



Appeal Decision

Site visit made on 4 October 2022

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/D0840/W/22/3299245

Land South West of Little Skewjack, St. Levan, Penzance TR19 6NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Tanner against the decision of Cornwall Council.
 - The application Ref PA21/11119, dated 27 October 2021, was refused by notice dated 17 February 2022.
 - The development proposed is the erection of 5 glamping cabins, car port and storage room, with associated amenity space.
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellants have made an application for an award of costs against Cornwall Council, which is the subject of a separate decision.

Main issues

3. The main issues are the effect of the proposal on local character, and whether the appeal site is an appropriate location for the development proposed.

Reasons

Local character

4. The appeal site is an irregular sliver of land of about 0.28 hectares. It flanks a tight curve of the B3315, from which access is drawn. Access appears to be shared with the Fibre Optic Link Around the Globe ('FLAG') building to the east and two properties northwards, Porthissick and Skewjack Cottages. Beyond the latter is a right of way.¹ That splits with one spur heading to Skewjack Farm in the direction of Sennen, set at a relative high point in the topography.² There is a further public right of way some distance beyond northwards, by a communications facility, heading to Brew Farm.³ I understand that joins with national cycle network No. 3 about 1.2 miles away. Principally the site is rough grass and scrub. It is largely untended. Some elements of it appear, however, to have been recently cleared. A shipping container was also present, as were other items openly stored on site.

¹ No. 118/1/2, rated bronze.

² No. 118/2/1, rated silver.

³ No. 118/25/1, rated silver.

5. The landform declines moderately here, broadly following the B3315 north-east to south-west. The site is also set at lower level to the carriageway, such that there are glimpsed views of the horizon beyond and of the gently undulating landscape before Sennen. It is bounded on all sides by hedges. It appeared that hedges have largely grown up on their own, rather than being actively maintained in recent years. I am told that the site has not been used for agriculture for over 30 years. A 1981 'Article 4' Direction here prevents camping generally permitted elsewhere.
6. The site falls outside of, albeit adjacent to, the West Penwith section of the Cornwall Area of Outstanding Natural Beauty ('AONB') and the West Penwith International Dark Sky Park, and within both the Penwith Heritage Coast and Area of Great Landscape Value (the latter applicable by virtue of saved policy CC-5 of the Penwith Local Plan 2004). Section 85 of the Countryside and Rights of Way Act 2000 as amended places a duty upon me to have regard to the purposes of conserving and enhancing the natural beauty of the AONB. Areas of Outstanding Natural Beauty are also accorded the highest status of protection in terms of landscape character, as set out in paragraph 176 of the National Planning Policy Framework ('NPPF'). The AONB Management Plan (adopted 2022, 'MP') describes the West Penwith section of the AONB as an historic, sparse, open, coastal moorland with scattered farmsteads. Unsurprisingly the MP references the significance of tourism to the local economy, albeit equally as a potential adverse pressure. Both the NPPF and MP refer to development within the setting of the AONB.
7. At a finer-grain level, the site falls within Landscape Character Area CA01 'West Penwith South' as defined in the Cornwall and Isles of Scilly Landscape Character Study (published June 2008, the 'LCS'). Similarly the LCS describes CA01 as 'an exposed and windswept area with a strong field pattern created by sinuous granite-faced hedges with little or no tree cover', much of which is given over to pastoral land. The wider landscape around the site very much reflects the foregoing characteristics described in the MP and LCS. Being essentially open, natural and bounded by established hedges the appeal site is broadly consistent with its surroundings, reinforcing the rural, tranquil and rugged nature of the area.
8. However, including as noted in the appellants' Landscape and Visual Impact Appraisal ('LVIA'),⁴ the landscape value of the site is qualified. The immediate surroundings to the site are not particularly open and windswept. The site is small and narrow, rather than representing a larger field size which tends to prevail. The site is not high in the landform. As also indicated above it is to some extent screened by hedgerows, which are sparser elsewhere. There is also a wooded wedge of land to the south of the B3315 around a series of ponds leading to Lower Bosistow. It is suggested that 'Skewjack' derives from 'sheltered place' in Cornish.
9. The appellants indicate that, with reference to the Cornwall Historic Landscape Characterisation Study ('HLCS'), the site falls within settlement 'C20'. It may be true that there has been a long history of development around Skewjack, notably I understand a mid-century RAF base which later morphed into the Skewjack Surf Village. That legacy is, however no longer readily appreciable.

⁴ Cornwall Environmental Consultants, Ref. CEC3590, November 2021.

