



Appeal Decision

Hearing held on 29 September 2022

Site visit made on 29 September 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2022

Appeal Ref: APP/D0840/W/21/3282303

Land at Rookery Farm, Porthtowan, Redruth TR16 5UG

- 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 J Reed against the decision of Cornwall Council.
 - The application Ref PA21/02541, dated 9 March 2021, was refused by notice dated 11 August 2021.
 - The development proposed is the change of use to private gypsy site with 2no mobile homes, 2no touring caravans and 2no day rooms.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was refused by the Council, the Portreath Neighbourhood Development Plan (the Neighbourhood Plan) has been successful at referendum on 23 June 2022. It has now been formally made by Cornwall Council and forms part of the development plan for the area. The appellant has had the opportunity, during the appeal process and at the hearing, to make comments on the implications of the Neighbourhood Plan for the appeal proposal.
3. The scheme is accompanied by an agreement under s111 of the Local Government Act 1972. This confirms payment to mitigate the impact of the additional residential units on the Penhale Dunes Special Area of Conservation (SAC). I will consider this matter later.

Gypsy Status of the Proposed Occupiers

4. It is agreed that the appellant, who would occupy one of the pitches, and his son, who would occupy the other pitch, both have a nomadic habit of life, travelling for economic purposes. I am satisfied that they comply with the definition of a Gypsy and Traveller in Annex 1: Glossary of the Planning Policy for Traveller Sites (PPTS). Furthermore, the evidence confirms that both the appellant and his son are ethnic Romany Gypsies.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and

- whether or not the development plan and national policy would support the proposal in this location having regard to whether the site would have reasonable access to services and facilities by a range of transport modes.

Reasons

Character and appearance

6. The site is located within Landscape Character Area 11 (Redruth, Camborne and Gwennap) (CA11) of the Cornwall and Isles of Scilly Landscape Character Study. The description of the CA11 includes that it is a small scale rolling landscape with a strong field pattern enclosing small-medium scale fields and narrow lanes.
7. As part of the Neighbourhood Plan process, a Local Landscape Character Assessment (LLCA) was produced. This identifies a number of character types across the Neighbourhood Plan area and the site is located within the area identified as the Elevated Upland Plateau - Nancekuke. The LLCA explains that the topography in this area includes an elevated and gently undulating coastal land plateau. Key characteristics include the exposed and open landscape, and the sense of space. Land use includes agriculture of both arable and improved grassland. One of the identified features which is referenced in the LLCA for this character area is the relatively limited tree cover due to exposure and vegetation being stunted and sculptured by wind effect.
8. The appeal site is a modest sized, grassland field on a fairly elevated section of the hilltop plateau. It has been subdivided from the larger field to the north and is bounded on that side by a post and wire fence. The other boundaries are banks, with some vegetation but this vegetation is generally low and fairly stunted because of the prevailing wind and elevation. The road side bank is fairly typical of the area with it running parallel and quite close to the road in front of the site giving a sense of enclosure. Visually, the field generally appears to merge with the larger field to the north. The elevated plateau location with banks, lack of tree cover and open views from the site, in particular to the south, are characteristic of the CA11 and the Elevated Upland Plateau - Nancekuke described in the LLCA. The field may be a small component of the surrounding generally verdant and agricultural landscape, nevertheless, its features and appearance make a positive contribution to the character of the area.
9. There is, within this wider elevated area, also a scattering of buildings including some dwellings and farm buildings. Some of the buildings are fairly discreetly located with some landscaping features such as groups of trees or overgrown bushes and hedges softening their impact. However, some of the buildings are more locally prominent in the landscape, including Fair View, a dwelling located on the other side of the road near the appeal site. Similarly the siting, height and lack of surrounding landscaping results in one of the mono-pitch agricultural barns on the yard site, to the immediate south of the appeal site, having a reasonably pronounced appearance when viewed from sections of the adjoining road.
10. In the wider area there are some caravan parks and these caravans are visible from some parts of adjoining roads. However, based on my site visit, these sites appear to be generally less exposed in the landscape than the appeal site. From what I saw, these caravan parks tend to be reasonably well softened by

