



Appeal Decision

Site visit made on 9 March 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeal Ref: APP/D0840/W/21/3287400

Blue Anchor, Scredda, St Austell, Cornwall PL26 8XP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr A Donnelly against the decision of Cornwall Council.
 - The application Ref PA21/04208, dated 6 April 2021, was refused by notice dated 19 September 2021.
 - The development proposed is retention of residential chalet as a self-contained annexe.
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Decision

1. The appeal is allowed and planning permission is granted for residential chalet as a self-contained annexe at Blue Anchor, Scredda, St Austell, Cornwall PL26 8XP in accordance with the terms of the application Ref PA21/04208, dated 6 April 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: DONNELLY/01.
 - 2) The residential chalet hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Blue Anchor.

Procedural Matters

2. In my decision above I have referred to the development proposed, not the retrospective nature of the planning application.
3. The appeal relates to a chalet in a field to the southeast of the dwelling Blue Anchor. Much of the appellant's case turns on the argument that the field is residential curtilage associated with Blue Anchor. However, curtilage is not a land use, being derived from conveyancing law. In addition, whether or not the field has a residential land use is not a matter for me to determine within the context of an appeal under s78 of the Act; that is the preserve of a certificate of lawful use or development pursuant to section 191 of the Act.

Main Issues

4. I consider the main issues to be:
 - whether or not the chalet represents ancillary accommodation or a new separate residential unit; and,
 - the effect of the chalet on the character and appearance of the area.

Reasons

Whether or not the chalet is a separate residential unit

5. The Council considers the chalet to be tantamount to a dwelling in the countryside. I am mindful that the scheme is proposed as an annexe and that the starting point is to consider the proposal as applied for. The annexe is also smaller than Blue Anchor and its occupation is dependent on a shared access and driveway. On this basis, I am satisfied that the chalet could be used as an annexe and that this could reasonably be enforced through a condition.
6. I recognise that the scheme would fulfil some, but not all, of the guidance set out within the Council's Annexe Guidance Note (2020). However, this is not an adopted policy document, and it has therefore carried very little weight in my own judgment. Ultimately, if the structure is not used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the chalet would be at risk of enforcement action if such permission is not granted.
7. The implications of this are that the chalet does not constitute a new home as the Council has suggested. It logically follows that the development plan policies and the sections of the National Planning Policy Framework (the Framework) which relate to new housing do not apply. Addressing the Council's first reason for refusal, this pertains to Policies 3 and 7 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP), and the Council's attendant arguments about the suitability of the location for housing.

Character and appearance

8. Scredda has seen modern growth with pockets of fairly dense housing. A row of such extends across the southeast edge of the field. Also given development to its northwest and north edges, and the public highway beyond its southwest hedgebank boundary, the field now appears penned inside the urban confines of Scredda, with little affinity with the surrounding rural landscape. It is also obvious that no agricultural activity takes place, with the field mown as if lawn. The chalet occupies a peripheral part of the field close to Blue Anchor, aside its parking area. For these reasons, the chalet has not harmfully encroached into the open countryside, regardless of the current land use of the field.
9. There are several outbuildings and caravans within the vicinity of the site which have comparable detailing to the chalet. What appears as fibre cement weatherboarding, visually alike to the chalet walls, is present on several of the newer properties in Scredda. The property directly to the north of the site, White Sands, has a similar chalet/lodge type appearance. As such, whilst I recognise that caravan style structures can be a threat to the landscape character of this area¹, this chalet assimilates well into its immediate context.
10. Consequently, I conclude that the chalet has an acceptable effect on the character and appearance of the area. It accords with the landscape and design aims of Policies 2 and 23 of the CLP and the Framework. The Council has also referred to Policy 21 of the CLP. As this policy seeks to encourage, not restrict, increased densities under certain circumstances, there is no conflict with it.

¹ As identified within the Cornwall and Isles of Scilly Landscape Character Study (2008)

Other Matters

11. The Council has also raised concerns regarding the possible effects of the proposal on ecology, specifically protected species. However, the photographic evidence of the previous situation at the site shows that a simple fence has been removed, with the chalet set on mowed grass. Blue Anchor's driveway is logically being used in much the same way as before. For these reasons, I find it to be highly unlikely that the chalet has caused material harm to ecology.
12. I have also had due regard to the planning policy statement which relates to intentional unauthorised development. However, this does not outweigh the accordance of the proposal with the development plan in this case.

Conditions

13. In addition to the accord with plans condition, a condition is necessary to ensure that the chalet is and continues to be used as an annexe as proposed. Given that the chalet does not harm the character and appearance of the area, a landscaping condition is not required. Considering my findings as a whole, I also see no justification to impose a time limit on the siting of the chalet.

Conclusion

14. For the reasons outlined above, and taking all other matters raised into account, I shall allow the appeal.

Matthew Jones

INSPECTOR