



Appeal Decision

Site visit made on 14 January 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2020

Appeal Ref: APP/U1105/C/19/3236321

Land at The Summerhouse, Undercliffe, Rousdon, Devon DT7 3XU

- 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 Simon Connell against an enforcement notice issued by East Devon District Council.
 - The enforcement notice was issued on 12 August 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the construction of a raised viewing platform in the approximate position shown edged blue on the attached plan.
 - The requirements of the notice are: (I) Demolish the raised viewing platform (II) Cease the use of the raised viewing platform (III) Remove from the Land all materials and debris associated with compliance with steps (I) and (II) above.
 - The period for compliance with the requirements is THREE 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. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Simon Connell against East Devon District Council. This application is the subject of a separate Decision.

The Enforcement Notice

3. The enforcement notice requires the cessation of the use of the raised viewing platform following its demolition. As the enforcement notice is only concerned with the construction of this building, its demolition would adequately cease its associated use. In my formal decision below I have corrected the requirements of the enforcement notice. I do not consider that injustice to the parties would result from this correction.

Main Issue

4. The main issue is whether the building is reasonably necessary for the management of the site and its effect on the character and appearance of the area.

Reasons

5. The site relates to an area of woodland forming part of the original Rousdon Estate and registered Historic Park and Garden. It consists of land that slopes steeply towards the coast and is accessed by a narrow and predominantly unmade track. Within the site there is a concrete hardstanding with parking and turning area. There are also a series of drop ponds.
6. The site lies in open countryside and is within the designated East Devon Area of Outstanding Natural Beauty (the AONB) and Coastal Preservation Area (the CPA). The building enforced against is open sided and located in close proximity of the hardstanding above the drop ponds.
7. The parkland estate was laid out in the 1870's surrounding a mansion of a similar period for Sir William Peek. I am advised that the parkland was a carefully designed piece of natural landscaping in which woodland and ornamental gardens incorporated practical engineering schemes for managing water around the estate.
8. I appreciate the appellant requires adequate buildings to maintain the site. In this regard I note that a planning application¹ was refused for the retention of three buildings as well as what was described as woodland rides, which I understand to be a short section of track. However, the Council considered² that, aside from the building enforced against, those developments were reasonably necessary in relation to the management and with it the forestry/woodland use of the site.
9. Whilst the building enforced against may provide shelter in inclement weather, and given it contains a stove it provides for some warmth, it would appear to me that it is designed and sited so as to maximise views of the coast and that of the extensive wildlife that is said to be present. I therefore do not accept that the building itself is necessary to allow a clear view of the greatest part of the site so that an immediate overview of the condition of the whole area, for example for fallen trees, can be obtained. Such a view can thus be readily obtained without the need for a building.
10. I also appreciate that the building could be regarded as somewhat of a rendezvous point for people visiting the site in connection with its management. However, I only have very limited evidence concerning the extent of management activities at the site and the number of people, other than the appellant, that may be involved. I am therefore not convinced that it is necessary to serve as an office or other accoutrement in this regard such that it is crucial to the management of the site.
11. I accept that the use of materials is appropriate to its rural location and that the building is not visible from public land. However, the site is within the open countryside as well as both the AONB and CPA and so has the highest status of protection in relation to conserving and enhancing landscape and scenic beauty. Moreover, new development is more restricted in this area. I have however not been persuaded on the evidence before me that the building does conserve or enhance the quality and local distinctiveness of the landscape character of the AONB. Whilst the building is not obtrusive, it remains important to protect the intrinsic qualities of the area. In my view it does not

¹ Council Ref 19/0448/FUL

² Delegated Report authorised 20 May 2019

respect the key characteristics of the area as there is no evidence of a building of this type being historically located in this elevated position. It therefore results in the erosion of the largely undeveloped and open nature of the site.

12. I note the appellant considers the building could have been constructed as permitted development following notification to the Council. However, the building has been constructed and the Council has already expressed its view about it not being reasonably necessary. Planning conditions are also suggested by the appellant, but restrictions on the number of people, use of coloured paint or connection to mains electric and the playing of music do not address my concerns about the necessity for the building and its location within the AONB and CPA.
13. I conclude that the building is not reasonably necessary for the management of the site and is harmful to the character and appearance of the area in contravention of Strategy 7, 44 and 46 as well as Policy D1 of the East Devon Local Plan 2013 to 2031, adopted January 2016. These seek, amongst other things, to: restrict development in the countryside and ensure development does not harm the distinctive landscape; not allow development if it would damage the open status of the CPA; conserve and enhance the quality and local distinctiveness of the natural and historic landscape character of the AONB; and, ensure that new development respects the key characteristics of the area.

Conclusion

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice, subject to corrections, and refuse to grant planning permission on the deemed application.

Formal Decision

15. It is directed that the enforcement notice be corrected by:
- deletion of the words "(II) Cease the use of the raised viewing platform (III) Remove from the Land all materials and debris associated with compliance with steps (I) and (II) above." and their replacement with the words "(II) Remove from the Land all materials and debris associated with compliance with step (I) above."
16. Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

Paul T Hocking

INSPECTOR