



Appeal Decision

Site visit made on 21 February 2022

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2022

Appeal Ref: APP/D0840/W/21/3286595

Anneth Lowen, Trenoweth Lane, Mabe Burnthouse, Penryn, Cornwall TR10 9HZ

- 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 Mrs Janet Cave against the decision of Cornwall Council.
 - The application Ref PA20/08853, dated 7 October 2020, was refused by notice dated 11 May 2021.
 - The development proposed is described as Change of use: We have 2 existing shepherd huts (portable huts on wheels) and 1 teepee tent (currently taken down and stored) on our land. We would like to apply for change of use to holiday lets. Each unit will accommodate 2 adults (max total overall 6). We have existing hard standing parking for three cars and existing direct hard standing access from the public highway. There are existing washing/toilet facilities connected to a septic tank.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the application form refers to a change of use only, and I note that the various structures and hardstanding are already in situ. However, the main parties' cases cover the effect of such development and, notwithstanding the lack of complaints regarding the huts and shower block which are said to have been in place for around three years, there is little substantive evidence before me which indicates that such development has permission. I have therefore determined the appeal on basis that the structures identified on the submitted plans form part of the proposal.

Main Issues

3. The main issues are:
 - whether the proposed development would be in an appropriate location, with regard to the character and appearance of the surrounding area, access to services and facilities and development plan policies; and
 - the effect of the proposed development on highway safety.

Reasons

Location

4. Although Anneth Lowen is within the redline boundary and the surrounding area contains some scattered development including the donkey sanctuary, various houses (including some holiday lets) and agricultural buildings, the

appeal site is situated in a rural, relatively undeveloped setting where fields predominate. The surrounding area therefore reads as sporadically developed countryside with an open, agricultural character and a verdant appearance. The area of land where the proposed development would be (the site) is part of a field. Although it could not reasonably be described as isolated, the degree of separation means that it does read as distinct from Anneth Lowen and is reasonably well separated from other built form present in the wider area, including the more concentrated built form at the Trenoweth Lane - Antron Hill junction. Were it not for the various structures already in situ, the site would therefore positively contribute to its rural, undeveloped surroundings.

5. The site and proposed development – including for example the toilet block, shepherd huts and parking area – are visible in public views. This includes through the existing field gate and from various points along the adjacent highway and above the intervening hedgerows. I also observed on my site visit that the huts, in particular, are relatively prominent features and visible for some distance, particularly from along the highway to the south-east of the site. Introducing such structures into the largely undeveloped, agricultural setting has reduced the scattered pattern of development in the locality, given the site a cluttered appearance and changed it from a generally undeveloped green field that positively contributed to its setting. Set out in a linear form and running along the adjacent highway, the appeal proposal also reads as extending development in a stretched out form through the countryside. Despite its modest scale, the proposed development has therefore harmed the character and appearance of the surrounding area.
6. In coming to this view, I have taken into account that the scale of the development is not particularly significant or dominating, that the tepee and shepherd huts are said to be transient and typical of rural areas, and that the remainder of the site would comprise grass/amenity space. Although additional soft landscaping could be introduced, it seems to me that new planting would also be unlikely to adequately screen the development, especially given the huts' height, prominence and visibility from various vantage points.
7. The site is not a significant distance from Mabe Burnthouse. Future occupiers of the development could therefore theoretically walk or cycle to its various services and facilities. However, doing so would entail reasonably long sections of highway involving relatively narrow and busy roads with neither lighting nor dedicated separation from vehicular traffic for much of the way or involve navigating public rights of way to reach the Antron Hill footway in Mabe Burnthouse. The latter option would entail occupiers, amongst other aspects, walking on the narrow road that runs past the site, walking on unmade paths through fields, passing through a working quarry and crossing Antron Hill. The route also includes some stiles and, as I observed on my site visit, involves ascending a bank directly off Antron Hill, walking along the top of it and climbing down. Although the overall distance via public rights of way is not especially far and would include some scenic features, landscape and views, using footpaths to get to Mabe Burnthouse would therefore not be particularly easy, especially if carrying anything, and might not be possible for various people, such as young children, the elderly or those with physical disabilities. Being unlit and unmade in places, the footpath route would also not provide a particularly practical option at night and during or shortly after wet weather.

