



Appeal Decision

Site visit made on 21 March 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2022

Appeal Ref: APP/D0840/W/21/3288624

Land adjacent Thimble Hall, Latchley, Gunnislake PL18 9AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Simon Alford against the decision of Cornwall Council.
 - The application Ref PA21/06137, dated 9 June 2021, was refused by notice dated 1 December 2021.
 - The development proposed is a single storey timber built log cabin for use as holiday accommodation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal has been made in outline, with appearance and landscaping reserved for future consideration.
3. The Calstock Parish Neighbourhood Development Plan 2021 - 2030 (the Neighbourhood Plan) was successful at referendum after the determination of the application by the Council. The Neighbourhood Plan is therefore now part of the development plan for the area. The appeal timetable has allowed both parties the opportunity to comment on its change in status in their submissions.

Main Issues

4. The main issues are:
 - a) Whether the location of the site would be suitable for the development, bearing in mind the policies of the development plan;
 - b) The effect of the proposal on the landscape character of the Tamar Valley Area of Outstanding Natural Beauty (the AONB);
 - c) Whether the development would preserve or enhance the Outstanding Universal Value (the OUV) of the Cornwall and West Devon Mining Landscape World Heritage Site (the WHS); and,
 - d) Whether the site would provide a safe location for human habitation, with regard to ground instability or contamination.

Reasons

5. It is not contested that the log cabin would provide residential accommodation. However, the appellant suggests that, as holiday accommodation, it would not

be occupied in the same way as a dwelling, and this type of occupancy could be secured by a planning condition. Nevertheless, the cabin would not be located within a complex where facilities such as bathrooms and cooking facilities would be provided on a communal basis. Therefore, to function as a unit of holiday accommodation, it would need to afford those who occupy it the facilities required for day-to-day private domestic existence. In accordance with established case law¹, this would mean that it would have the distinctive characteristic of a dwellinghouse. 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 people. Consequently, the proposal should be treated as being for a dwellinghouse for the purposes of applying planning policies.

Location of site

6. The Council's settlement strategy is set out in Policy 2 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the Local Plan). It provides for a sustainable approach to accommodating growth, whilst maintaining the dispersed development pattern of Cornwall, and providing housing based on the role and function of each place. Policy 3 defines how development will be accommodated, based on this hierarchy, with growth focussed on identified named towns. Outside the named towns, housing is to be delivered on sites identified by Neighbourhood Plans; rounding off of settlements; development of previously developed land within or immediately adjoining settlements; infill schemes; or rural exception sites.
7. The site lies in open countryside, roughly midway between Chilsworthy and Latchley. The Neighbourhood Plan defines settlement boundaries for both of these settlements, and Policy HP1 states that, in most cases, development outside them will not be supported. The site is well outside either of the boundaries, and it is separated from the settlements by undeveloped agricultural land. The site is not, therefore, identified for development by the Neighbourhood Plan and is not within or immediately adjoining a settlement. Nor is it presented as a rural exception site. The site lies in the open countryside. The proposal for a self-contained unit of residential accommodation on the site is not, therefore, supported by Policy 3 of the Local Plan.
8. Policy 7 of the Local Plan says new dwellings in the countryside will only be permitted in special circumstances. The proposal would not fall within any of the five specified categories that are identified within the policy. Consequently, the proposal for a dwelling on the site would be contrary to the settlement policies of the development plan.
9. Nevertheless, the Local Plan and the Neighbourhood Plan both contain policies that support tourist development. Policy 5 of the Local Plan supports the provision of new, high quality sustainable tourism accommodation, where it would be of an appropriate scale to its location, and to its accessibility by a range of transport modes. In this case, the site is remote from Latchley and Chilsworthy, and access to the limited services available in those settlements is via a road with no lighting or footways. It is also steep in places, so not conducive to walking and cycling. Whilst there is a railway station in Gunnislake, 2 km away, I have not been provided with evidence that there are any regular bus services that would link the site to this facility, or to any other

¹ *Gravesham BC v SSE and O'Brien* [1983] JPL 306

locations where day-to-day services could be obtained. Occupants would not, therefore, have access to a range of transport modes, so would be heavily reliant on private motor vehicles for the duration of their stay. This would conflict with the aims of Policy 5.

