The Planning Inspectorate

# Appeal Decision

Site visit made on 20 October 2020

**by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 November 2020**

**Appeal Ref: APP/D0840/W/20/3255076**
**Polstangey Praze, Ruan Minor, Helston TR12 7LS**

- 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 & Mrs Bristow against the decision of Cornwall Council.
- The application Ref PA20/00837, dated 31 January 2020, was refused by notice dated 27 March 2020.
- The development proposed is the change of use of recreational paddock to mixed use of recreational paddock and the stationing of two shepherds huts for additional holiday accommodation to support the existing letting business.

## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr and Mrs Bristow against Cornwall Council. This application is the subject of a separate Decision.

## Main Issue

3. The main issue is whether the proposed development would be in a suitable location, having regard to local and national planning policies and to the location of the site within the Cornwall Area of Outstanding Natural Beauty (the AONB).

## Reasons

4. The Council's settlement strategy is contained within Policy 2 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan). It sets out a sustainable approach to accommodating growth and maintaining the dispersed development pattern of Cornwall and providing jobs in a proportional manner based on the role and function of each place.

5. The appeal site is located outside of any settlement and comprises a paddock located adjacent to a narrow single track lane which separates the site from the buildings at Polstangey Farm. The site is predominately enclosed by hedges and trees with sloped access onto the adjacent lane. By reason of the high hedges, narrow lanes and scatter of dwellings and agricultural holdings, the surrounding area has an intrinsically rural feel such that the appeal site is located within the open countryside for planning purposes.

6. The site slopes gently downhill from north to south and, whilst predominately being grassed land, also includes a number of trees of varying ages. At the

time of my visit, a static caravan was positioned in the southern section of the site, with a wooden shed structure being located close to the eastern boundary. Whilst I acknowledge the contention that the appeal site is garden land associated with Polstangey Farm, there is no evidence before me confirming the current permitted use of the site for recreational purposes.

7. The proposed development is for the stationing of two shepherds' huts to be used for holiday accommodation. On that basis, the Appellants maintain that the proposal should not be assessed against those parts of the Local Development Plan which concern dwellings in the countryside. However, it is established case law that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it, the facilities required for day-to-day private domestic existence. It would not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. In this regard, the proposed holiday huts include provision for a bedroom, a kitchen area and washing facilities, and consequently they exhibit the characteristics of dwellinghouses, and should be assessed accordingly.

8. Policy 3 of the Local Plan defines how housing and employment will be accommodated, based on this hierarchy of role and function. Outside specific main towns, development is to be delivered through the identification of sites through Neighbourhood Plans; rounding off of settlements; development of previously developed land within or immediately adjoining settlements; infill schemes; and rural exception sites. The proposal is not located within a settlement and would not conform with the criteria of this strategy.

9. Exceptions in relation to new development in the countryside are provided for under Policy 7 of the Local Plan. This Policy supports development proposals within the open countryside where it is shown that special circumstances, such as where there is re-use of a redundant building or where accommodation is required for rural workers, apply. In this regard, the proposed scheme is to be used as tourist accommodation, and consequently none of the special circumstances of the Policy apply.

10. Notwithstanding the above, in accordance with the details provided concerning the recent judgement in Corbett[1], the proposal must be assessed against the policies of the Local Plan when taken as a whole. In this instance, whilst the proposal would conflict with Policies 3 and 7 of the Local Plan for the reasons given above, the appeal scheme concerns holiday accommodation and therefore requires that the proposal be considered in relation to other parts of the development plan.

11. Policy 5 of the Local Plan is supportive of appropriate tourism development and provides that proposals within the countryside must be of a scale appropriate to its location and to their accessibility by a range of transport modes, or demonstrate an overriding business need to be in that location. This Policy broadly conforms with the advice in paragraph 83 of the National Planning Policy Framework (the Framework), which says planning policies and decisions should enable sustainable rural tourism and leisure developments. There is, therefore, no objection in principle to a countryside location for new tourist accommodation providing the criteria of Policy 5 of the Local Plan are met.

[1] Corbett, R (On the Application Of) v Cornwall Council & Anor [2020] EWCA Civ 508

12. The appeal site is located outside of the nearest settlement at Kuggar. Kuggar itself contains only a very limited amount of services and access to this nearest settlement from the site is via steeply inclined, narrow, unlit highways which do not benefit from pedestrian footways. For these reasons, access to the services located at Kuggar and to the nearest bus stop, would not be particularly safe for pedestrians or cyclists, especially during inclement weather.

13. Given the location of the appeal site and the accessibility of services at the nearest settlements, self-catering holidaymakers residing at the site would have to travel further afield to obtain convenience shopping and most services. It is therefore likely that users of the proposed units would be almost entirely reliant on private motor vehicles in order to access even basic services. Whilst dependence on private vehicles may be expected in a rural location such as this, the proposal would be likely to exacerbate this level of reliance. It would be likely to contribute to a pattern of development that could cause environmental harm as a result of increased car journeys and hence carbon emissions.

14. Whilst the scale nature of the accommodation is acknowledged, for the reasons given above the scale of the proposed scheme would not be appropriate in this rural location and would not be of a scale appropriate to its accessibility by a range of transport modes. Furthermore, there is no substantive evidence before me which identifies a specific need for the proposal to be in this location. Consequently, I find that the requirements of Policy 5 of the Local Plan have not been met in this instance.