- vegetation or partially screened within their surroundings so as to not appear especially prominent within their general vicinity.
11. In terms of the proposed development, the two pitches would extend across the site and the plans show areas of grass and hard standing. The position of the day rooms and static mobile homes are shown in a fairly regimented alignment across a central part of the site and their upper sections would be visible from parts of the adjoining road, in particular when travelling south from the cross roads.
 12. The day rooms, although their footprint is at the upper range of acceptable, would, because of their appearance, external materials and position, be experienced as small bungalow-like buildings which would be fairly alien to the character of the site and surrounding countryside. Their siting within the pitches, detached from any boundaries or existing features, would appear as a sporadic and discordant addition within this present field area. In association with the mobile homes the appearance of these day rooms, aligned across a reasonably central part of the site, would appear as unsympathetic additions within the landscape in views above the boundaries from the road.
 13. In closer views when adjoining the site, in addition to the day rooms and mobile homes, the extent of residential amenity area, the likely associated domestic paraphernalia, the parking of vehicles, the touring caravans and general activity would also be visible, in all likelihood, through the access into the site and above the boundary bank. Compared with the existing rural form this would result in a significant visual change and harmful impact. The proposed layout with the extent of residential use across the site would provide little opportunity to ameliorate the fairly conspicuous and harmful change to the rural character on this fairly elevated site. Furthermore, the works to the boundary with the road, with the banks realigned to provide angled splays to either side of the access, would reduce the characteristic position and feature of the banks and would be a further change that would diminish the character and appearance of the area.
 14. I appreciate that Gypsy and Traveller sites are often a familiar feature of rural areas and Local Plan policy and the PPTS can allow such uses and the associated appearance and activity in the countryside. Also in this case, the site and the resulting appearance of the pitches would not be especially noticeable in wider views, in particular from the broadly south across the valley, because the development would be a small component in a wide ranging vista. In medium distance views, particularly from the broadly west because of the screening effect from Fair View, again the proposal would not be prominent.
 15. Nevertheless, for the reasons I have explained, and notwithstanding the adjoining yard area to the south and the residential presence of Fair View, the degree and nature of the proposed development would result in an overly discordant and unsympathetic change to the character and appearance of the site when seen in some views from the adjoining road. This would cause a significant localised harm to the characteristic and positive aspects of this part of the CA11 and the Elevated Upland Plateau - Nancekuke as identified in the LLCA. This landscape and visual harm would be to an unacceptable level and would be over and above what may generally be expected from the impact of a Gypsy and Traveller site in a countryside area.

16. As a result the scheme would not comply with the National Planning Policy Framework (the Framework) policy requirement that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Furthermore, this would not be a site that would be well planned or soft landscaped in such a way, based on the information before me, as to positively enhance the environment and increase its openness. This is a consideration referred to in the PPTS.
17. At the hearing, there was discussion about potential changes to the external appearance of the day rooms, such that they could be clad in render or stone with a slate roof, and that hard and soft landscaping could help to address any effects of the scheme within the area.
18. The proposed changes to the external elevations of the day rooms would assist, but this would not address the more fundamental concerns with their overall bungalow-like appearance and sporadic location within the site.
19. Also a comprehensive landscaping scheme pursuant to a condition attached to any approval, and which would be over and above the limited landscaping shown on the submitted plans, was promoted by the appellant at the hearing. However, with the elevated and windswept location, there is little detail before me to provide confidence that such a landscaping scheme on this site, with its level of exposure and visual connection to the undeveloped open field to the north, would be successful in the medium or longer term. Furthermore, because of the layout shown on the plans, the substantive planting would be likely to be within the residential area with, for instance, little landscaping opportunity for a structural planted buffer around the residential sections of the site. I am not satisfied that even with details pursuant to conditions that the harm I have identified could be addressed.
20. The appellant has submitted a number of appeal decisions¹ and highlights the commentary where other Inspectors have considered that Gypsy and Traveller sites in the countryside are a common occurrence and any harm in those cases was not unreasonable. It seems to me that the effect of a development on the character and appearance of an area is a matter of judgement in each case. The appeals that have been included with the appellant's statement would all have their site specific levels of existing or proposed landscape screening or softening and would, in all likelihood, be in surroundings that would have a different character to the elevated Cornish landscape in this case. Consequently, I do not consider that the findings on the visual effects of a proposal on an area within those appeals are especially instructive to the judgement on the level of harm that would be caused by the present proposal. Therefore I attribute these other appeal decisions limited weight.
21. Accordingly, I conclude that the scheme would unacceptably harm the character and appearance of the area. As a consequence, the development would conflict with Policies 2, 12 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) and Policies 4 and 9 of the Neighbourhood Plan which require, amongst other things, that proposals should maintain and respect the special character of Cornwall, recognising that all urban and rural landscapes, designated and undesignated, are important.

