



Appeal Decision

Hearing held on 8 December 2021

Site visit made on 8 December 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2021

Appeal Ref: APP/D0840/W/21/3270820

Clowance Estate, Praze An Beeble TR14 OPT

- 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 Barry Hurley, Clowance Holdings against the decision of Cornwall Council.
 - The application Ref PA20/00380, dated 20 December 2019, was refused by notice dated 8 October 2020.
 - The development proposed is the construction of a tree house holiday accommodation unit which has been built in replacement of a previously existing tree house.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a tree house holiday accommodation unit which has been built in replacement of a previously existing tree house at Clowance Estate, Praze An Beeble TR14 OPT in accordance with the terms of the application, Ref PA20/00380, dated 20 December 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be used as holiday accommodation only and shall not be occupied as a person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of all the owners/operators of the unit, and of their main home addresses, and shall make this information available upon request to the local planning authority.
 - 2) Within 6 months of the date of this decision, a Tree Risk Management Plan (the Plan) shall be submitted to and approved in writing by the local planning authority. The Plan shall include details of a scheme of ongoing management and maintenance of the trees within the application site, as required, in order to reduce the potential for hazards as a result of trees, to the accommodation and its users. Thereafter the Plan shall be followed and complied with.

Preliminary Matters

2. The application relates to development that has already been carried out. The development on site appears to accord with the submitted plans, except that a storage structure has also been built at ground level below the main structure. I have determined the appeal on the basis of what exists on the site.
3. In addition, an enclosure, which may be a gas storage compound, appears to have been created close to the tree house, surrounded by screen fencing. It is

not clear whether or not this relates solely to the proposal. It does not form part of the application as described and is not on the plans. Unlike the bin store, it stands apart from the tree house. Therefore, I have not treated this element as part of the proposal before me.

Main Issues

4. The main issues are whether the site is in an appropriate location with regard to accessibility, and the impact on the character and appearance of the area.

Reasons

Accessibility

5. Clowance Estate is an old country house in substantial grounds. It has been extensively developed such that it now contains over 100 purpose built lodges used as tourism accommodation. Although the tree house stands away from the majority of other units, there is no reason why it would be less accessible than them to facilities at or away from the site.
6. The site is not a location where the development plan would support new housing. Such a proposal would be contrary to Policies 3 and 7 of the Cornwall Local Plan 2010-2030 (LP) which set out a broad housing development strategy for the rural area and specify types of accommodation that would be permissible. There is also LP Policy 21 which seeks to make best use of land, including by increasing building density where appropriate, but it does not provide a clear restriction on development elsewhere.
7. Amongst other things, Policy 5 sets out that new tourism facilities, including the provision of new, high quality tourism accommodation, will be supported where it would be of an appropriate scale to its location and its accessibility by a range of transport modes.
8. The concept of scale could refer to several things including the size of the accommodation and the numerical quantum of development. This proposal contains two bedrooms and a modest amount of living accommodation. While bigger than the recreational tree house that it replaced, as a unit of accommodation it is not large. It provides one additional unit, which the Council told me was minimal in number in the context of the overall Clowance Estate.
9. The policy is clear that accessibility must be considered in respect of tourism proposals. Although most visitors to Cornwall may arrive by car, that does not mean that travel by alternative means should not be available, where possible, during a visit. Although some limited bus services are available, Clowance Estate is generally poorly served by public transport, walking and cycling routes. Occupiers of the accommodation would, therefore, be dependent upon their private transport to meet most off-site needs.
10. At the Hearing, the Council confirmed that the most important service was food shopping. However, in relation to self-catering holiday accommodation, this seems likely to take place before a trip, irregularly whilst resident, or in conjunction with other day trips. Clowance Estate provides a range of facilities and activities for visitors, including a restaurant that would reduce the need for them to travel elsewhere, to some extent.

11. LP Policy 5 does not prevent all development in less accessible locations. Rather, the Council explained to me that it requires a balance to be struck between location and accessibility, and scale. With regard to the above, I find that the scale would be appropriate to the accessibility and there would be no conflict with LP Policy 5.
12. The Crowan Parish Neighbourhood Development Plan 2018-2030 (NP) includes a range of policies seeking to promote housing and employment development in what it considers to be appropriate locations. However, the NP does not go so far as to restrict such development elsewhere and I find no clear conflict with its policies.
13. The proposal would provide a building with all the facilities of a self-contained dwelling. However, as the accommodation is proposed to be limited to occupation for holiday purposes only, the most important policy in this case is LP Policy 5, with which I have found no conflict. Those policies seeking to control the location of housing generally are of comparatively little weight in this case and so I find no conflict with the development plan read as a whole, in respect of this main issue. The proposal is, therefore, acceptable with regard to accessibility.

