
Appeal Decision

Site visit made on 15 May 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 30 June 2017

Appeal Ref: APP/D0840/W/17/3167231

Coriander Cottages, Penventinue Lane, Fowey, Cornwall PL23 1JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr Colin King against the decision of Cornwall Council.
 - The application Ref PA16/04544, dated 17 May 2016, was refused by notice dated 20 July 2016.
 - The development proposed is the construction of a building accommodating an additional holiday unit, together with office and associated facilities to serve the existing holiday units.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Colin King against Cornwall Council, which is the subject of a separate decision.

Preliminary matters

3. Application Ref PA16/04544 was made in outline with all matters reserved.¹ The plans simply identify the appeal site, which includes existing holiday lets converted from former agricultural buildings named Coriander Cottages, access with Penventinue Lane, and some land. An indicative annotation 'location of proposed holiday cottage' relates to an area of undeveloped land within the appeal site.
4. The decision notice cites policies of the Restormel Local Plan (adopted October 2001). These are no longer part of the development plan, having been superseded by the Cornwall Local Plan Strategic Policies 2020-2030 (adopted 22 November 2016, the 'Local Plan'). Nevertheless policies of the Local Plan, then emerging, were referenced within the Council's officer report and all parties have had the opportunity to comment on them at appeal.

Planning context

5. The Council previously refused outline permission for an 'owner/ manager dwelling' here, and a subsequently appeal was dismissed (the 'previous

¹ Access, appearance, landscaping, layout and scale.

appeal').² The proposal before me is for a unit of holiday accommodation intended to be occupied by different individuals for varying lengths of time rather than on a permanent basis. However the duration for which a building is occupied is not determinative of whether it represents a dwelling, the main consideration in this respect being whether it would be capable of independent occupation on a day-to-day basis.³

6. The proposal is for a separate building intended to offer a standard of accommodation comparable to that of the existing holiday cottages. The existing cottages offer self-catering accommodation and each include bedrooms, bathrooms and kitchens.⁴ Therefore, based on the information before me, I have approached the appeal on the basis that the unit proposed is such that it could support independent day-to-day occupation and is consequently a form of housing (albeit that occupation could be restricted by way of condition).

Main issues

7. The main issues are whether or not the appeal site is an appropriate location for the development proposed with particular regard to its accessibility and effects in respect of private vehicle usage, and the effect of the proposal on the Cornwall Area of Outstanding Natural Beauty (the 'AONB').

Reasons

Location

8. The appeal site is accessed via Penventinue Lane, a narrow rural carriageway enclosed by embankments, hedgerows and trees without dedicated footway or lighting. Penventinue Lane is part of the Saints Way, a multi-use trail running between Fowey and Padstow.
9. The appellant explains that the appeal site is approximately 20 minutes' walk to services and facilities in the nearest settlement of Fowey, a distance specified in the Council's officer report as approximately 1.5 kilometres. The appeal site falls beyond any established settlement. The surrounding environment is characterised predominantly by fields in agricultural use with only a dispersed scattering of buildings, many of which I observed are historic in origin.
10. Policy 5 'Business and Tourism' of the Local Plan supports the provision of sustainable tourism facilities. It sets out that these should provide a 'well balanced mix of economic, social and environmental benefits', the three pillars of sustainable development. Similarly the National Planning Policy Framework (the 'Framework') establishes that support should be given to the sustainable expansion of all types of business in rural areas, including through the provision of well-designed new buildings and the expansion of tourist and visitor facilities in appropriate locations.

² Ref APP/D0840/W/15/3031297.

³ With reference to the judgement handed down in *Gravesham Borough Council v Secretary of State for the Environment & Anor*, [1983] JPL 307.

⁴ As described in particular in paragraph 2.3 of the appellant's Planning, Design and Access statement.

11. The support in both the Local Plan and the Framework accorded to tourism is not unconditional, but is rather based on facilities being sustainable, including in respect of their location. In this instance the nearest services and facilities in Fowey are located beyond a convenient walking distance. Moreover the nature of the walking or cycling route to or from Fowey, or other settlements, would necessarily be along narrow, unlit rural carriageways, many of which have steep gradients and no dedicated footways. There is no evidence before me of any public transport services nearby.
12. Accordingly the occupants of the unit proposed would be highly dependent on the use of private vehicles, in conflict with the approach in policy 5 of the Local Plan and with the encouragement given within the Framework to actively managing patterns of growth in order to make the fullest possible use of public transport, walking and cycling. Whilst the occupants of holiday accommodation may generate fewer vehicular trips than permanent occupants of a dwelling (for example in the absence of the need to travel regularly to school or for employment), nonetheless the proposal would result in an uplift in private vehicle usage and accordingly in environmental harm.
13. Moreover, as established above, the unit also represents a form of housing which would be located in the open countryside. It is therefore reasonable to describe the appeal site as isolated. Policy 7 'Housing in the countryside' of the Local Plan and paragraph 55 of the Framework establish that isolated housing should be avoided other than in special circumstances.⁵
14. Whilst I appreciate that the appellant has approached the appeal from the perspective that the proposal is not for housing, no argument has been made that the development proposed would be permissible by virtue of representing any of the special circumstances specified in either policy 7 of the Local Plan or paragraph 55 of the Framework. I consider the other benefits of the proposal subsequently.
15. Summarising my reasoning above, the proposal is for a new unit on what is presently undeveloped land in the open countryside, distant from nearby services and facilities. I therefore conclude that the appeal site is not an appropriate location for the development proposed, with particular regard to its accessibility and effects in respect of private vehicle usage. The proposal therefore conflicts with the relevant provisions of policies 5 and 7 of the Local Plan and with paragraphs 28 and 55 of the Framework.