10. Policy LET2 of the Neighbourhood Plan supports new and extended high-quality holiday accommodation where it is for tourism that capitalises on local assets, and encourages cycling, walking and public (rail & river) transport. The reliance of occupants on private motor vehicles would conflict with the latter aim of this policy. Furthermore, in the open countryside, the policy is only supportive of proposals associated with farm diversification or an existing employment site. No evidence is presented to indicate that the proposal would be a farm diversification project, so, in this open countryside location, a new holiday cabin would only be acceptable if it was associated with an existing employment site.
11. It is stated that the proposal would extend the existing tourism business, which comprises the existing holiday let at Thimble Lodge, approximately 170 metres to the northwest. The Neighbourhood Plan does not define whether a holiday let would fall within the definition of an existing employment site for the purposes of Policy LET2. However, the evidence indicates that the two units of accommodation would be self-contained, and, apart from being within the same ownership, there would be little interrelationship between them. In view of the considerable distance between the two sites, it could not reasonably be argued that the proposal would be associated with an existing employment site. The proposal for new holiday accommodation in the open countryside would, therefore, conflict with Policy LET2.
12. To conclude on this issue, the provision of a self-contained unit of holiday accommodation in this open countryside location, with limited access to sustainable modes of transport, would be contrary to Policies 2, 3, 5 and 7 of the Local Plan, and Policies HP1 and LET2 of the Neighbourhood Plan. Taken together these policies set out the settlement strategy for the area and seek to limit development in the countryside, whilst allowing for tourism accommodation that is well-related to existing development.

Landscape character of the AONB

13. The appeal site lies within the AONB, which is a relatively unspoiled valley and water landscape. Paragraph 176 of the National Planning Policy Framework (the Framework) says great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. Policy 23 of the Local Plan is consistent with this guidance.
14. The appeal site affords extensive views over the rolling mosaic of agricultural fields that rise up from the River Tamar, which runs to the east, and curves around to the north of Latchley. Consequently, although the site is screened to the south, it is visible from a wide area to the northeast and northwest. The surrounding landscape is of a high quality, commensurate with its AONB status, and is characterised by undulating agricultural fields with mature hedgerows, and larger areas of woodland on the valley slopes. There are only isolated buildings, resulting in the prevailing character being of an undeveloped landscape. Although enclosed to the south, the appeal site is not visually

detached from the open landscape to the north. It is, therefore, an integral part of the wider AONB landscape.

15. The appellant suggests that the siting of the cabin, adjacent to an existing building, would limit its impact on the landscape. However, although the application is in outline, scale is not a reserved matter. The submitted plans show a building of 10 metres square, so it would be of a significant size, and considerably larger than the existing building, which has a much smaller footprint. Furthermore, it would be more prominently located, as the existing building is tucked up against the western boundary hedge, which, together with its modest scale makes it a relatively unobtrusive structure. By contrast, the proposed cabin would be a prominent feature in the landscape, and would appear as an isolated structure. The appeal site is quite widely drawn, allowing for a significant curtilage, which would be likely to contain domestic paraphernalia in association with its residential use. Consequently, the building and its surrounding plot would intrude into the open character of the landscape, eroding the special qualities of the AONB.
16. It is contended that the topography of the site means that a location closer to Thimble Hall and Thimble Lodge would be more difficult to achieve. A building in such a location would, also, still be prominent in the landscape. It would, however, be more closely grouped with existing permanent buildings, particularly Thimble Hall, which is a substantial two-storey building. Consequently, the impact on the wider AONB landscape would be reduced to some extent, in comparison to the appeal site, which is not closely associated with any buildings of a significant scale.
17. The harm that I have identified to the landscape character of the AONB would result in further conflict with Policy LET2 of the Neighbourhood Plan, which requires proposals for tourism development to conserve and enhance the landscape character and natural beauty of the AONB, and be appropriately located to address the AONB's sensitivity and capacity.
18. I am mindful that one of the themes of the AONB Management Plan 2019–2024 is People and Prosperity, and that it seeks to promote the development of increased access, recreation and tourism that are compatible with the AONB designation. However, Policy 9.5.4 makes it clear that tourism development should have a minimal or positive effect on the landscape. In this case, the log cabin would be a large, prominently located, and intrusive structure that would result in harm to the landscape. The proposal would, therefore, be contrary to Policy 23 of the Local Plan and Policy LET2 of the Neighbourhood Plan, which seek to conserve the landscape and scenic beauty of the AONB.