8. Accessing local services and facilities on foot or bicycle from the site would thus neither be particularly safe nor appealing. Although there is a bus stop in Mabe Burnthouse and a railway station in Penryn which provide connections to various settlements in the wider area, getting to these would require occupiers of the development to first either walk/cycle via the above neither particularly safe nor appealing routes or, more realistically, drive. I accept that this may be the case for rural areas in general. Amongst other aspects, the National Planning Policy Framework (Framework) also recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
9. However, in this instance, the lack of suitable alternative transport options mean that future occupiers of the development would be likely to be highly reliant on one mode of transport – the private vehicle – for a significant majority of their journeys and to serve their daily needs. This indicates that the appeal proposal, despite its modest scale, cannot reasonably be described as being, in the words of Policy 5 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP), accessible by a range of transport modes. Irrespective of whether other sites in Cornwall may be further away from railway stations and bus stops, the distance from the appeal site to the bus stop and train station – and the parking availability at both – does not lead me to a different conclusion. Neither does the suggestion that guests are attracted to sites outside of the main towns, might enjoy using public rights of way, and may arrive by private vehicle and accept that they need to travel by such means to reach tourism designations in the district.
10. In coming to this view, I have also taken into account the relatively short distance to Mabe Burnthouse, that the proposed development would be occupied by up to a maximum of six tourists who may wish to enjoy the local environs and spend time close to nature, and that the appellant would promote sustainable travel to guests through various means. In addition, I have noted the lack of crashes recorded on the short stretch of road between the site and footpath and that, in line with draft policy 14 of the draft neighbourhood plan, sufficient on-site parking would be provided. I also recognise that there may be improvements in the future to safety conditions on Antron Hill following a parish council consultation regarding the potential introduction of traffic calming measures, a 20mph speed limit and pedestrian/cycle routes.
11. It has been put to me that there is no requirement to be within or adjacent to a settlement. Be that as it may, it has not been put forward that the proposal meets the criteria of CLP Policy 3 and I have no reason to find otherwise. Whether the draft neighbourhood plan is yet to identify settlement boundaries does not change this. Notwithstanding the potential use by Flicka Foundation Donkey Sanctuary volunteers/students and the stated lack of suitable existing accommodation, the evidence before me also does not support the appeal proposal meeting the requirements of part 4 of CLP Policy 7 because it is not for temporary accommodation. In addition, although there may be occasions when animals at the sanctuary need overnight monitoring, the submitted evidence does not demonstrate that there is an essential need for a presence on the holding from people who might stay on the site. As such, the proposal neither meets the requirements of Policy 7 nor receives support from it.
12. There is clearly a demand for tourism accommodation – including of the type proposed – in the district and locality, and the development could also be used by volunteers/students at the adjoining donkey sanctuary. Nevertheless, it has

neither been suggested nor demonstrated that there is an overriding locational and business need, as per part 1c of CLP Policy 5, for the development to be situated on the site, and my findings above in relation to character and appearance indicate that the appeal proposal cannot reasonably be described as being of a scale appropriate to its location. In addition, although the policy also sets out that proposals should provide a well balanced mix of benefits, and the proposal would provide some socio-economic benefits, such as by providing income, employment opportunities and supporting local services and facilities, this does not mean that it would comply with the policy's other requirements. Its effect on the character and appearance of the surrounding area and guests' reliance on the private vehicle would also create some environmental harm.

13. For the above reasons, I conclude that the proposed development would not be in an appropriate location, with regard to the character and appearance of the surrounding area, access to services and facilities and development plan policies. I therefore find that it does not comply with CLP Policies 1, 2, 3, 5, 7, 12 and 23. Amongst other aspects, these: set out the Council's spatial strategy and its approach to decision making and accommodating tourism facilities and new residential accommodation; and require development to maintain and enhance Cornwall's distinctive character, sustain local distinctiveness and respect landscape character. Although the proposal would not lead to the development of isolated homes, it would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places and conserving and enhancing the natural environment.

Highway safety

14. There is an existing access way on to Trenoweth Lane at the southern end of the site. However, it has restricted visibility in both directions and particularly so to the south-east given the nearby bend in the relatively narrow road. Although the appeal proposal, given its scale, would be unlikely to generate a substantial number of daily vehicle movements, it would be likely to lead to a significant intensification of the use of the access compared to the site being used as a field. Without visibility splays, which are neither proposed nor – it appears – possible in at least one direction, such increased use of the sub-standard access would pose a significant risk to highway safety. Neither the provision of sufficient on-site parking nor the fallback use of the site for a similar – and potentially more intensive use – lead me to a different conclusion.
15. It has been put to me that a condition could be imposed regarding the creation of an alternative access on the site to improve visibility. However, with limited details as to where and whether an alternative access with sufficient visibility could be created, I am not satisfied that such a condition would be reasonable. It seems to me that the creation of a new access could also necessitate a different layout on the site and either or both of these could result in further – unassessed – effects on, for example, the character and appearance of the surrounding area. I have therefore determined the appeal on the basis of the development as proposed and on the submitted plans.
16. The proposed development would lead to an increase in vehicles using the surrounding highway network. Some of these would be likely to head north and turn on to Antron Hill, which has vehicle speeds in the order of 45 miles per hour. The appeal proposal would therefore lead to an increase in the number of vehicles having to negotiate the restricted visibility of the Trenoweth Lane -

Antron Hill junction. However, given its scale, the relative increase in vehicular movements at the junction would not be significant. The proposed development would therefore not be unacceptable in relation to the existing highway safety risk associated with the junction.

