



Appeal Decision

Site visit made on 1 August 2017

by Jessica Graham BA (Hons) PgDipL

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

Decision date: 21 August 2017

Appeal Ref: APP/D0840/C/16/3165742

Land known as Havrak, Bodmin Road, Goonhavern, Truro, Cornwall TR4 9QF

- 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 Sean Marshall against an enforcement notice issued by Cornwall Council.
- The enforcement notice was issued on 17 November 2016.
- The breach of planning control as alleged in the notice is without planning permission,
 - 1) the material change of use of the Land to the stationing of one caravan for storage purposes in connection to the residential use of the Land in the approximate position shown marked with a green "X" on the attached plan and one caravan for residential use in the approximate position shown marked with a dark blue "X" on the attached plan, and
 - 2) the creation of a new access to the Land in the approximate position marked with a light blue "X" on the attached plan, and
 - 3) the construction of associated hardstanding and gravel track in the approximate position marked with yellow hatching on the attached plan.
- The requirements of the notice are
 - 1) cease the residential use of the land
 - 2) cease the use of the land for the stationing of caravans
 - 3) cease the use of the new access
 - 4) repair and close the gap in the hedge and reinstate to its former condition
 - 5) remove the caravans and all associated services from the land to include the electrical hook up boxes and reinstate the land to its former condition
 - 6) remove the hardstandings and gravel track and reinstate the land to its former condition.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

The enforcement notice

1. There is only one primary use of land at issue in this appeal, and that is residential use involving the stationing of caravans for human habitation. Storage is ancillary to that use, rather than being a primary use, and so should not feature in the allegation. Additionally, the requirements to cease the use of the land for the stationing of caravans, and to cease the use of the new access, should be deleted as these are not in themselves uses of land.

2. I intend to correct the notice by simplifying the description of the use alleged, and by aligning the requirements to address the use and operations as alleged. No injustice would arise from so doing, as the appellant is clear as to the breach of planning control that has taken place and what is needed to put it right, and the corrections would not make the notice more onerous.

Background and main issues

3. An application for permission to erect a house and garage on the site was refused by the Council on 12 January 2012¹, and dismissed at appeal on 14 September 2012² ("the 2012 appeal"). A subsequent retrospective application for permission to remove a derelict stone building, site a static caravan for residential use, and create an access was refused on 18 July 2013³. An application for permission to construct a storage shed was refused on 19 December 2014⁴. A further application for a storage shed was refused by the Council on 6 May 2015⁵, and dismissed at appeal on 9 March 2016⁶ ("the 2015 appeal").
4. The current appeal is proceeding on ground (a), which means that planning permission is sought for the breach of planning control alleged in the enforcement notice. The main issues, then, are the effect of the development on (1) the character and appearance of the area and (2) highway safety.

Reasons

5. The appeal site is a small field to the south-east of the village of Goonhavern. A static caravan in residential use is located in the north-east corner, on the site of a former stone building which has now been demolished. A gravel drive runs from the hardstanding serving this caravan, alongside the eastern boundary, to access the B3285 which adjoins the southern boundary of the site. A second caravan, used for storage, is located on an area of hardstanding in the south-west corner of the appeal site.

The policy context

6. The Development Plan for the area consists of the Cornwall Local Plan (adopted November 2016), which seeks to locate most new residential development within existing settlements, but recognises that some new housing in the countryside will be necessary. Policy 7 of the Local Plan sets out the limited circumstances in which new homes in the open countryside will be permitted. It is common ground that the residential development at the appeal site does not satisfy any of these.
7. The appeal site does not fall within any settlement boundary, and so for the purposes of planning policy, is defined as open countryside. The appellant notes that this was the basis on which the 2012 appeal was dismissed, but contends that the policy context has changed significantly since that time and that the surrounding area has seen far more development.

¹ Ref: PA12/00530

² Ref: APP/D0840/A/12/2174967

³ Ref: PA13/03379

⁴ Ref: PA14/09738

⁵ Ref: PA15/00674

⁶ Ref: APP/D0840/W/15/3100536

8. It is fair to note that the Cornwall Local Plan was adopted after the determination of the 2012 appeal, but I am not convinced that it has significantly changed the policy context for the residential development of sites in the countryside. The saved Policies of the Cornwall Structure Plan, which formed the policy context for the 2012 appeal, sought to locate most new residential development in existing settlements, with new housing in the countryside requiring special justification; the same approach is now taken in the Cornwall Local Plan. The National Planning Policy Framework (NPPF), which was in force at the time of the 2012 appeal decision, remains applicable.
9. As the appellant points out, Policy 3 of the Local Plan allows for infill housing in very small hamlets. However, the wording of this Policy clearly restricts such infill development to schemes that fill a small gap in an otherwise continuous built frontage, and do not physically extend the settlement into the countryside. This Policy is of little relevance here, since the appeal site is neither within the village nor part of an otherwise continuous built frontage.

