
Appeal Decision

Site visit made on 28 February 2017

by Colin Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 20 March 2017

Appeal Ref: APP/D0840/16/3160048

Jolly Roger, Finnygook Lane, Portwrinkle PL11 3BT.

- 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 Roger Martin against the decision of Cornwall Council.
 - The application Ref PA16/03592, dated 9 May 2016, was refused by notice dated 18 July 2016.
 - The development proposed is described as “erection of a 1 metre high safety fence on the cliff side, erect 2 metre high fence around the waste bins at the front of the cafe, increase the height of the fence to the front and side of the seating area from 1.2m to 2m together with the erection of 2 timber sheds and a thatched shelter”.
-

Decision

1. The appeal is allowed planning permission is granted for a development described as “erection of a 1 metre high safety fence on the cliff side, erect 2 metre high fence around the waste bins at the front of the cafe, increase the height of the fence to the front and side of the seating area from 1.2m to 2m together with the erection of 2 timber sheds and a thatched shelter” at Jolly Roger, Finnygook Lane, Portwrinkle PL11 3BT in accordance with the terms of the application, PA16/03592, dated 9 May 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Original layout plan, Proposed plan including location plan, site layout plan and elevations.
 - 3) The development hereby permitted shall be used ancillary to the adjoining café currently known as Jolly Roger Beach Café.

Procedural Matters

2. I have taken the description of the proposed development in the heading above from the Appeal Form as it is more concise than the description provided within the Application Form.
 3. The Caradon Local Plan no longer forms part of the statutory development plan for the area. I have determined this appeal in accordance with the policies of the Cornwall Local Plan, which was formally adopted by the Council during the course of the appeal process.
-

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. This part of Finnygook Lane runs parallel to the coast along a clifftop. Most of the surrounding development is situated on the sloping land which rises steeply above the lane, including the Grade II listed Whitsand Bay Hotel. Together with a nearby dwelling, the Jolly Roger Café is one of only a few properties in this location to be situated to the south of the lane on the clifftop. It is positioned directly above a beach and benefits from expansive views of the sea and surrounding coastline, much of which remains undeveloped. This is a particularly attractive location of high landscape quality.
6. The proposed development involves placing two timber sheds and a wooden thatched roof shelter outside the main café building and surrounding the site with fencing. Most of this development had already taken place at the time of my site visit, although only one of the proposed timber sheds had been erected.
7. The street scene in the vicinity of the car-park to the west has a particularly open appearance. When the appeal site is viewed from here, the main outlook is towards the golf course and headland in the distance, with the café forming a relatively small part of the foreground. Hence, although the fencing partly encloses the eastern corner of the car park, it does not appear dominant and the street scene maintains a strong sense of openness. Although the roofs of the existing shed and thatched shelter protrude above the fence line, they are minor features in the context of the wider surroundings. I recognise that the existing shed and thatched shelter are more visible from the street frontage directly outside the site as their roofs are silhouetted against the horizon and the fence also blocks views towards the sea. However, they are set back from Finnygook Lane and remain relatively small components of the wider street scene when seen from this perspective.
8. Due to its height, the fencing around the waste bins and eastern side of the seating area is clearly visible within the street, especially when approaching the site from the direction of the golf course. I also note that it is proposed to erect a timber shed here and its roof would protrude above this fence. However, most of the existing fencing and the proposed shed would be viewed against the existing café building and would therefore not appear especially prominent. While the fence is seen when ascending the public footpath from the beach, it is relatively inconspicuous as it is only in full view near the junction with road.
9. The café is also seen from the public footpath network on the elevated land above Finnygook Lane. However, in the context of the wider surroundings, the café and its associated structures appear as minor features and do not harm the appearance of the landscape. I concur with the Council that, due to the topography, there would be no discernible impact on the setting of the Grade II listed Whitsand Bay Hotel.
10. I recognise that the use of timber is not representative of the café building and the structures are somewhat inconsistent in their appearance and layout.

However, even when the individual components of the development are considered in their totality, I have found that the impact on the street scene and wider landscape would be relatively slight.

11. The Council has drawn my attention to a previous Appeal Decision¹ on the site which highlighted the visibility of fencing and decking. While I take this into account, that appeal concerned a breach of planning control and I note from the Officer's Report that planning permission has since been granted for the permanent retention of the café building. Hence, the circumstances of that case vary somewhat from those of the appeal before me now. I nonetheless recognise that the appeal site has a history of unauthorised development and enforcement proceedings have been necessary on a number of occasions. Although this does not weigh in favour of the development, my assessment of the appeal proposal is that it would not lead to harm.
12. I therefore conclude that the proposed development would have an acceptable effect on the character and appearance of the area. There would be no conflict with Policies 12 and 23 of the Cornwall Local Plan which aim to achieve appropriate standards of design and protect landscape quality. There would also be no conflict with the objectives of the Cornwall Design Guide 2013 in these respects.

Conclusion and Conditions

13. For the above reasons and having regard to all other matters raised, the appeal should succeed. In the interests of clarity, standard conditions have been imposed requiring that the development is carried out in accordance with the plans and within a time limit. I have also imposed a condition to ensure that the development is to remain ancillary to the café.

Colin Cresswell

INSPECTOR

¹ Appeal Ref: APP/D0840/C/11/2162296