one with toilet and wash basin and one for domestic storage. Another room was locked. The Council has concluded that the building contains all the facilities for day to day living and meets the Gravesham test¹. The appellant states that there are no services connected or a bed and that the building contains facilities that do not differ in any functional way from those provided to workers in any long term project and such facilities are necessary for the management of the woodland.
3. I have not inspected the inside of the building but externally it has the appearance of a residential timber chalet building. I note that the appellant has not made a ground (b) appeal in respect of that part of the breach of planning control relating to the erection of a dwelling house not having occurred as a matter of fact. Notwithstanding this I am able to correct and vary the notice if I am satisfied no injustice would arise to the parties in so doing. The appellant does not deny the existence of the building or that it fails to benefit from planning permission. I therefore propose to delete the words "The erection of a dwelling house, currently being used as a forestry office in the approximate position marked 'green' on plan 2 attached to the notice" and replace them with the words "The erection of a building, currently being used as a forestry office in the approximate position marked 'green' on plan 2 attached to the notice". I further propose to vary requirements 6, 7 and 8 of the notice to reflect the correction.

The site and relevant planning history

4. The appeal site is an area of woodland of about 14 hectares, known as Pendarves Woods, and which is Common Land. The appellant states that it is a Priority Habitat in an area of High Spatial Priority for woodland Enhancement according to Natural England specifications. Within the site is a clearing that is accessed by a track from North Lodge and the road. At my site inspection I observed that there was a caravan, two vans, a shipping container, a gazebo and a timber chalet style building within the clearing. There was no bus at the time of my inspection.
5. A Planning Contravention Notice was responded to in November 2013 in which the appellant confirmed that the use began in 2007, the timber building was erected in May 2013 and was being used as a forestry office, that a camper van/library bus had been stationed on the land since 2008 and that a shipping container had been brought on to the land in 20013 and was used for the storage of equipment.
6. Planning permission (PA14/08032) was refused in February 2015 for the retention of the wooden structure as a forestry office and the shipping container.

¹ Gravesham BC v SSE & O'Brian [1982] 47 P&CR; [1983} JPL 307

7. An application under s38 of the Commons Act 2006 for the development was refused in May 2015 as it would harm the policy objectives of protecting commons from inappropriate development.

The appeal on ground (c)

8. An appeal on this ground is that there has not been a breach of planning control.
9. The appellant considers that the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) under Part 6, Class E (erroneously referred to as Part 7, Class A which was the appropriate part of the 1995 GPDO), provides for the erection of buildings reasonably necessary for forestry; that Part 4, Class A provides rights for temporary structures for forestry operations to be carried out and that Part 5 Class A allows for caravans associated with Class A.
10. To benefit from permitted development (PD) rights under Part 6 Class E, a developer is required to make an application to the local planning authority for a determination whether prior approval of the authority will be required as to the design, siting and external appearance of the building prior to the development being carried out. This has not been done.
11. Part 4, Class A does not apply to temporary structures for forestry operations. The Class states "The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land." The term "operations" is defined in s55 to be building, engineering, mining or other operations and normally relates to builders' huts and plant required in connection with a construction project.
12. Part 5, Class A provides for the use of land as a caravan site in certain circumstances which refers back to the Caravan Sites and Control of Development Act 1960. This indicates at paragraph 8 of the First Schedule that a caravan site licence is not required for the use of land as a caravan site for the accommodation during a particular season of a person or persons employed on land in the same occupation, being used for the purposes of forestry. A season is a period of less than one year and there is a requirement that that caravans are removed at the end of the season. The converted bus falls within the definition of a caravan and is occupied by a person working at the site but the work does not accord with a particular season.
13. I conclude that the development does not accord with the GPDO and accordingly does not have the benefit of any planning permission. The appeal on this ground fails.

The appeal on ground (a)

14. The appellant makes reference to reports associated with the original application being relevant, including a Business Plan. However, if a document has not been submitted with this appeal, I am unable to place much weight on selected extracts.
15. The main issues in this appeal are, firstly, whether there is an essential need for the various vehicles, structures and building to remain on site to support

woodland management, and secondly, the impact that the development has on the character and appearance of the woodland.

16. The basis of the appellant's case is that the reasons for the refusal of application ref PA14/08032 are incorrect. In particular, the functional need for the development had been incorrectly assessed as inadequate consideration had been given to community involvement and volunteer labour; the assessment of the scale and nature of the work involved was flawed; and, that undue weight had been given to the current state of the project. Additionally, the appellant asserts that structures designed entirely to support sustainable woodland management are, by default, in line with national planning policy; that disproportionate weight had been given to minor or temporary aesthetic elements; inadequate consideration had been given to the fall-back position; and, there had been inadequate consideration of the case history.