The effect upon character and appearance

10. The appellant contends that while paragraph 55 of the NPPF urges local planning authorities to avoid the creation of "isolated" homes in the countryside, the appeal site appears as part of a cluster of development on the edge of an existing settlement, and so could not now be reasonably considered isolated. I saw at my site visit that there is residential development to the immediate north and east of the site, and a holiday park and other residential development on the opposite side of the road. I agree that "isolated" would not be an accurate description. However, I also saw that despite the existence of sporadic development along the approach to Goonhavern, the overall character and appearance of this area remains that of open, semi-rural countryside.
11. I note that the static caravan is located as far back within the site as possible, where it lies between two existing dwellings on the adjoining plots. I understand that this was the position of a former stone building, but I have not been provided with any information concerning the form or function of that building, and since it was demolished some time ago, it has little relevance. As the appellant points out, locating the caravan in this position has a lesser impact than if it were set further forward, since the openness of the front of the plot is retained. But the proximity of the two existing dwellings, and the appearance of the caravan as visually associated with them, does not mitigate the visual harm caused by its presence. Rather, the introduction of this additional living unit has the effect of intensifying the domestic appearance of the existing small cluster of development, to the detriment of the semi-rural character of this part of the countryside.
12. This adverse impact is heightened by the new access and gravel track, which visually constitute a gated residential drive, domesticating the character and appearance of what was formerly an agricultural field. The previous access to the site was located more centrally in its frontage, and was less obtrusive in public views from the road, appearing more as an agricultural access than a residential entrance. Further, the creation of the new access involved the removal of a section of the roadside hedge, a distinctive feature of the Cornish countryside. I do not therefore share the appellant's view that the replacement of one access with another occasioned no significant harm to the character and appearance of the area.

13. I am told that the static caravan, track, access and hardstandings were present on the site at the time when the 2015 appeal was determined. The Inspector in that case concluded that a sense of openness prevailed at the appeal site, and that it was "an attractive and generally unspoilt field that is close to and contributes to the setting of the village". The appellant interprets that as indicating the extant development was considered not to compromise the appearance of the site, or its contribution to the character and appearance of the area. However, the conclusions of the 2015 appeal decision cannot simply be read across to the current appeal. The Inspector who determined the 2015 appeal was considering the acceptability of a proposed storage shed on the front of the site, not the acceptability of the development that is now at issue. The considerations in the current appeal are different and include, importantly, not just the visual appearance of the caravan and associated works but the impact of granting planning permission for their residential use.
14. As to the implications of other recent development permitted in the surrounding area since the 2012 appeal, the evidence of the Council is that these proposals accorded with the relevant Development Plan policies: for example, the house to the rear of the appeal site was permitted as a replacement dwelling because an existing residential use had been established on that site, while the house to the east was constructed and legally bound as an "affordable dwelling", one of the few circumstances in which new residential development will be permitted in the countryside. The existence of such development does not provide any justification, or precedent, for permitting other proposals which do not accord with the Development Plan.
15. Taking all of this into account, I conclude that the residential use of the site does not meet any of the specified criteria which would justify such a use in the countryside outside the village settlement boundary, and so conflicts with Policy 7 of the Cornwall Local Plan. For the reasons set out above, I consider that the residential caravan, the ancillary storage caravan, their associated hardstandings and the new track and access all serve to domesticate this formerly agricultural field, to the detriment of the semi-rural character and appearance of the site itself and the surrounding countryside. This conflicts with the aims of Local Plan Policies 12 and 23, which seek to sustain local distinctiveness and character, and protect and where possible enhance Cornwall's natural environment.

The effect on highway safety

16. The appeal site is within a 30mph zone, and while the new access has good visibility to the east, the Council is concerned that the recommended minimum 43m forward visibility could not be achieved to the west. The appellant points out that the site already had an existing access, and the new one is an improvement in terms of visibility to the west, as it is positioned as far east as possible. However, the matter at issue is not simply whether the new access is an improvement on the former, but whether, in the context of the deemed application for permanent residential use, safe and suitable access can be provided for all people, as required by Policy 27 of the Cornwall Local Plan.
17. At a very late stage in the appeal process, the appellant submitted a proposed site plan annotated to show 43m visibility to the west. I am not convinced that this demonstrates, as claimed, that it can be achieved across the applicant's own site frontage; the plan appears to show that at least 10m of the visibility

splay would cross land to the west of the appeal site, which is not within the ownership or control of the appellant. While this would not necessarily debar the imposition of a condition requiring the visibility splays shown on the plan to be provided and retained free of obstruction, such a condition would necessitate the removal of a considerable amount of vegetation from the frontage of the appeal site, and also some from the adjoining land to the west. This would increase the visual prominence of the residential access, worsening the visual harm of the domestication discussed above.

18. I therefore find that while it may technically be possible to achieve sufficient visibility for safe access to and from the site, the adverse impacts of doing so would increase the identified conflict with Local Plan Policies 12 and 23.

Conclusions

19. I conclude that for the reasons set out above, the change of use of the land and the building operations identified in the enforcement notice conflict with the relevant policies of the Development Plan, and I have found no other material considerations of sufficient weight to overcome this conflict.
20. I therefore determine that the appeal should not succeed. I shall uphold the enforcement notice, with corrections, and refuse to grant planning permission on the deemed application.

Formal Decision

21. It is directed that the enforcement notice be corrected by:

In paragraph 3, the deletion of item (1) and its replacement with "(1) residential use of the land involving the stationing of caravans for human habitation".

The deletion of the content of paragraph 5 and its replacement with: "(a) cease the residential use of the land and remove all caravans associated with that use, together with all associated services including electrical hook up boxes; (b) remove the new access and close the gap in the boundary hedge, and remove the gravel track and hardstanding; and (c) reinstate the land, including the boundary hedge, to its condition before the breaches took place."

The deletion from paragraph 6 of the words "For 1 to 6 above".

22. Subject to these corrections 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.

Jessica Graham

INSPECTOR