¹ Appeal decisions including those at Coles Furlong, Owl Street, East Lambrook, Somerset APP/R3325/A/07/2051240, The Caravan Site, Highfield Lane, Corley Ash, Warwickshire APP/R3705/W/18/3199149 and Brookside Stables, Cold Pool Lane, Badgeworth, Cheltenham, Gloucestershire APP/G1630/W/17/3192162.

22. As I have found that the scheme would conflict with Policy 2 of the Local Plan, which sets the spatial strategy, I also consider that the scheme would not meet with the environmental objective of sustainable development and thereby would fail Policy 1 of the Local Plan.
23. In terms of Policy 9 of the Neighbourhood Plan, the supporting text in paragraph 7.10.1 and 7.10.2 explains that the whole of the Parish area is highly valued by the community in terms of its landscape character and scenic beauty and the term "valued landscapes" relates to all landscape components of the parish. Although the text goes on to refer to the Framework and its concept of valued landscapes I consider that Policy 9 of the Neighbourhood Plan applies to the site and surrounding area and that the requirements of the policy, in the way intended in the Neighbourhood Plan, would not be met by the scheme.

Whether or not the development plan and national policy would support the proposal in this location

24. Policy 11 of the Local Plan provides the main policy criteria against which development proposals for Gypsies, Travellers and Showpeople are to be considered.
25. There is no dispute between the main parties that the criteria of Policy 11, with the exception of criterion 3, would be met. The scheme would, in particular, provide sufficient residential amenity and play area to meet the needs of residents of the site, promote healthy lifestyles and with two pitches would be of a scale that would not dominate the nearby settled community.
26. A key issue in this appeal is whether the scheme would comply with criterion 3 of Policy 11 of the Local Plan. This provides the main locational test for the provision of Gypsy and Traveller sites. This criterion, in summary, explains that proposals for permanent sites should be located so as to ensure reasonable access (defined as less than 3 miles) by a range of transport modes. The criterion goes on to explain that where possible including walking, cycling, public transport and car sharing to services including GP and other health care provision, education facilities, shops and public transport.
27. The site lies in a countryside area, with the nearest main settlement of Redruth to the broadly south. From Redruth there are connecting roads that would allow access towards the site and, in the adjoining area, the site would be accessed off Chapel Hill, via minor single width roads. Probably, the most direct route would be via a road from the south from Chapel Hill. This road is reasonably narrow and it has a couple of acute bends. Being typical of a country lane, there are no footways or streetlighting. In places the road is reasonably steep and confined by the side boundary treatments. From the east, there is another narrow and fairly confined lane from another section of Chapel Hill which has some similar characteristics as the route from the south. There are other rural roads that could allow access to the site but they are generally less direct.
28. I heard at the hearing from one local resident that there are walkers and cyclists who use these roads near and past the site on occasions for recreational activities, although local residents and the Parish Council stress the

rural nature and limitations of the roads². Also there are a scattering of existing properties across this countryside area and the occupants would use this part of the rural road network to access Chapel Hill and beyond.