Character and appearance

14. The existing lodges are all sited broadly to the north of a public right of way (PROW) that crosses the estate. The tree house is south of this route in an area where a lake is surrounded by semi-natural woodland. Nevertheless, it is part of a designed parkland landscape associated with the main house.
15. The previous tourism development at the site has a significant presence within the parkland landscape, spreading out around the main house with a range of uniform lodges. Views from the front of the main house over formal lawns towards the lake, however, are not uninterrupted by development, apart from the roof of a boat house which has an appearance incidental to lakeside activities. The tree house, while close to the boat house, is concealed by landscaping when viewed from this location.
16. Viewed from the PROW a distinction between the developed northern part of the site and undeveloped lake area can be seen. However, users of the PROW do not experience the undeveloped lake area in isolation. Travelling from a gate on the road, they will have passed by a number of lodges at close range with views across wider developed areas. There are further lodges visible on the far side of the house. Heading in the other direction, lodges beyond the house are also clearly visible. Therefore, as it crosses the Clowance Estate, the PROW is clearly in a formal parkland landscape that has been developed for tourism purposes.
17. From the PROW, where local residents and visitors from outside the estate would generally appreciate the landscape and cultural heritage of the site, the tree house itself can only be seen in glimpsed views. The full scale of the development is not appreciable and, in its wider context, its visual presence has little effect on the enjoyment of the PROW. Even if there were effects on wildlife and biodiversity, it is not clear how that would be particularly noticeable from the PROW to the extent that enjoyment would be diminished. Any increase in traffic along the PROW, taken in context with the wider estate, is unlikely to be significant.

18. There would be greater visibility of the tree house at night when it would be illuminated with artificial lighting. However, at these times, appreciation of the wider landscape would be reduced and lighting from the other lodges and tourist development would be very clear.
19. When walking around the lake, there are limited glimpsed views of the tree house, but it is not particularly prominent in any of them. Even from the location of a viewing platform on the opposite side of the lake, which offers substantial views of the estate, the tree house is screened by the intervening landscape.
20. Other than directly alongside the structure, then, the only location that the tree house is prominent is from a small part of the lawns close to the lake. I appreciate that accommodation has never been permitted in this semi-natural woodland part of the estate before and to some extent this would alter the character of the immediate area.
21. However, unlike some of the more uniform groups of lodges spread across the northern part of the estate, the tree house is an individual structure that appears purposefully positioned to be framed by the existing landscape. Whether or not it is right to compare it to a folly, this apparent purposeful positioning appears as a legitimate component within the designed, formal landscape that characterises this viewpoint on the lawns. While historically, structures within the landscape would likely have been built of stone or brick, I find the use of timber cladding respectful of its woodland setting and, to some extent, representative of the current time in which it has been built.
22. The building is prominent when viewed from the lakeside footpath directly alongside it. It is clearly much larger than the informal recreational tree house that existed before. I understand that the path from the PROW has also been widened to facilitate vehicular access, although it is loosely surfaced and still resembles a woodland path. The parking area, too, is little more than a widening around the boat house and tree house and does not appear incongruous.
23. Considered together though, the residential character of the building, presence of a parked car, fencing and a lodge identification nameplate gives a distinctly domestic character to the immediate surroundings. In an isolated piece of woodland, this may be harmful, but it is only experienced here by visitors to the wider tourist development. It is not isolated from other activity such as at the boathouse and nearby children's play area and so I find that the immediate area should not be considered separately to the estate as a whole. In that context, the parking and activity do no harm to the overall character and appearance.
24. That is not to say that lodges could be positioned throughout the woodland margins without causing detriment, individually or cumulatively. However, I find that this single, bespoke building in an area close to other activity does not harm the character and appearance of the estate. Even if the gas store were taken into account, traffic movements, including deliveries and refuse collection associated with one single unit of holiday accommodation would be very low and not harmful to the enjoyment of the lakeside path.
25. I, therefore, find that there would be no harm to the character and appearance of the area. Accordingly, there would be no conflict with those aims of LP

Policies 12 and 23 that seek to protect these interests, ensure high quality design that maintains Cornwall's distinctive natural and historic character, or that part of LP Policy 5 that requires the scale of development to be appropriate to its location.