OUV of the WHS

19. The appeal site lies within the WHS, which was inscribed in 2006, and comprises ten areas across Cornwall and West Devon that were heavily influenced by copper and tin mining in the period 1700 to 1914. The Statement of OUV states that the remains of mines, engine houses, smallholdings, ports, harbours, canals, railways, tramroads, and industries allied to mining, along with new towns and villages reflect an extended period of industrial expansion and prolific innovation. It adds that the ten areas form a unified, coherent cultural landscape and share a common identity.

20. Paragraph 189 of the Framework says that World Heritage Sites are heritage assets of the highest significance, which are internationally recognised to be of OUV. Policy 24 of the Local Plan seeks to ensure that developments do not have an adverse impact on the integrity of the WHS. This aligns with the advice at paragraphs 199 and 200 of the Framework, which require great weight to be given to the conservation of heritage assets.
21. The site lies close to a historic mine shaft, although the previous cluster of shaft-head buildings are no longer apparent. Any remnants of these workings are now largely overgrown and concealed by vegetation. They lie outside the appeal site, and the log cabin would be some distance away, with little intervisibility. There would, therefore, be no harm to these artefacts or the ability to interpret their historic value.
22. There is an existing stone building within the appeal site, which lies in the approximate position of a building that may have formed part of the West Devon Consols Mine, which was active in the 1860s. However, there is significant doubt about the provenance of the current building, and the WHS Officer comments that it is uncertain if any fabric of the historic building remains. The appellant's evidence indicates that the building was constructed by the previous owner of the site to house a vintage tractor, so was not part of the original mine workings. Based on the available evidence, therefore, I conclude that this building does not form part of the OUV of the WHS.
23. For the above reasons, I find that the proposal would not harm the OUV of the WHS. The development would, therefore, accord with Policy 24 of the Local Plan, which seeks to avoid such harm.

Safety of location

24. Paragraph 183 of the Framework says that planning policies and decisions should ensure that a site is suitable for its proposed use, taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from former activities such as mining. It goes on to advise that adequate site investigation information, prepared by a competent person, should be available to inform these assessments. Paragraph 184 clarifies that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
25. There is clear evidence that extensive mining operations took place in the vicinity of the appeal site in the past, including a shaft in close proximity. No evidence has been submitted relating to the extent of underground workings, to demonstrate that the proposed development could be safely constructed and occupied on the site. It is suggested by the appellant that such information could be secured through the imposition of a pre-commencement condition. However, such a condition would fail the test of reasonableness, as it would nullify the benefit of the permission if subsequent survey work indicated that the site was unsafe for the development.
26. In the absence of any site investigation information, and in view of the known mining activity nearby, I am unable to safely conclude that the site would be suitable for the proposed use. The proposal would, therefore, be contrary to Policy 16 of the Local Plan, which seeks to protect and alleviate risk to people from unsafe environments.

Other Matters

27. Although not forming one of the reasons for refusal, the Council's appeal statement refers to potential harm to the Plymouth and Tamar Estuaries Special Protection Area (the SPA). The statement indicates that this issue could be addressed by a pre-commencement planning condition requiring approval of a scheme to secure mitigating measures. The proposed condition is not contested by the appellant. As I am dismissing the appeal, no harm will arise to the SPA, and it is therefore not necessary for me to consider the proposal any further in respect of the Conservation of Habitats and Species Regulations 2017.

Conclusion

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

Nick Davies

INSPECTOR