29. It is within this context that occupants of the proposed two pitches would be required to access local services and facilities. The Statement of Common Ground has set out the distances from the site to some of the main services and facilities. Some such as Treleigh Primary School, Mount Hawke Surgery, the Post Office at Mount Hawke Stores and the Aldi supermarket are less than 3 miles from the site. Other services and facilities such as Redruth Secondary School, Green Lane Dental and the Community Hospital are beyond 3 miles. Consequently, the distances to these identified services and facilities are a mix either side of the less than three mile requirement set out in criterion 3 of Policy 11 of the Local Plan. It seems to me that within the 3 miles policy specification that there are some of the main and important services and facilities that occupiers of the site could need to access, such as the GP surgery, a main food shop, a post office and the primary school. Because of this and, on balance, I consider that the site would meet with the distance aspect of the policy.
30. In terms of the ability to access services and facilities from the site by a range of transport modes, given the distance from Redruth and the location of other services and facilities in combination with the rural nature of the area, walking would not be a viable option.
31. In terms of cycling, especially with an electric bicycle which was raised by the appellant at the hearing, the distance to Redruth of about 3 miles each way would be achievable for a reasonable number of cyclists. In respect of road conditions, while accepting that the road from Chapel Hill to the site is steep in places, generally the main roads to Redruth do not appear to be of a character, because of their width and slope, that would be especially difficult or off putting for most cyclists. So, to conclude on this issue, the bicycle may not form a mode of transport to access services and facilities in the Redruth area on a regular basis, other than for the more committed cyclist, nevertheless, at times cycling would be a reasonable option for some occupants of the site.
32. The availability of bus services was discussed at the hearing and there was subsequently submitted agreed information on this matter from the appellant and Council. Other than an early morning and early evening service passing along Chapel Hill, with the destination to and from Truro College³ on those College days, there is no other readily available option to use the bus as a means of transport, including directly to Redruth. If this Truro College route was what was required then I consider it would be reasonable to walk to and from Chapel Hill to access that service. Nevertheless, the overall information on bus routes is that the area is poorly served, but this would be similar to many rural areas.
33. The wording of criterion 3 of Policy 11 of the Local Plan, within the examples of the "where possible" transport modes, includes car sharing. This would be possible, and indeed could be likely on this two pitch site, as both occupiers would be closely related members of the same family. Car sharing from the site

² Both at the hearing and in the written submissions.

³ Route 400

- could help to reduce overall car movements to a modest extent and would help meet with the approach set out in the policy.
34. Taken together, there would be some potential for some occupants at times to use the bicycle to access services and facilities, a very limited ability to travel by bus, and car sharing would be a credible option. Nevertheless, while there would be these options, there would still be a likelihood that the individual, private vehicle would be the main mode of transport.
 35. These findings should be considered in the context that the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.
 36. The effect of the development in terms of its traffic movement implications would not be dissimilar with the levels associated with the existing houses dotted along this road and within this wider part of the countryside. The additional traffic movements associated with the pitches would only be in relation to the residential occupation as no commercial use of the site is proposed. I have found that the site would meet with the locational criteria in terms of distance and, while the private vehicle would be the main mode of travel, there are some options that could be possible. Furthermore, the journey by car to the nearest main settlement, and some of the identified services and facilities elsewhere, would generally not take especially long given the condition and distance of most of the connecting roads.
 37. Taking into account the nature and scale of the proposal, its location and the access roads as a whole, and the available transport options, I consider that, while finely balanced, the site could be said, for a Gypsy and Traveller site in a Cornish rural area, to have sufficiently reasonable access to services and facilities by a range of transport modes. Accordingly, the scheme would comply with the requirements of criterion 3 of Policy 11 of the Local Plan and therefore with this policy as a whole.
 38. The PPTS policy is that local planning authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements. In this case, the site would be in an area defined as open countryside. However, as I have found, the proposal would meet with the locational requirements of the development plan, which does not exclude the ability for Gypsy and Traveller pitches to be permitted in the countryside. Given this development plan compliance and that the site would be located in the general vicinity of a scatter of dwellings alongside this road and therefore not isolated in that sense, I do not consider that the location could be considered as being away from existing settlements in terms of the approach in the PPTS.
 39. The Council has highlighted, as an example of the application of Policy 11 of the Local Plan, the appeal at land west of Trevoole Farm⁴ which also proposed a scheme for two Gypsy and Traveller pitches. That site was close to a main road which also benefited from a bus route linking nearby towns. The location was closer to settlements than the present appeal and the public transport aspects of that site were also better than the present site. However, I do not consider the findings in that appeal rule out the ability for the present appeal site to be found to accord with the relevant policies.

⁴ APP/D0840/W/19/3242850 – Land west of Trevoole Farm, Botetoe Hill, Trevoole, Cornwall TR14 0RN

40. In the light of the above analysis, I conclude that the location of the two pitches would meet with the development plan and national policy in the PPTS and Framework. This is because, on balance and having regard to the specific circumstances of this case, the occupants of the site would have reasonable access to services and facilities by a range of transport modes. In this respect, the scheme would accord with Policies 11 and 27 of the Local Plan which, amongst other things, sets the locational approach to the provision of Gypsy and Traveller sites.