There is no indication that the site itself previously hosted development. Moreover the HLCS is an evidential document, not part of the development plan. There is no evidence before me as to the methodology it employed, or what identified settlements are intended to signify. It may be that the terminology therein relates to the historic evolution of areas rather than their current nature; although there is some contextual development nearby, the surroundings to the site is not experienced as any form of distinguishable settlement. Moreover land within a settlement, however defined, may contribute to landscape character.

10. Nonetheless, the site's contribution to landscape character is, in my view, moderate. That is by virtue of its proximity to other buildings, notably the FLAG building opposite. The FLAG building is substantial, industrial in form, and enclosed by security fencing and some non-native planting. The two houses to the north are set higher up in the topography and are therefore visible from the site access. To the west of the site there is a clear field boundary, beyond which fields become generally larger and thus more typical of prevailing landscape characteristics.
11. Put briefly, the proposal is for 5 glamping cabins, which would be arranged loosely through the site.⁵ A carport would be created by realigning present access, and permission is also sought for a storage container. Cabins, variants on a theme, would be modest, simple, understated and rustic. None would reach significantly more than around four metres from ground level, with gross internal areas ('GIA') ranging from around 18 to 33 square metres. As set out in the appellants' statement of case, the intention is principally to use ground screws by way of foundation and sustainably grown timber sourced locally. The intention is also for '100% renewable energy', noting that the carport would host a solar array. Existing trees and hedges bounding the site are to be retained, aside from where site access is to be modified, with pathways, extensive planting, and additional hedgerows also proposed.
12. The proposal would inevitably introduce significant built development in a site which is essentially open and natural (and thereby broadly consistent with wider landscape character). The carport in particular would be next to the site access, reducing openness. There would likely be glimpsed views of the cabins through boundary hedges and above them, and perceptible illumination outside of daylight hours. Inherent in my reasoning above is that the landscape here is rugged and windswept, and given over principally to grazing land. The proposal would diverge from that character in addition by virtue of manmade interventions in the landscape, notably the pathways proposed.
13. In that context I cannot reason other than that the scheme would adversely affect local character in conflict with the relevant provisions of policies 1, 2, 12 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted November 2016, the 'LPSP'), of saved policy CC5 of the Penwith Local Plan and paragraphs 130. c) and 174 of the NPPF. In summary, insofar as relevant to this issue and amongst other provisions, those policies seek to ensure that development integrates appropriately with its surroundings.

⁵ As shown on Plan No. 11.

14. However, the harm arising from the scheme would be limited. Firstly, as reasoned in above, the site's contribution to prevailing character is qualified. Similarly, secondly, the site is close to, and would be perceived to some extent in the context of, existing nearby development. Thirdly the cabins proposed are modest. Fourthly maintaining existing hedging, alongside the planting proposed would serve to limit the prominence of the scheme (particularly as the latter matures over time, albeit that would in time impede openness itself).

Location

15. Following on from LPSP policies 1 and 2, policy 5 'Business and Tourism' accords in-principle support to high quality sustainable tourism facilities. That policy further sets out how they should be of an appropriate scale to their location and to their accessibility by a range of transport modes. NPPF paragraph 84 supports sustainable rural tourism. Sustainability, as the appellants point out, is multifaceted. NPPF paragraph 85 is nuanced, including recognising that rural business may legitimately be located in areas 'not well served by public transport'.⁶ NPPF paragraphs 104 and 105 also emphasise opportunities to promote walking, cycling and public transport generally.
16. The Council contend that policies concerning housing provision are relevant (notably LPSP policies 3 and 7, and NPPF paragraphs 78 and 80).⁷ Holiday accommodation may be a C3 'Dwellinghouses' use restricted by condition.⁸ The appellants imply that the cabins would not be such. They say that 'the facilities required by tourists are radically different to those required by residential properties', and that the cabins could not be 'mistaken for a typical house'. However the issue principally turns on whether or not the cabins proposed would afford users the facilities required for day-to-day private domestic existence. In this instance, on balance, they would.
17. The cabins would be modest. They would diverge in scale, and design, from other dwellings in the area (and also from standard forms). The appellants refer me to Valuation Office Agency data indicating that the average house size in the UK is some 99 square metres, many multiples the GIA of the cabins. The land surrounding each cabin would be relatively modest, and the site has one access. I acknowledge that holidaymakers are not so much bound into the structures of daily life as permanent residents (for example in relation to travelling to schools, healthcare facilities and employment locations).
18. I will return to that latter point. However even comparatively modest buildings may be used, more or less comfortably, as dwellings (regardless of their appearance). Each cabin would be large enough, theoretically, to accommodate bedrooms or sleeping areas, along with kitchen and sanitary facilities.⁹ There is no indication as to whether the site would host communal facilities unavailable at individual cabins. The site layout and storage room plan point to the contrary, i.e. that each cabin would be essentially self-sufficient. There is, in my view, no meaningful distinction between a smaller property occupied

⁶ But equally concerns sensitivity to surroundings, opportunities for connectivity improvements and encourages the use of previously developed land close to existing settlements.

⁷ Notwithstanding that the site may not be described as 'isolated' within the terms of NPPF paragraph 80 given the proximity of nearby development.

⁸ Of the schedule to the Town and Country Planning (Use Classes) Order 1987 as amended.

⁹ Noting that works affecting only the interior of a building are not development.

intermittently, and a larger property occupied on a continual basis, in terms of establishing whether it would fall within use class C3.

19. The proposal is clearly advanced as holiday accommodation, and the site intended to function as such (in contrast to other schemes where there may be greater ambiguity). That function could be ensured via the imposition of an appropriately-worded condition were the development acceptable as a whole. On a plain reading, however, 'tourism facilities' as in LPSP policy 5 encompasses more besides holiday accommodation alone. The scheme is effectively for a subset, or particular type, of tourism facilities, i.e. a C3 use restricted by condition. For that reason, and as the development plan must be considered as a whole, policies related to housing apply.
20. LPSP policies in respect of housing may fairly be characterised as more stringent in terms of acceptability of location than LPSP policy 5. Via LPSP policy 3 housing development is directed principally towards existing settlements, with limited provision made for exceptions to that (such as the rounding off of settlements or infilling within them). LPSP policy 7 acts as a counterpoint to policy 3, defining the circumstances necessary to justify new homes in the countryside. NPPF paragraph 79 sets out, at a high level, that housing should be located where it will enhance or maintain the vitality of rural communities.
21. Proposals must be determined in accordance with the development plan unless material considerations indicate otherwise.¹⁰ Different provisions of development plans, and of the NPPF, inevitably pull in different directions. Both must, however, be considered as whole entities. It is not for an appeal to go behind a plan. In that context it is, strictly, unnecessary to consider whether there is a rationale for the differential approach in terms of tourism facilities and housing provision as regards location. Nevertheless, from the point of view of avoiding unacceptable development, is there a logical distinction? The answer to that must be yes, which returns to the appellants' points noted in paragraph 16 of this decision.
22. There are two objectives underpinning both LPSP tourism and housing policies. Firstly they seek to achieve a pattern of development tilted towards encouraging walking, cycling and public transport (thereby reducing private vehicular reliance and associated emissions). Secondly they seek to avoid adverse effects to local character. As set out above tourism facilities, on a plain reading, encompasses more than holiday accommodation. That could be in the form of visitor attractions, for example, which may inevitably fall some distance from the nearest settlement.
23. I accept that using private vehicles may be more convenient for some irrespective of where something is located (and equally that some holidaymakers elect to walk or cycle by default). However certain tourism facilities generate fewer private vehicle trips than housing. Visitors may, for example, visit an attraction for a few hours travelling to and from it by car. Patterns of private vehicular usage will likely differ somewhat between occupation of holiday accommodation compared to other forms of housing. However the potential for private vehicular movements associated with holiday

¹⁰ Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.

accommodation is greater than may be associated with other tourist facilities. Individuals may travel to holiday accommodation by private vehicle and also make multiple trips back and forth each day. Consequently, and given the importance of tourism to the local economy, a differential spatial approach to housing is rational.

24. There is a representation before me from Canopy and Stars supporting the proposal 'to create a unique and low-impact holiday experience contributing to the sustainable travel industry, promoting nature and eco-tourism'. The proposal has clearly been designed with that ethic in mind. It would be possible to walk to or from Sennen, where there are some services and facilities. That is around 1 mile, or 2 kilometres, away. Given the nature of the proposal, prospective holidaymakers may elect to walk or cycle out of preference to a greater extent than associated with other types of holiday accommodation.
25. Many visitors also travel to car to visit Cornwall in any event, particularly sparsely populated areas thereof. I note the proposal would include on-site electric vehicle charging, generated by renewable technology. I understand there is a bus stop nearby on the B3315, whether 50 or 83 metres away, served by an hourly daytime service including to and from Penzance.¹¹ I also appreciate that other facilities in the surroundings are less sensitively designed in terms of their relationship with the landscape than the proposal would be.
26. The route to reach Sennen is, however, relatively unwelcoming. That route would be either alongside the B3315, or via the public rights of way in the landscape. In respect of the former there is no dedicated footway or lighting, or on occasion much informal space beside the carriageway to take refuge from vehicles. In respect of the latter, not unsurprisingly, that route is principally along rugged tracks cutting across unlit agricultural fields (which appeared relatively seldom used). The nature of that walk or cycle is unlikely to be preferential to the use of private vehicles to many individuals, particularly outside of daylight or during inclement weather. There would be nothing to prevent individuals from driving to and from the appeal site.
27. Similarly whilst it would be possible to travel to and from the site via bus to Sennen or Penzance, hourly daytime services are inevitably less convenient than private vehicles. Individuals would need to wait beside the B3315 on an informal verge by a tight curve in the road, which is similarly likely to dissuade many individuals during poor weather. It also appears there is no public transport provision stretching beyond early evening. A 2 kilometre radius around Sennen covers a vast area, including the settlements of Sennen Cove and Mayon which have various services and facilities.
28. Although many tourists drive to and about Cornwall, the propensity to travel by private vehicle declines, to some extent, relative to the proximity of services and facilities. Tourists staying in, or immediately around Sennen, Sennen Cove or Mayon could walk easily, and in short order, to reach services and facilities. That contrasts markedly with circumstances here. I note, for example, that Sennen Caravan park referred to by the appellants in the context of paragraph 24 of this decision, is far closer to services and facilities. There is, moreover, no

¹¹ Noting that a half hourly service appears to be referenced in the appellants' final comments.

substantive information as to the circumstances relevant to other development to draw meaningful distinctions relative to the development proposed.

29. Summarising the foregoing, the proposal would be small in scale, attract those seeking a natural experience who may be less likely to drive than others, and it would be possible to reach nearby services and facilities and locations by walking, cycling or bus services. However those making use of the proposed holiday accommodation would, in all likelihood, be largely reliant on the use of private vehicles for the foregoing reasons. Notwithstanding the ethos of the scheme, that would be contrary to the approach in relevant provisions of LPSP policies 2 and 5 and NPPF paragraphs 104 and 105, entailing adverse environmental consequences by way of vehicular emissions.
30. I note that LPSP policy 5, section 1, criterion c) indicates that an 'overriding locational and business need to be in that location' may justify countryside businesses. I accept the location of the appeal site is fundamentally related to the nature of the experience proposed. I also note that Canopy and Stars indicate that 'there is a high demand for accommodation of this type,' and that the offer would be unique compared to existing provision in the surroundings. I also acknowledge that the appellants' business is relatively local. However that information falls short of robustly justifying an overriding locational need for tourist accommodation in this specific location. The proposal would be effectively introducing a 'new' use rather than amounting to diversification.
31. Following my reasoning in paragraphs 9, 18 and 19, the proposal would not accord with the approach in LPSP policy 3. None of the exceptions in LPSP policy 7 apply, nor would the scheme cater for local needs within the terms of NPPF paragraph 78. I conclude that the appeal site is not an appropriate location for the development proposed.

Other matters

32. In respect of both main issues the harm arising from the proposal would be qualified, including in the context of the prevalence of holiday accommodation in Cornwall and relative to the number of visitors to the County. The proposal would clearly have certain benefits, including within the context of objective 2 of the LPSP being to 'enhance the cultural and tourist offer in Cornwall...'. The proposal would result in employment during construction and operation, and future users would bring trade to the area (noting NPPF paragraph 79). Given the ethos of the proposal, it is intended to be a sensitive and environmentally and socially conscious enterprise, including via sourcing food from local producers. It is also the appellants' intention to increase the ecological or biodiversity value of the site, including via the planting of over 500 new trees. The scheme has received significant support.
33. However the context referred to immediately above cuts both ways; the benefits associated with the proposal would inherently be modest. I have reasoned above that there is no compelling justification for the specific location of the proposal. Enhancing the cultural and tourist offer is not intrinsically dependent on additional holiday accommodation, nor antithetical to preserving landscape character. Even the sensitivity with which the scheme has been designed, and by which it is intended to operate, would not obviate adverse effects. Whilst I acknowledge the environmental enhancements proposed,

similar measures might, in theory, be capable of being advanced by a myriad of schemes in different locations. Although I have taken careful account of all the representations before me, the existence of support for a scheme does not indicate that it would, however unfair that may seem, be acceptable.

Consequently neither the forgoing, nor any other material considerations, are sufficient to justify allowing the appeal.

Conclusion

34. For the above reasons, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow

INSPECTOR