
Appeal Decision

Site visit made on 11 February 2020

by Iwan Lloyd BA BTP MRTPI

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

Decision date: 19th March 2020

Appeal Ref: APP/D0840/C/18/3216369

**Land north west of St. Eval Kart Circuit, St. Eval, Wadebridge, Cornwall
PL27 7UN**

- 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 Chris Prynn Padstow Sea Sand Co Ltd against an enforcement notice issued by Cornwall Council.
 - The enforcement notice, numbered EN15/02208, was issued on 19/10/2018.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land for the stationing of a caravan for residential occupation and the erection of a dwellinghouse and associated groundworks.
 - The requirements of the notice are to:
 1. Remove the dwellinghouse from the Land outlined in red on the attached plan.
 2. Remove the caravan from the Land outlined in red on the attached plan.
 3. Remove all services to the caravan and dwellinghouse, (water, foul water drainage, septic tank, electricity); remove all associated groundworks (concrete pads, paths, steps); remove the hard core laid to facilitate access roads and parking; from the Land outlined in red on the attached plan.
 4. Restore the Land outlined in red on the attached plan to its condition before the breach took place and where the land profile has been altered re-profile the Land to previous levels.
 5. Seed the Land outlined in red on the attached plan as restored in compliance with requirement 4 above with grass seed.
 - The period for compliance with requirements (1-5) is 9 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 an 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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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

2. An application for costs was made by Cornwall Council against Mr Chris Prynn Padstow Sea Sand Co Ltd. This application will be the subject of a separate decision.

The appeal on ground (a) and the deemed application

3. The main issue in this case is whether there is an essential need for the development to accommodate a rural worker for the enterprise and the

- development's impact on the landscape and setting of the Area of Outstanding Natural Beauty (AONB).
4. The development as alleged comprises a single storey building which affords the facilities required for day to day private domestic existence and a residential caravan which has been removed from the land. The enforcement notice plan defines a triangular area with the building located in the southern corner with vehicular access on the western boundary adjacent to the highway. A bund and landscaping borders the boundaries of the site except to the east where a track leads to the recycling centre and sea sand enterprises. The appeal site adjoins St Eval Kart Circuit and a solar array development. The track leads between these developments before reaching the recycling and sea sand enterprises. The Carnewas to Stepper Point AONB is situated adjacent to the highway which flanks the western boundary of the site.
 5. Planning permission was granted for a security dwelling in 2015 under reference PA15/02489. This has now lapsed in 2018 without a material commencement. The siting of the dwelling was near the entrance to the sand and recycling enterprises on the east side of the kart circuit site. The permission was tied to the St Eval Recycling Company by condition 4. It also required that the building's residential use the subject of the enforcement notice should cease and that an existing office/staff amenity building use be transferred to the enforced building the subject of the notice from the recycling enterprise by virtue of condition 5. The appellant asserts that planning permission reference PA15/02489 was not carried out due to legal restrictions.
 6. The policy context is that the site lies outside the settlement boundaries and is situated in the countryside as defined by the Cornwall Local Plan (LP) and the St. Eval Neighbourhood Development Plan (NDP). The Council has clarified that the Cornwall Site Allocations Development Plan Document (DPD) has no implications for this appeal. Policy ENV1 is a saved policy of the North Cornwall District Local Plan. Policy ENV1 indicates that development proposals within, or near to, the Areas of Outstanding Natural Beauty or the Heritage Coast will not be permitted where they adversely affect the character and amenity of these areas unless the development is required in the proven national interest and no alternative sites are available. Development proposals in the countryside elsewhere will only be permitted where they are allowed under other policies in the Plan and they do not have a significant adverse effect on the amenity or landscape character of the area
 7. LP Policy 1 sets out a presumption in favour of sustainable development to reflect National Planning Policy Framework (the Framework). Policy 2 sets out that Strategic scale growth will be accommodated in main towns and city where they can best support regeneration and sustainable development. Policy 3 provides that the scale and mix of uses of development and investment in services and facilities should be based on the role and function of places and that the delivery of housing will be managed through site allocations DPD or Neighbourhood Plans. This policy provides for rural exception sites. Policy 7 indicates that development of new homes in the open countryside will only be permitted where there are special circumstances. New dwellings will be restricted, amongst other things, to full time agricultural and forestry and other rural occupation workers where there is up to date evidence of an essential need of the business for the occupier to live in that specific location. Policies 12 and 23 require high quality safe and sustainable design and that

- development sustains local distinctiveness and character and protects the natural environment and conserves the landscape and scenic beauty within or affecting the setting of the AONB.
8. NDP Policy SENDP2 defines the settlement boundary for Trevisker, St Eval and Policy SENDP3 permits housing in the rest of the Parish limited to replacement of existing dwellings.
 9. The reasons for granting permission for the security dwelling in 2015 on the site of the recycling enterprise was principally due to the accepted evidence at that time concerning 32 incidents of crime on the site. The appellant following the establishment of the appeal dwelling on the western side of the owned site asserts that there have been no subsequent incidents of crime. The re-location of the security dwelling now sought through the deemed application was brought about by the legal restrictions which prevented the construction of the 2015 permission. The appellant also points out that due to health issues and a succession of events the recycling centre enterprise has now become dormant. However, the Padstow Sea Sand enterprise has become the primary business which requires on-site presence due to the amount of machinery which is stored at the site.
 10. The expired planning permission specifically tied occupation of the 2015 security dwelling to the recycling centre business. The incidents of crime may not be entirely related to the now dormant business of the recycling centre and some would have been related to the sand business, but there is no compelling evidence before me to satisfy the issue whether the security dwelling under the deemed application is essential to accommodate a rural worker for the continued needs of the sand enterprise. The incidents of crime may have fallen due to the continued presence of the office/residential unit on the sand business site, and due to other site management measures. I note that this building unit is unauthorised, but it provides a functional presence within sight and sound of the sand enterprise which may explain the downturn in security incidents on the site. I am not persuaded that the occupation of the appeal building sought to be retained on the western side of the site and separated by some distance with intervening uses (kart circuit and solar array) alongside the service track would serve the same purpose. The sand enterprise is not within sight or sound of the appeal building.
 11. In my view, it has not been demonstrated that the location of the appeal building on the western side of the site is essential to accommodate a rural worker for the continued needs of the enterprise. The residential caravan use also forms part of the same conclusion as the appeal building since the notice has a continuing effect and would prevent the caravan from returning to the enforcement site. I consider the development conflicts with LP Policies 1, 2, 3, 7 and NDP Policies SENDP2 and SENDP3.
 12. Turning to the issue on the impact of the development on the setting of the AONB. I note that condition 5 of the 2015 permission would have allowed the appeal building to remain and be used as an office/staff amenity building had this permission been implemented. The Council refers to urbanisation of the appeal site because of domestic paraphernalia, but I consider there would be little difference between the residential use of the site and that of an office/staff amenity building in relation to impact on the setting of the AONB. The stationing of the caravan now removed would have a greater effect on the

setting of the AONB given its location generally opposite to the site access and not obscured from view by the landscaping/bunding. The caravan was in situ when the notice was served, and the notice has a continuing effect and therefore this element of the notice if returned to the site would adversely affect the setting of the AONB in conflict with LP Policies 12 and 23, and Policy ENV1 of the North Cornwall District Local Plan.

Conclusions

13. I conclude that the development conflicts with the development plan and material considerations are insufficient to outweigh this conflict in this case.
14. There is no dispute in relation to the housing supply position in this case. I have carefully considered the representations in support of the development, but these do not outweigh my conclusion on the main issue.
15. I note the reference to sections of the Framework in relation to the need to support economic growth be flexible enough to accommodate needs not anticipated and to allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances. Nevertheless, the Framework also refers to planning policies and decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker, to live permanently at or near their place of work in the countryside. This latter policy is consistent with LP Policy 7 and is the main identified issue in this case.
16. I conclude that it has not been demonstrated there is an essential need for the development to accommodate a rural worker for the enterprise, and that the caravan development adversely impacts on the landscape and setting of the Area of Outstanding Natural Beauty.
17. I conclude that the ground (a) appeal and the deemed application should not succeed.

Iwan Lloyd

INSPECTOR