Habitat Sites

41. The site is located within the recreational zone of influence of the Penhale Dunes SAC. A net increase in housing within the zone is likely to adversely affect the integrity of this habitat site. However, in accordance with the Council's avoidance mitigation strategy, a payment per additional dwelling is required to be secured through an agreement to mitigate this harm. I have had regard to the advice of Natural England in respect of this appeal proposal and the need for a mitigation payment to accord with the published requirements.
42. The appropriate payment to accord with the mitigation strategy has been secured through the s111 agreement. In these circumstances, I am satisfied that the proposal, either alone or in combination with other schemes, would not have a significant or adverse effect on the integrity of the Penhale Dunes SAC. When undertaking an appropriate assessment I am satisfied that the scheme would accord with the requirements of the Conservation of Habitats and Species Regulations 2017.

Other Considerations

43. The appellant has set out a series of other considerations which are argued weigh in favour of approval and I will consider these below.
44. *Existing level of provision and unmet need* – Policy 2a of the Local Plan sets a requirement to provide 318 permanent pitches in the plan period up to 2030 to meet the identified need. I heard at the hearing that 118 pitches have been permitted within the plan period to date. Consequently, there is still a substantial unmet need for permanent pitches in Cornwall against the Local Plan requirement.
45. Indeed, while the target is based on delivery across Cornwall as a whole, if the western area of Cornwall in which the appeal site is located was to be considered in isolation, the disaggregated target would be 190 pitches in this area of which to date only 13 pitches have been granted planning permission. The Council accept that the need to provide Gypsy and Traveller sites is immediate and pressing and there is an under delivery against the plan targets. This unmet need should be attributed great weight in favour of approval.
46. *Five year supply of pitches* - the Council accept that it is unable to demonstrate and up-to-date five year supply of deliverable sites for Gypsies and Travellers. The PPTS explains that this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of a temporary planning permission. Given the unmet need, that the Council do not allocate sites in the development plan, and that any updating of the Gypsy and Traveller site policies, and potentially allocating sites, is unlikely to deliver pitches in the near future, I consider the lack of a five year supply should also

carry significant weight when considering this application for a permanent planning permission.

47. *Failure of policy* - it is agreed as part of the Statement of Common Ground that there has been a longstanding failure of policy since 1994 to meet the need for pitches in Cornwall (and its former districts) through the plan led system and this is contrary to national planning policy. This longstanding failure of policy should afford substantial weight in its own right.
48. *Available, suitable, acceptable and affordable alternative sites* - it is common ground that there are no alternative sites, either public or private, available for the appellant that would provide culturally appropriate housing. As the Council do not allocate any sites in the Local Plan to help meet the accommodation needs of Gypsies and Travellers, and therefore rely on individuals to identify sites and make individual planning applications, the lack of alternative and available sites is a matter that should afford substantial weight in favour of the scheme.
49. *Personal circumstances* – I have taken into account the evidence of the appellant which sets out the personal, including health, circumstances and the benefits that would follow with two generations of the family living on the same site. The appeal proposal would provide culturally appropriate housing for this extended family who would be able to support each other in the way explained in the submissions. There would be benefits for both the appellant and his son to live in a caravan again, which is a form of accommodation most suitable for their health, cultural and housing needs. However, as both family units are presently in secure accommodation, I attach the personal circumstances of the appellant and his family moderate weight in favour of approval.
50. *Release of housing* - The provision of two pitches on this site would release two existing properties for others in need of general housing, one of which would be an affordable unit. Overall, this would provide a small boost to housing supply in the area and would be a worthwhile outcome of the appeal proposal. However, as only two additional units would be provided I afford this benefit limited weight.
51. *PPTS* - The PPTS explains that one of the Government's aims in respect of traveller sites is to promote more private traveller site provision and the appeal proposal would contribute towards this aim. The site would be sufficient to promote opportunities for healthy lifestyles for those living in the accommodation, and the site would not be enclosed with so much hard landscaping, high walls or fences, that the impression was given that the site and its occupants were deliberately isolated from the rest of the community. These are all elements of the scheme that would accord with the approach of the PPTS, however they are fairly modest factors in the overall scheme and therefore I attribute these PPTS aspects in favour of the scheme limited weight.
52. *Other issues* – I have taken into account all the other matters raised by local residents and the Portreath Parish Council, including the electricity supply and drainage issues. However, they are not of such substance that they lead me to a different view on the overall planning balance and conclusion.