17. Nevertheless, for the above reasons, I conclude that the proposed development would harm highway safety with regard to access from the site on to Trenoweth Lane. I therefore find that it does not comply with CLP Policies 12 and 27. Amongst other aspects, these seek development with safe and suitable access. The proposal would also be inconsistent with the provisions in the Framework in relation to promoting sustainable transport.
18. The Council also alleges a conflict with CLP Policy 2 with regards to this matter. However, my attention has not been drawn to any words in it that are relevant to this issue. The policy has therefore not been determinative in my decision.

Other matters

19. The appellant has brought to my attention a number of other similar applications in the countryside that were granted permission by the Council. However, although those developments are generally in a similar rural location with limited access to services and facilities by a range of transport modes, the evidence before me indicates that each have different circumstances to this proposal. For example, the glamping proposal at Penstraze was for a larger scheme where the Council identified only minor visual impacts and no significant highway safety concerns; with no public views into the site, the Council found the larger camping and glamping proposal at Prideaux would not have a significant impact upon the landscape character and no highway safety issues were identified; and the proposal at St Georges Hill was for a larger scheme, generated no highway safety objections and was for use of the site for camping for 16 weeks of the year. As this is not the case at the appeal site, I attach limited weight to these examples, whose relevance to the appeal proposal is limited. I have thus dealt with the appeal on its individual merits.
20. The appeal site is within the zone of influence of the Fal and Helford Special Area Conservation (SAC). In combination with other plans and projects, the addition of residential units within this area would be likely to have a significant effect on the internationally important interest features of the SAC due to increased recreational disturbance. In accordance with CLP Policy 22, appropriate mitigation needs to be secured for such development, and it has been put to me that this could be secured by a suitably worded condition. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.

Planning Balance

21. Despite the development's modest scale and the relatively limited distance between the site, Mabe Burnthouse and public transport options, I have found that the proposed development would harm highway safety and would not be in an appropriate location due to the harm it would cause to the character and appearance of the surrounding area and its lack of accessibility. Despite the wording of some of the relevant development plan policies meaning that the appeal proposal would not necessarily conflict with them, I have found that it would nevertheless not accord with CLP Policies 1, 2, 3, 5, 7, 12, 23 and 27. Taking all of this into account, and although it may accord with various other

development plan policies, I find that the appeal proposal would be contrary to the development plan as a whole.

22. The site is said to be in an area at least risk of flooding and not within or near to any designated heritage or landscape assets. It has been put to me that the proposal would be sustainable by offering a more environmentally friendly form of accommodation – in terms of size and energy demand – than other, more traditional types such as holiday cottages. Guests would also be encouraged to use the recycling facilities that would be provided, while the appellant's commitment to promoting sustainable travel to guests through various means would also help to reduce carbon emissions. In addition, the site would be a 'quiet site' with no noise after 10.30pm, while the scale of the development indicates that it would not cause unacceptable disturbance or congestion.
23. Amongst other aspects, the CLP seeks to enhance and promote the year-round tourist offer in Cornwall and sets out that tourism supports the local community through its generation of significant revenue and jobs. Providing holiday lets, the proposal would support this and help to serve the demand for such tourism accommodation. It would also generate various socio-economic benefits by, for example, providing income for the appellant, employment opportunities from site maintenance and upkeep, and visitor spend on facilities and services in the area would support existing employment and help to enhance or maintain the vitality and viability of the rural community. In addition, with donkey sanctuary volunteers/students needing accommodation, the development would benefit the donkey sanctuary – who have indicated their support for the proposal – and provide people working there with direct access to a place to stay.
24. Although the scale of the proposed development would serve to limit the harm/disbenefits to some extent, its scale also indicates that the benefits would be relatively limited. Accordingly, I find that the above matters neither outweigh the harm I have identified nor the conflict with the development plan.
25. It has been put to me that the appellant is in the process of seeking certification from Freedom Camping or the Camping and Caravanning Club that would enable the site to benefit from permitted development rights and would allow the proposed development to proceed irrespective of the outcome of the appeal. This realistic fallback scenario merits significant weight, particularly given that the submitted evidence indicates that the site could be used for a similar – and potentially more intensive – activity to that proposed here. However, notwithstanding this, the fallback scenario does not mean that the appeal proposal is acceptable. Accordingly, although I give the fallback scenario significant weight and understand that the site may in any event be used for holiday accommodation via the certification route, it does not lead me to a different conclusion that the appeal proposal – which would conflict with the development plan, result in a reliance on the private vehicle, and harm highway safety and the character and appearance of the surrounding area – is unacceptable and should not be granted planning permission.

Conclusion

26. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR