



Appeal Decisions

Site visit made on 14 March 2022

P N Jarratt BA Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2022

Appeals A and B Ref: APP/D0840/C/21/3289393

and Ref: APP/D0840/C/21/3289394

Leti Coth Farmhouse, Road from Polsue Farm To Junction South West Of St Josephs, Gorran, St Austell, PL26 6EW

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- Appeal A is made by Mrs Donna Dowling and Appeal B is made by Mr Steve Dowling against the decision of Cornwall Council.
- The application Ref PA21/05290, dated 18 May 2021, was refused by notice dated 7 September 2021.
- The development proposed is a retrospective application for a change of use of land for the siting of 1 no. holiday caravan, associated hard standing, septic tank, parking and decking.

Appeal C Ref: APP/D0840/W/21/3289384

Land to the West of Leti Coth Farmhouse, Gorran, St Austell, PL26 6EW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Donna Dowling against an enforcement notice issued by Cornwall Council.
- The notice, numbered EN21/01477, was issued on 24 November 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from a field used for agricultural purposes to holiday use (residential C3) for the stationing of a caravan, associated hard standing, septic tank and decking.
- The requirements of the notice are to
 - 1) Cease the holiday (residential) use of the caravan;
 - 2) Disconnect and remove from the land all services connected to the caravan;
 - 3) Remove the caravan from the land;
 - 4) Remove the septic tanks from the land;
 - 5) Dismantle and remove the hardstanding and wooden decking from the land;
 - 6) Return the land back to its former condition prior to the unlawful development taking place.
- The period for compliance with the requirement is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b) and (g) of the Town and Country Planning Act 1990 as amended.

Decisions

Appeals A and B Ref: APP/D0840/C/21/3289393 and Ref: APP/D0840/C/21/3289394

1. The appeals are dismissed.

Appeal C Ref: APP/D0840/W/21/3289384

2. It is directed that the enforcement notice be corrected by the deletion of the words 'to holiday use (residential C3) for the stationing of a caravan' in the allegation and their replacement with the words 'the use of land for stationing a caravan used for holiday letting' and varied by the removal of the word (residential) from step 1 of the requirements. Subject to correction and variation the appeals are dismissed and the enforcement notice upheld.

Preliminary matters

3. In respect of Appeals A and B, the Council advises that a signed s111 obligation and payment for mitigation measures in respect of the recreational impact on the Fal and Helford Special Area of Conservation has been received. Consequently the third reason for refusal of planning permission has been overcome and it is therefore unnecessary for that matter to be addressed further.

The site and relevant planning history

4. The appeal site is located in open countryside in a field some 50m west of Leti Coth within the South Coast Central Section of the Cornwall AONB and the Fal and Helford estuaries SAC zone of influence.
5. The caravan is located in an elevated position adjacent to a Cornish hedge forming the northern boundary of the field and beyond which is a trackway. It is dark in colour with a pitched roof and has a raised area of decking on the south and west sides of the caravan. Services are connected to the caravan and a parking area is located nearby.
6. A Planning Contravention Notice was issued in 2020. In response the appellants state that they bought the land in 2016, the caravan was brought onto the land in May 2020 and the decked area was constructed in mid-2020. It was let as tourist accommodation from August 2020.

Appeal C: the appeal on ground (b)

7. The allegation refers to a change of use to holiday use (residential C3). The Council acknowledge that reference to residential C3 is an error and that a clearer way of describing the breach would be 'the use of land for stationing a caravan used for holiday letting'.
8. I am satisfied that the breach alleged in the notice has not occurred as a matter of fact. I have the power to correct an error in a notice if no prejudice would occur to either party and I am satisfied that this would be the position in this case as the appellant acknowledges that a change of use to a caravan site has occurred. I therefore propose to correct the allegation and vary step 2 of the requirements accordingly.
9. The appeal succeeds on this ground inasmuch that the allegation is corrected and step 2 varied.

Appeals A, B and C; the appeals on ground (a), the s78 appeals and the deemed planning application