Planning Balance and Conclusion

53. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise⁵.
54. I have found that the scheme would, on balance, accord with the locational aspects and overall policy for the provision of Gypsy and Traveller sites. This policy compliance is important. However, I judge that there would be a significant, albeit localised, level of harm to the character and appearance of the area. It is such that the policy conflict which would result from this harm, would fail Policies 1, 2, 12 and 23 of the Local Plan and Policies 4 and 9 of the Neighbourhood Plan. The balance of policy considerations is such that I give greatest weight to those which are not complied with because of the level of harm to the character and appearance of the area. This extent of policy conflict outweighs the compliance with Policies 11 and 27 of the Local Plan, such that the scheme would not accord with the development plan when considered as a whole.
55. I have outlined above the main benefits and considerations that weigh in favour of the scheme. These are not without merit and, in particular include the existing level of provision and unmet need, the lack of a five year supply of deliverable sites, the failure over a long period for the planning approach to meet the accommodation needs of Gypsies and Travellers, the lack of alternative sites and the personal circumstances of the proposed occupiers. Taken together, all the benefits of the scheme and arguments in favour of the proposal, including the compliance with Policies 11 and 27 of the Local Plan, should be afforded substantial weight.
56. However, the harm that would result from the scheme and which leads to the conflict with the development plan when considered as a whole is also a matter of significance. It is such that the harm and related development plan conflict would not be outweighed by the benefits and arguments in favour of the scheme. There are no planning conditions that could address this matter or wider public interest that would outweigh the balance of considerations that I have identified. It follows that the scheme would not accord with the development plan when considered as a whole and material considerations do not indicate a decision should be made otherwise.
57. I have also considered whether a personal or temporary planning permission would be justified. However, a personal permission would not limit or reduce the harm to the character or appearance of the area. A temporary permission would limit the length of time that the harm could take place, and could require the reinstatement of the site after that period. However, there would still be harm during that period, and any landscaping would not have time to mature. Furthermore, there is no clear reason, such as an emerging change in policy in the near future with the anticipated delivery of pitches, that would support a temporary permission in this case. Accordingly, I conclude that a personal and/or temporary planning permission would not be warranted in the circumstances of this proposal.

⁵ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

58. The proposed occupiers of the site are ethnic Romany Gypsies and have protected characteristics of race in terms of the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. I have also considered the rights of the proposed occupants under the Human Rights Act 1998. In particular, Article 8 affords the right to respect for private and family life, including the traditions and culture associated with the gypsy way of life. This is a qualified right, and interference may be justified where in the public interest. The concept of proportionality is crucial. I have taken into account the personal circumstances of the proposed occupants in my considerations and do so again specifically in this conclusion having due regard to the requirements of the PSED and in terms of human rights.
59. The refusal of planning permission is likely to lead to the proposed occupants continuing in accommodation which is not suitable or appropriate for their needs. Dismissing the appeal would interfere with the proposed occupiers' rights. However, the interference of these rights would be justified in this case, in the public interest and in a proportionate way in relation to the legitimate aim of protecting the character and appearance of the area. A temporary and/or personal permission would not be acceptable or proportionate for the reasons explained and planning conditions could not address the identified harm. The protection of the public interest cannot be achieved by a means that are less interfering with the proposed occupiers' rights. In these circumstances, dismissal of the appeal is proportionate and the appropriate course of action.
60. For the reasons given above, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Dr Simon Ruston	Ruston Planning Ltd
Mr John Reed	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mr James Holman	Cornwall Council
Mr Jim Lee	Cornwall Council

INTERESTED PARTIES

Cllr Ian Stewart	Portreath Parish Council
Mr Brian Terry	Local Resident
Mrs Liz Terry	Local Resident
Mrs Liz Owen	Local Resident
Mrs Linda Bailey	Local Resident
Mr Colin Davey	Local Resident
Cllr Dave Crabtree	Cornwall Council

DOCUMENTS SUBMITTED AT/OR SUBSEQUENT TO THE HEARING

1. Signed copy of the Statement of Common Ground
2. Bus information
3. Copy of agreement under s111 of the Local Government Act 1972 concerning the mitigation payment for the Penhale Dunes SAC.