Other Matters

26. At the Hearing, I was told that the woodland margins of the estate around the tree house are part of a wildlife corridor in a network identified in Biodiversity Action Plans. The tree house appears to be an incursion into this as beyond it, the woodland margin is wider.
27. However, photographs from when the previous tree house was present suggest that there has not been extensive habitat clearance to make way for the current structure. The introduction of lighting could affect some species but ultimately there is no substantive evidence that biodiversity may have been harmed by the development. While I appreciate that a climate emergency has been declared since various environmental consultees were asked to consider the proposal, and there may be difficulties in ascertaining impact in relation to development that has already been carried out I, therefore, give these concerns little weight in my decision.
28. By its nature, the development is very close to the tree that it is built around. Covering the ground could reduce the amount of rainwater reaching the root structure and greater tree management may be required to protect the building and its occupants. However, the Council's Tree Officer has raised no objection to the proposal and there is no substantive other evidence to suggest that the long-term health of the tree would be harmed.
29. I heard that there have been occasions in the past where planning permission has been sought at Clowance Estate after development has been carried out but neither this, nor the fact that this tree house has already been built, alter the planning merits of the case. Similarly, whatever the reasons for granting earlier permissions at the site, restrictions associated with them, or any previous agreement that development should not extend south of a line that broadly accords with the PROW, are of little relevance when assessing this proposal on its own merits in light of current planning policies.
30. I understand that some of the timeshare owners of lodges at the site, especially some of the longer established ones, may be concerned about the development and other changes at the estate. However, I have not been provided with any evidence of harm to their interests insofar as they relate to material planning considerations so I give this suggestion little weight. While the PROW is a byway open to all traffic, its condition within Clowance Estate has little to do with the planning merits of this particular case.
31. As well as those considerations above, LP Policy 5 requires a well balanced mix of social, environment and economic benefits to be realised. There is no dispute that social and economic benefits can arise from additional tourism and consequential employment opportunities. No particular environmental benefits have been demonstrated. However, in the absence of demonstrable harm, the balance of social, economic and environmental benefits would remain positive.

Appropriate Assessment

32. Although the parties originally believed that the development would not lead to significant effects on protected habitats sites, the recently adopted European Sites Mitigation Supplementary Planning Document 2021 (SPD) indicates that the site is within a 'zone of influence' (ZOI) of the Fal and Helford Special Area of Conservation (SAC).
33. The SAC is designated for its saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries and reefs. The SPD sets out that recreational pressure, predominantly from those living or staying within the ZOI are causing harm to the habitats. There is, therefore, potential that additional visitors at the site, in combination with other development, could result in adverse effects on the integrity of the SAC.
34. The SPD indicates that mitigation in the form of Strategic Access Management and Monitoring (SAMM) can avoid such adverse effects. This is to be funded through developer contributions proportionate to the scale of development proposed. In this case, the appropriate contribution has been paid and is detailed in an undertaking pursuant to S111 of the Local Government Act 1972. Having sought the views of Natural England, and following appropriate assessment under the Conservation of Habitats and Species Regulations 2017, I am satisfied that adverse effects on the integrity of the SAC will be avoided.

Conditions

35. To prevent occupation by permanent residents, which would conflict with the development plan, a holiday occupancy condition is required. To ensure careful management of the tree that may be required in the interests of safety, a tree risk management plan must be submitted. There is no need for a plans condition as the development has already been carried out.

Conclusion

36. With regard to the foregoing, I, therefore, conclude that the appeal should be allowed.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sebastian Charles – Aardvark Planning Law
Robert Hughes – Incola Landscape Planning
Brendon Moorhouse of Counsel
Owain Nedin - Lichfields

FOR THE LOCAL PLANNING AUTHORITY:

James Moseley – Senior Development Officer
Peter Blackshaw BA (Hons) MRTPI – Principal Development Officer
Cllr Loveday Jenkin

INTERESTED PARTIES:

Victoria Burton-Davey
David Smith – Crowan Parish Council

DOCUMENTS

1. European Sites Mitigation Supplementary Planning Document 2021
2. 'Form 2: Development within 12.5km of Fal and Helford SAC: Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement
3. Undertaking pursuant to Section 111 of the Local Government Act 1972 by Clowance Holdings Ltd to Cornwall Council.