10. The two main issues are whether the development is acceptable in this location having regard to local and national planning policies and, secondly the effects that the development has on the character and appearance of the area.
11. In considering the first issue, the Council has assessed the s78 application and provided reasons for issuing the enforcement notice through the application of Policies 3 and 7 of the Local Plan emphasising their relevance to the location of housing development. However, the development relates to the material change of use of land for the stationing of a caravan for holiday use and policies designed to control the amount and location of housing are not relevant.
12. Tourism development is addressed by Policy 5 of the Cornwall Local Plan. It states that high quality sustainable accommodation will be supported where it would be of an appropriate scale to their location and to their accessibility by a range of transport modes. Proposals should provide a well balanced mix of economic, social and environmental benefits. This approach is consistent with paragraph 84 of the National Planning Policy Framework (the Framework) insofar as it recognises that sites to meet business needs in rural areas may have to be found adjacent to or beyond existing settlements in locations that are not well served by public transport.
13. The scale of the development, being only one caravan, is small-scale and, subject to other considerations considered in the second issue below, could be appropriate to a rural location. The appeal site is relatively remote from existing settlements and is accessed by narrow roads without footways or lighting. The nearest bus stop is over 1km along a narrow hedge lined track. Whilst it is likely that occupants of the caravan would be reliant on a private vehicle, there are nevertheless other transport choices available such as buses, walking and cycling, although these could be more challenging to some people.
14. The appellant refers to the economic benefits arising through the use of local services and businesses such as cleaners, laundry services, and the supply of Cornish products through all-year round letting of the caravan. The Council takes issue that there is no economic analysis of the contribution the development makes to the local economy or how it augments the tourist needs of the locality, but I am satisfied that sufficient information has been submitted to demonstrate the modest economic benefits of the development.
15. The appellant refers to an appeal decision for omnipod holiday accommodation (D0840/W/20/3262901). The inspector in that case attached weight to the development achieving social benefits through providing universally accessible holiday accommodation, in addition to the economic benefits arising. The appellant claims that the social benefits arising from the caravan subject to this appeal relate to access to the countryside, social interaction and good health, but such benefits do not in my view, carry the same weight as the provision of accessible accommodation.
16. However, on balance, the development accords with Policy 5 and paragraph 84 of the Framework

17. Turning to the visual impact of the development, the appellant submitted an LVIA which concludes that 'there is unlikely to be any perceptible change in character or quality of either the AONB or of the local character area as a result of the development'. It highlights that there are limited views of the development; it remains largely unobtrusive; it is acceptable in the AONB and there is no requirement for visual mitigation.
18. The siting of the caravan is detached from the group of buildings associated with Leti Coth and Polsue Farm such that it is visually isolated from other development. The caravan is visible from public viewpoints albeit that views would be less open when the hedgerows are in leaf. With it being adjacent to the trackway, it is seen beyond the hedge and the TV aerial is prominent. It is also visible from the lane that runs downhill from Polsue Farm where it is readily apparent at the top end of the field in front of the hedgerow as illustrated in viewpoint 02 in the LVIA photo record. Although public views may be limited, this does not remove the harm that the development has on the character and appearance of the area. Additionally, the introduction of development in a hitherto undeveloped field is of an intrusive nature and causes unacceptable harm. Policy 23 of the Local Plan requires development to sustain local distinctiveness and character, and for landscape character to be recognised and reflected in all development using guidance from the Cornwall Landscape Character Assessment. This has not been achieved in this development.
19. Policy MD6 of the Cornwall AONB Management Plan supports new tourism development that conserves and enhances diverse landscape characteristics. A 40m x 2m strip of native hedge/trees is proposed leading to an enhancement of the AONB which the appellant states could be secured by condition for the purposes of increasing biodiversity rather than for the purposes of landscape and visual impact mitigation.
20. Paragraph 176 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in designated areas, which includes AONBs together with other areas, and these have the highest status of protection in relation to these issues.
21. I conclude on the second issue that the development is harmful to the character and appearance of the area contrary to Policy 23 of the Local Plan, Policy MD6 of the Management Plan, and to the protection of designated areas as set out in the Framework.
22. Although I have found that on balance the development accords with Policy 5 regarding tourism development, that does not outweigh the harm I have found that the development causes to the character and appearance of the area.
23. The appeals on this ground fail.

Appeal C: appeal on ground (g)

24. The appellant considers that a compliance period of 5 months would be more reasonable than the two months specified in the notice. The appellant claims that the arrangements with third parties for the removal of the caravan elsewhere, the removal of the decking and removal of the septic tank would take some time.

25. In my view it would be possible to carry out the requirements of the notice within the 2 month compliance period. Furthermore, as the Council points out, it is within the Council's power to extend the compliance period through s173A (1) (b).
26. The appellant expresses concern regarding when the two month compliance period comes into effect. The operative date from which 2 months is calculated is from the date of this decision letter.
27. The appeal on this ground fails.

Conclusions

Appeals A and B Ref: APP/D0840/C/21/3289393 and Ref: APP/D0840/C/21/3289394

28. For the reasons given above, the appeals are dismissed.

Appeal C Ref: APP/D0840/W/21/3289384

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation.

P N Jarratt

INSPECTOR