AONB

16. The appeal site falls within the South Coast, Eastern section of the AONB and the St Austell Bay and Luxulyan Valley landscape character area as described in the Cornwall and Isles of Scilly Landscape Character Study published in 2008 (the 'LCS'). The character of the area surrounding the appeal site is strongly reflective of that described in the LCS: a mixed woodland and pastoral landscape with occasional dispersed farmsteads. As established above the

⁵ The special circumstances identified in policy 7 are in summary: replacement dwellings, residential subdivision, reuse of appropriate buildings, and temporary or permanent rural workers' accommodation. These are similar to the special circumstances specified in paragraph 55 of the Framework, which additionally includes a further exception of where a proposal is of exceptional quality or innovative design.

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17. Criterion 2(a) of policy 23 'Natural environment' of the Local Plan sets out that great weight will be given to conserving landscape and scenic beauty in Areas of Outstanding Natural beauty. This reiterates the approach in paragraph 115 of the Framework, which also explains that AONBs have the 'highest status of protection in relation to landscape and scenic beauty'.
18. AONBs are designated for the purposes of conserving and enhancing natural beauty, and Section 85(1) of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to these purposes in this decision. Specifically with reference to the South Coast, Eastern Section of the AONB policy SCE10.09 of the Cornwall AONB Management Plan 2016-2021 adopted in May 2016 seeks 'a reduction in landscape and visual impacts of tourism'.
19. The topography steps down from Penventinue Lane through the appeal site towards the indicative location of the unit proposed, and then rises beyond. Whilst the location of the unit proposed is only indicative at this stage, it could be set in a sunken location in the landscape where there is some surrounding tree cover. As Penventinue Lane is enclosed by embankments, hedgerows and trees, views of the unit proposed from here are likely to be partially screened (subject to an appropriate approach established in relation to reserved matters).
20. Nevertheless, as accepted by the appellant, the development proposed would be visible from Penventinue lane, particularly around the access to the appeal site where boundary features present elsewhere are absent. Whilst I accept that from certain vantage points the unit would be visible in conjunction with other buildings nearby, it would nevertheless represent the introduction of a built form in what is presently undeveloped land accorded particular protection on account of its natural beauty.
21. Given that the Saints Way is part of a pedestrian trail, even relatively modest development here would materially and detrimentally affect the natural quality of the landscape. The absence of details related to the location of the unit proposed, its appearance, scale or any landscaping proposed means that that I am not satisfied that the effect of the proposal would be so limited as to be acceptable in this context.
22. I therefore conclude that the proposal would fail to conserve the natural beauty of the AONB by the introduction of development in a location sensitive to change and accorded particular protection on account of its natural character. The proposal therefore conflicts with the relevant provisions of policy 23 of the Local Plan and with relevant elements of the Framework.
23. In reaching this conclusion I have had regard to the previous appeal as significant material consideration, and acknowledge that consistency of decision-taking is important for the integrity of the planning system. I would, however, note that in the previous appeal the inspector did not reach a finding

that no harm would arise but rather than the harm would not in his judgement be unacceptable.⁶

24. However based on the evidence before me in this case, with regard to the statutory duty placed upon me by the Countryside and Rights of Way Act 2000, and given that the Framework sets out that AONBs have the highest status of landscape protection, I cannot conclude that the development proposed via this appeal would be acceptable. Nevertheless even were the proposal acceptable in relation to its effect on the AONB, this would not outweigh the harm that I have identified that would result in respect of the first main issue.

Other matters

25. The appellant has explained how Coriander Cottages have high levels of occupancy throughout the year. I understand that demand regularly outstrips availability, and that part of the existing cottages is used for administrative purposes rather than as lettable space. Clearly the proposal would be beneficial to the appellant in terms of turnover. There is, however, no evidence before me to indicate that the financial viability of the existing enterprise would be compromised by the absence of the development proposed.⁷
26. I also accept that the proposal would have some wider social and economic benefits as the occupants of the unit proposed would bring trade to nearby services and facilities. However the benefits arising from one new unit would inevitably be modest, and there is similarly no evidence before me to indicate that nearby services and facilities are in need of additional trade to ensure their continued operation. Whilst much tourist accommodation in the area is not limited to within existing settlements, and a rural setting may be attractive to certain individuals, this does not justify unacceptable with reference to current planning practice.
27. The appellant has brought several planning decisions elsewhere to my attention in support of his proposal. All pre-date the adoption of the Local Plan and were therefore taken in a different policy context. Others relate to development which is not directly comparable to the proposal before me, including 'timber cabins', the conversion of existing buildings, or the provision of camping or caravan plots.⁸
28. I would further note that in relation to appeal Ref APP/D0840/W/15/3070058, on the basis of the limited information before me in respect of that case, the inspector was of the view that the economic benefits of the proposal carried significant weight in favour of the development proposed (which is not the case in this appeal for the above reasons). Accordingly neither this, nor any other matter, is sufficient to outweigh or alter my reasoning as set out above.

Conclusion

29. For the above reasons, and having taken all other matters raised into account, the proposal conflicts with the development plan taken as a whole and with the

⁶ As set out in paragraph 29 of that decision.

⁷ Noting the trading accounts appended to the appellant's statement of case.

⁸ Including applications Ref PA16/01486 and PA16/09512, and appeals Ref APP/D0840/A/14/2214949, APP/D0840/A/14/2223423, APP/D0840/A/13/2206602, APP/D0840/A/14/2226434, APP/D0840/15/3006349.

approach in the Framework. I therefore conclude that the proposal does not represent sustainable development and that the appeal should be dismissed.

Thomas Bristow

INSPECTOR