Need

17. Reliance is placed on the development meeting paragraphs 7, 14, 19, 28, 117 and 118 of the National Planning Policy Framework (the Framework) regarding sustainable development, support for a prosperous rural economy, and impacts and conservation of biodiversity. It is considered by the appellant that the functional need for sustainable woodland management as described by the United Kingdom Forestry Standard should be considered in the light of the need for volunteer labour, community involvement and supplementary income sources.
18. The current draft management plan for the next two years prepared by Ealdwood Woodland Management involves 510 man hours for removal of invasive laurel, coppicing, drainage work and forestry access work. It is stated that this work requires volunteer labour this generates a need for wet weather facilities on site and storage for tools and fuel. The estimated number of man hours represents at best about 14 weeks full time equivalent of work spread over two years. Whilst it is likely that with volunteer labour, actual work will be spread over a greater period, it is nevertheless difficult to understand how a relatively small amount of work input can justify the need for overnight accommodation, the various vehicles stationed on the site and a permanent building of the size constructed as a forestry office/restroom.
19. Additionally, details of the equipment stored in the container have not been provided and in the absence of this information its size appears excessive bearing in mind the size of the woodland. I note that the Council's Tree Officer has commented that woodland management is often carried out by equipment brought to the site as and when required although the appellant believes that it would not to be normal to expect volunteers to bring their own equipment.
20. Although the Council has referred in their statement to the appellant's intentions that the Trust would support local people in woodland management by providing workshops for forestry skills, woodland and environment management, craft groups and Cornish language groups, no such submissions have been made by the appellant as part of this appeal. It is assumed that The Council is referring to documents submitted with the refused planning application.
21. Whilst the appellant's intentions in respect of woodland management are laudable, it appears that much of the justification for the development rests on

the use of volunteers. However this does not provide a functional need for the development of the site in the manner that has been carried out. I therefore conclude on the first issue that the need for the facilities has not been demonstrated.

Character and appearance

22. The woodland is an area of common land in open countryside to which the public has access. The erection of a building, the use of the land for the stationing of a steel container and various vehicles and use for overnight accommodation, together with a gazebo, severely compromises the character and appearance of the previously undeveloped and unspoilt common land. The development is prominent in a remote and sylvan setting and appears incongruous. The shipping container is industrial in appearance and insensitive to its woodland setting.
23. The appellant suggests that the visual impact of the development could be mitigated through conditions. However, I do not consider that conditions would achieve this due to the nature of the development and the visual impact of the vehicles, container and other structures.
24. I conclude on this issue that the development harms the character and appearance of the woodland.

Other Matters

25. The appellant considers that there is a fall-back position for the siting of temporary structures made of any materials and caravans of any design for any period less than a year. For the reasons set out in paragraph 8 above, I do not consider this to be a fall-back position that carries much weight.
26. The appellant refers to an appeal in 1997 in Kent but provides insufficient details for me to assess its relevance to the current appeal and whether material circumstances were similar.
27. Two letters of objection to the development have been submitted which state that the woodland is of insufficient size to justify an office, storage or overnight accommodation as it could be managed on a daily basis without the need for structures. The appellant's claim of support from the local community for the planning application is not shared by the nearby village of Ramsgate. The site appears as an unoccupied or abandoned new age travellers' site which is intrusive and threatening in a quiet woodland environment.

Conclusion on the ground (a) appeal

28. No special justification exists for the development which does not represent sustainable development and has a significant harmful impact on the character and appearance of the area. It is contrary to the Framework where policies of restraint apply in the countryside and the harm the development causes outweighs any benefits the development may have in respect of woodland management or the rural economy.
29. For the reasons given above I conclude that the appeal on this ground should fail.

The appeal on ground (f)

30. An appeal on this ground is that the steps required to comply with the requirements of the notice are excessive and that lesser steps would overcome the objections.
31. The appellant claims that the structures are permitted under the GDPO and their removal is not necessary. However I have dismissed the appeal on ground (c) above. The appellant suggests that the visual impact of the development could be remedied through cladding of the container, shrub planting and the eventual replacement of the timber building with a smaller agricultural design log store. However, if such remedies could overcome the harm of the development, these would have been considered in the ground (a) appeal.
32. 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.
33. The appeal on this ground fails.

Formal Decision

34. I direct that enforcement notice:

be corrected by the deletion of the words in the allegation:

"The erection of a dwelling house, currently being used as a forestry office in the approximate position marked 'green' on plan 2 attached to the notice"

and their replacement with:

"The erection of a building, currently being used as a forestry office in the approximate position marked 'green' on plan 2 attached to the notice";

and varied by the deletion of requirements 6, 7 and 8 and their replacement with;

"6) Permanently cease use of the building in the approximate position marked 'green' on plan 2 for use as a forestry office.

7) Disconnect and remove all services connected to the building in the approximate position marked 'green' on plan 2.

8) Demolish and remove the building in the approximate position marked 'green' on plan 2."

Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld, and 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