15. The appeal site is located within the AONB. The Cornwall and Isles of Scilly Landscape Character Study[2] (the LCS) confirms that the site falls within Landscape Character Area CA07 South Lizard Peninsula. Amongst other things, the LCS provides that the key landscape characteristics of CA07 are a gently undulating open upland plateau with low central ridge, falling away to the east and west, more steeply near the coast. Other key elements to the landscape include an open and often treeless landscape with mainly pastoral fields bounded by Cornish hedges with wind pruned hedgerow trees and scrubby margins. The countryside surrounding the appeal site displays many of these identified characteristics and, by reason of its location, the site makes a positive contribution to the character and appearance of the AONB

16. The site is within the South Coast Western section of the AONB. Along with National Parks, AONBs are afforded the highest status of protection with paragraph 172 of the Framework confirming that great weight should be given to conserving and enhancing the landscape and scenic beauty of Areas of Outstanding Natural Beauty. Policies 12 and 23 of the Local Plan require, amongst other things, that development respects the character of its setting and, promotes local distinctiveness, and maintains and enhances Cornwall's distinctive natural and historic character.

17. The Appellants have put it to me that, as part of the proposal, the existing static caravan at the site would be removed and that this would result in an enhancement to the AONB. In this regard, while I attach weight to this potential enhancement to the AONB, it is noted that the proposal would introduce two stand-alone units of holiday accommodation in a countryside location, with the overall effect being that while the proposal could be

[2] Published June 2008

considered to conserve the character and appearance of the site, it would not, in my view, represent an enhancement.

18. However, the appeal scheme concerns the change of use of the appeal site for holiday accommodation and, consequently, the proposal would result in the site exhibiting a more domestic character and appearance which would be at odds with the surrounding countryside. Despite the potential for visitor's vehicles to be parked at Polstangey Farm, the proposed use would be likely to result in vehicle parking at the site as well as the introduction of paraphernalia associated with occupation, thereby, and overall, failing to conserve the landscape and scenic beauty of the AONB.

19. Whilst I note that the site is not highly visible from within the wider surrounding area, the proposal would still be visible to those travelling along the narrow lanes close to the appeal site. Whilst I acknowledge that the scheme would provide additional planting which may help assist in screening the proposal from views, such planting will take time to establish itself and consequently would not provide sufficient mitigation to the harm to the character and appearance of the surrounding area.

20. In any event, paragraph 172 of the Framework requires that great weight is given to conserving and enhancing the landscape and scenic beauty within the AONB in all instances, irrespective of the prominence of the appeal site. In my view, and for the reasons given above regarding the domestication of the site, the proposal would be at odds with, rather than enhance, the prevailing rural character of the AONB in a location which the Framework highlights as having the highest status of protection in relation to landscape and scenic beauty.

21. In summary of the above, I find that the appeal proposal would be in conflict with Policies 2, 3, 5 and 7 of the Local Plan which, amongst other things, seek to improve environmental conditions within the area by protecting the open countryside from inappropriate development where there would be a heavy reliance on private motor vehicles. Whilst I note that the Council has cited paragraph 79 of the Framework within their reason for refusal, the appeal site is located close to the buildings which comprise Polstangey Farm and, therefore, would not be considered to be isolated in terms of the Framework. Accordingly, the provisions of paragraph 79 of the Framework do not apply in this instance.

22. Further to the above, the proposal would conflict with Policies 12 and 23 of the Local Plan and would be contrary to paragraphs 127, 170 and 172 of the Framework, which, amongst other things, seek to ensure that local distinctiveness and the character and appearance of the area, including the scenic beauty of the AONB, is protected.

23. Weighing in favour of the appeal scheme, I find that visitors would provide economic benefits to the existing business and it is likely that holidaymakers would make use of the services and facilities located across the Lizard Peninsula, thereby helping to support the viability of nearby settlements and the local economy. However, having regard to the scale of the proposed development, the benefits of the appeal scheme would be moderate in scope. Such benefits would not outweigh the above identified harm and the associated development plan conflict to which I attach significant weight.

24. Furthermore, by reason of the adverse environmental impacts of the proposal as identified above in relation to the AONB, the appeal scheme would fail the environmental objective of sustainable development as described within paragraph 8 of the Framework and, consequently, could not be considered to be sustainable development in the context of the Framework or in terms of Policy 1 of the Local Plan for which there is a presumption in favour of.

25. The Appellants have drawn my attention to a number of other appeal decisions and to the Council's approval of applications for additional holiday accommodation which, it is maintained, are comparable to the appeal scheme. I have considered those cited cases and conclude that the circumstances applicable in those cases can be distinguished from those here, in that they would have been assessed against different development plans, involved the conversion of existing buildings, represented farm diversification or concerned a proposal directly adjoining a settlement. Furthermore, I am not familiar with all of the circumstances of those proposals and, in any event, all applications for planning permission must be determined on their individual merits. In this instance, for the reasons given above the proposal conflicts with the development plan and the Framework when considered as a whole.

**Other Matters**

26. Interested parties raise additional objections to the proposal on the grounds of highway safety. This is an important matter and I have considered all of the evidence before me. However, given my findings in relation to the main issue above, this is not a matter that have been critical to my overall decision.

**Conclusions**

27. For the reasons given above I conclude that the appeal should be dismissed.

*Mr A Spencer-Peet*

INSPECTOR