



Appeal Decision

Inquiry held on 6 December 2023

Site visit made on 6 December 2023

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/D0840/C/22/3298025

Land at Trevone Quarry, Trevone, Penryn, Cornwall, TR10 9JQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Rob Higgs against an enforcement notice issued by Cornwall Council.
- The notice, numbered EN19/00069, was issued on 30 March 2022.
- The breach of planning control as alleged in the notice is without planning permission, on land with a use partly for agriculture and partly for B2 General Industrial Use (as defined in the Town and Country Planning (Use Classed) Order 1987 as amended) and approved under Planning Application No. PA12/00991 for the 'change of use of redundant former quarry buildings to provide B2 (General Industrial) Use and retention of workshed building, the (1) material change of use of land to provide a mixed use for agriculture, B2 General Industrial Use (amended on 1 September 2020 to Use Class E), conversion of an existing building for a mixed use for blacksmiths forge and residential occupation and use of a further building for associated ancillary purposes and as a recording studio, conversion of an existing building for a mixed use for artists studio and residential occupation and for the stationing of a residential caravan, and (2) operational development on the land to construct 2 buildings for a mixed use for artists' studios and residential occupation, and to construct a further building for a mixed use for artists studio and residential occupation and the siting of a lorry back for an associated domestic storage use, to construct an extension to an existing building on agricultural land, to construct a workshop building and to construct an extension to an existing workshop building.
- The requirements of the notice are to:
 - (1) Cease the use of the land outlined in red on the plan attached to the notice for residential purposes.
 - (2) Cease the use of the land outlined in red on the plan for the stationing of caravans for residential purposes.
 - (3) Demolish and remove from the land the building in the approximate position marked light blue and numbered 1 on the attached plan.
 - (4) Remove from the land the residential caravan in the approximate position marked light pink and numbered 2 on the attached plan.
 - (5) Cease the use of the building in the approximate position marked light green and numbered 3 on the attached plan for residential purposes.
 - (6) Remove from the building in the approximate position marked light green and numbered 3 on the attached plan all domestic items, to include domestic furniture and cooker.
 - (7) Cease the use of the building in the approximate position marked grey and numbered 4 on the attached plan for ancillary purposes in association with the residential occupation of the building in the approximate position marked light green and numbered 3 on the attached plan, and as a recording studio.
 - (8) Cease the use of the building in the approximate position marked yellow and numbered 5 on the attached plan for residential purposes.
 - (9) Remove from the building in the approximate position marked yellow and numbered 5 on the attached plan all domestic items, to include domestic furniture and cooker.

- (10) Demolish and remove from the land that building in the approximate position marked yellow and outlined in black and numbered 6 on the attached plan.
 - (11) Cease the use of the building in the approximate position marked purple and numbered 7 on the attached plan for a mixed-use as an artist studio and for residential purpose.
 - (12) Demolish and remove from the land the building in the approximate position marked purple and numbered 7 on the attached plan.
 - (13) Cease the use of the building in the approximate position marked hatched dark green and numbered 8 on the attached plan for a mixed-use as an artist studio and for residential purpose.
 - (14) Demolish and remove from the land the building in the approximate position marked hatched dark green and numbered 8 on the attached plan and remove from the land the associated lorry back in the approximate position marked hatched black and numbered 11 on the attached plan.
 - (15) Cease the use of the building in the approximate position marked hatched dark blue and numbered 9 on the attached plan for a mixed-use as an artist studio and for residential purpose.
 - (16) Demolish and remove from the land the building in the approximate position marked hatched dark blue and numbered 9 on the attached plan.
 - (17) Cease the use of the section of building in the approximate position marked hatched dark pink and outlined in black and numbered 10 on the attached plan as an artist studio.
 - (18) Remove from the land the section of the building in the approximate position marked hatch dark pink and outlined in black and numbered 10 on the attached plan.
 - (19) Remove from the land outlined in red on the attached plan all materials and debris resulting from compliance with (1) – (18) inclusive above.
- The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on ground (a) a set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be corrected by:
 - i) the substitution of the plan annexed to this decision for the plan attached to the enforcement notice;
 - ii) the deletion from the allegation of “the stationing of a residential caravan” and “and the siting of a lorry back for an associated domestic storage use”; and,
 - iii) the deletion of requirements 4, 17 and 18;
 - iv) the deletion of 4,7 and 18 in requirement 19 and its replacement with “(1) – (3) and (5) – (16).
2. Subject to this correction the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of land with a use partly for agriculture and partly for B2 General Industrial Use (as defined in the Town and Country Planning (Use Classed) Order 1987 as amended) and approved under Planning Application No. PA12/00991 for the 'change of use of redundant former quarry buildings to provide B2 (General Industrial) Use and retention of

workshed building, the (1) material change of use of land to provide a mixed use for agriculture, B2 General Industrial Use (amended on 1 September 2020 to Use Class E), conversion of an existing building for a mixed use for blacksmiths forge and residential occupation and use of a further building for associated ancillary purposes and as a recording studio, conversion of an existing building for a mixed use for artists studio, and (2) operational development on the land to construct 2 buildings for a mixed use for artists' studios and residential occupation, and to construct a further building for a mixed use for artists studio and residential occupation, to construct an extension to an existing building on agricultural land, to construct a workshop building and to construct an extension to an existing workshop building at Trevone Quarry, Trevone, Penryn, Cornwall, TR10 9JQ as shown on the plan attached to the notice and subject to the following conditions.

- i) The residential floor space of the live/work units on plots C/D, E, G, H and I shall not be occupied other than by a person solely or mainly employed or last employed in the business occupying the business floor space of that unit, a widow or widower or surviving civil partner of such a person and to any resident dependents;
- ii) Written details of all existing outside storage areas, including stacking heights, together with a plan identifying such areas, shall be submitted to the local planning authority within 3 months of this decision for their written approval. No goods, equipment or other materials shall be stacked or deposited on the site in the open air except in accordance with the approved details. Any future variation from the approved details shall not take place without prior written approval of the local planning authority;
- iii) That with the exception of plots C/D, E, G, H and I and notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), the buildings on the site shall only be used for Class B2 (General Industrial) and light industrial purposes and for no other purpose (including any other purpose in Class E of the Schedule of the Town and Country Planning Use Classes Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Applications for costs

3. An application for costs was made by the appellant against Cornwall Council, This is the subject of a separate decision.

Preliminary Matters

4. The appeal was made on grounds (a), (b), (c), (d), (f) and (g) but for the reasons set out below, all grounds were withdrawn other than ground (a). I have therefore considered those matters relevant to that ground in reaching my decision.
5. At the commencement of the inquiry the Council advised that in view of the adoption of the Climate Emergency Development Planning Document (February 2023) and the Mabe Neighbourhood Development Plan 2023-2030 since the serving of the enforcement notice, the policy position has changed. As the

Council considers that the appellant's ground (a) appeal is likely to succeed the Council did not wish to cross-examine the appellant, or the witnesses, but would rely on myself as inspector to examine the evidence.

6. Whilst this approach of the Council simplifies the issues considerably, it should be noted that the Council and the appellant have been repeatedly requested prior to the appeal to confirm their approach to the development and the grounds of appeal. Had this been done earlier, a hearing rather than an inquiry would have been a more appropriate procedure.
7. In the event and with the agreement of the parties, I proceeded with the inquiry on the basis of a round table discussion of the ground (a) issues without the need for the formal examination and cross-examination of the evidence.
8. At the request of the appellant, permission was granted for the filming of the inquiry subject to meeting the Council's request that none of their staff would be identified.

Statement of Common Ground

9. The parties signed and submitted a SoCG (incorrectly headed 'Draft') dated 9 November 2023. This described the site, the planning history and relevant planning policies. It also indicated the parties' acceptance that in respect of the ground (b) appeal, the alleged development had occurred as a matter of fact. It also confirmed in respect of the ground (c) appeal, no planning permission has been granted for the mixed use or operational development or that it was permitted development.
10. Attached to the SoCG is a plan identifying the buildings by colour and letter together with a table identifying the various buildings, their uses and action required. In respect of buildings A, C, D, E, G, H/K and I, the Council stated that it was content to regularise the development.
11. The table indicates that for the caravan (B, also numbered 2), and storage (ref J, also numbered 10), the Council deemed that it was no longer expedient to enforce. On this basis I shall correct the notice by deleting reference to B (numbered 2) and J (numbered 10) in the allegation and in the requirements.
12. At the inquiry, both parties agreed that this plan should replace the plan attached to the enforcement notice. As no injustice would arise to either party, I intend to substitute the plan.
13. Notwithstanding the appellant's agreement to the SoCG, he subsequently objected to its contents on the basis that he had misunderstood them.
14. In correspondence with PINS, the appellant advised that his purpose in lodging the appeal on grounds (a), (b), (c), (d), (f) and (g) was to maximise his case but indicated that he would withdraw the appeal on all grounds except ground (a) if the Council amended the SoCG to refer to 'all' of the alleged breaches rather than 'most' of the breaches aligning with planning policies. In reply, the Council indicated that it would not be making any changes to the SoCG "at this time" and that it was not accepted that the ground (a) appeal would not be acceptable in any form at this time.

15. However, at the inquiry, in view of the Council's changed position in respect of the ground (a) appeal, Mr Higgs's withdrawal of the appeal on the other grounds and flagged up in his email of 16 November 2023 was accepted and I therefore proceeded to consider the appeal on ground (a) alone.

The site and relevant planning history

16. The appeal site is a former quarry located in the open countryside with a number of former quarry-related or more recent structures located around the site and which are identified on the plan annexed to this decision. Several buildings form part of the allegation. These are utilitarian buildings in terms of their design and materials which have very limited architectural or design quality but are reflective of the former use of the site as a quarry. There is a quarry pond within the site. Vegetation has become re-established since the site ceased to be a quarry through tree planting, agriculture and the process of natural regeneration resulting in many of the buildings on the site not being visually obtrusive or particularly apparent. There are areas adjacent to the structures or elsewhere on the site where the appellant stores building and other materials for recycling purposes.
17. The site is within the Fal and Helford SAC Zone of Influence and a Gold Priority Bridleway (217/5) passes along the western part of the site. Vehicular access to the site is via a series of trackways.
18. In February 2013, planning permission was granted for the change of use of former quarry buildings to provide B2(General Industrial) Use and the retention of a workshed building (PA12/00991).
19. An application was refused in March 2021 for a Lawful Development Certificate (LDC) for a mixed use of blacksmith's forge/artist studio/residential dwelling and ancillary domestic use/sound recording studio/workshop/office.
20. The appellant has submitted considerable material in support of his appeal, identifying that he is the majority owner and administrator of the appeal site. It was acquired 14 years ago as a derelict granite quarry with a right to blast a further million tons but these rights were relinquished in 2013 to create a sustainable creative community and a nature reserve. It comprises 21 acres of woodland, 3 acres of apple orchards, 2 acres of nut orchards and 13 community built micro businesses. The aims of the development are to provide low cost workshop/studio accommodation and some live-work units and to provide a model for sustainable development. None of the tenants have any written tenancy agreements.

The ground (a) appeal and deemed application.

21. The main issues are firstly whether the residential and employment uses on the site are policy compliant, and secondly, whether the development adversely affects the character and appearance of the area.
22. The adopted development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (CLP); the Climate Emergency Development Plan Document (CEDPD) and the Mabe Neighbourhood Development Plan 2022-2030 (MNDP).
23. Policy AL1 of CDPD adds a further type of housing permissible in open countryside as an exception to Policy 7 of the CLP. The policy is aimed at providing low impact housing and other buildings necessary to support

proposed activities and to be controlled by conditions regarding measurable environmental net gain, be subject to monitoring and granted for a temporary basis. The development appears to satisfy the majority of the detailed criteria of the policy except for criterion 3 which refers to a carbon statement; criterion 6 regarding the need for a binding action plan for biodiversity and environmental diversification; and criterion 8 regarding the need for a trust or management mechanism for running the enterprise. Although the policy is directed at all development including unauthorised development subject to enforcement action, I find that on balance the development is not contrary to the general thrust of the policy and its objectives.

24. The Council refers to three policies of the MNDP relevant to the development. Policy 1 refers to high standards of design and sustainable development. Whilst the latter is clearly achieved, the design cannot be described as being of a high standard but I recognise that certain former quarry buildings have been re-used, adapted where necessary and are functionally relevant. Policy 10 draws on Policy 5 of the CLP (business and tourism) and allows limited exceptions for the provision of new employment uses and live-work and expansion or diversification of an existing employment use in rural locations of the parish. Proposals should be within 1km by road of a recognised settlement and the Council indicates that the majority of the developed area of the appeal site is satisfies this requirement in respect of Halvasso. The other criteria of the policy are met other than criterion 2i where evidence is needed to demonstrate long-term business viability. However I am satisfied that as the live-work units are already in place, they do not create any significant adverse impacts, the scale and nature of the development is acceptable and appropriate conditions can be imposed to restrict residential occupancy and use.
25. I am also satisfied that the development generally accords with Policy 14 of the MNDP regarding residential development outside the development boundary of Mabe Burnthouse.
26. The National Planning Policy Framework (the Framework) advises at paragraph 82 (d) that planning policies should be flexible enough to accommodate needs not anticipated, allow for new working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.
27. Turning to the second issue, the policies in the CLP and the CEDPD seek to protect the intrinsic character of the countryside for its own sake and for development to sustain local character and distinctiveness. The Council refers to the employment and residential activities and the appearance of the structures having an effect on the appearance on the locality, which could at times appear incongruous and out of place in a tranquil rural environment. The Council suggested that people using the bridleway on the west side of the site would be sensitive to change, although this point of view was not accepted by a local resident at the inquiry.
28. However, it is apparent from the submitted photographs of the quarry and its buildings that its appearance as a working quarry was rugged, exposed and uncompromising. Today, any degradation of the landscape has been considerably softened through regrowth of vegetation and the current uses and buildings have not contributed to any significant change in the general appearance of the area.

29. The development subject to the notice has received considerable public support as evidenced from the volume of representations submitted to PINS.
30. In conclusion, at the time when the enforcement notice was issued the mixed use of the site as set out in the alleged breach was contrary to the policies in the Development Plan. Since then, the scope of the policies has been broadened to be more inclusive of development such as that the subject of this appeal. I attach considerable weight to the recently adopted policies set out in the CEDPD and MNDP which allow a development that was not previously acceptable on the basis of the CLP alone. I consider that although the development is generally but not fully compliant with Development Plan policy and having regard to the approach of the Framework to live-work units, I find that on balance the development is acceptable, subject to appropriate conditions.

Conditions

31. In view of the nature of the unauthorised development, conditions are required to make it acceptable. At the inquiry, suggested conditions were discussed and these are necessary and relevant to the development being approved.
32. The first condition is necessary to limit residential occupation as these are live-work units located in an area of open countryside where planning permission would not normally be granted for dwellings.
33. In the second condition, the wording of the condition originally drafted by the Council and agreed in the SoCG by the appellant prohibited the stacking or depositing of materials in the open air in the interests of visual amenity and in accordance with paragraph 130 of the National Planning Policy Framework. The appellant expressed concern that there is considerable outside storage of materials, either adjacent to existing buildings or elsewhere on the site. In view of this it would be reasonable to limit outside storage to existing areas used as such and that this needs to be described and shown on a plan to be submitted by the appellant and approved by the Council. In order for this to be achieved without undue delay, the details should be submitted by the appellant within 3 months.
34. The third condition is necessary to ensure that control can be exercised over any future use of the buildings.

Conclusion

35. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected.

P N Jarratt

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Higgs – appellant

Mr T Dwelly – Director Live/work network and Cornwall Councillor

FOR THE LOCAL PLANNING AUTHORITY:

Mr O Bradbear : Lawyer (Planning and Highways)

Mr P Blackshaw: Principal Planning Officer (Appeals)

DOCUMENTS

1 P Blackshaw's proof of evidence including appendices.

2 Draft Table of Agreement (appellant).

3 R Higgs' proof of evidence.

4 Ground (d) appeal (appellant).

5 Ground (d) summary(appellant).

6 Appellant's costs application.

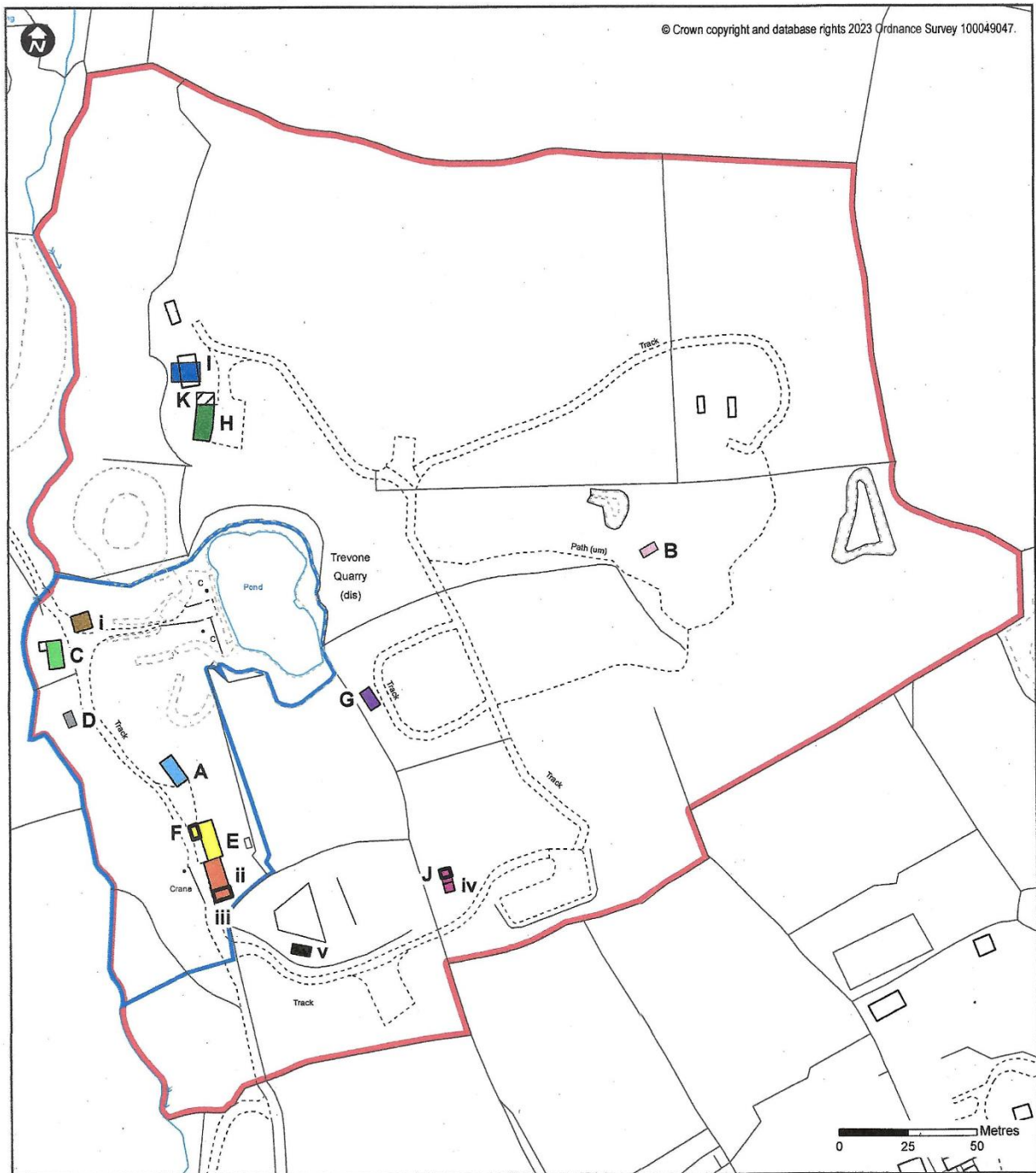
7 Site photos and Cornwall Council's diagram of the enforcement investigation process (appellant).

8 Cornwall Council's opening.

9 Cornwall Council's costs response.

10 Notification of inquiry dated 22 November 2023 (Council).

ANNEX



Key

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| Site Outline | H, Previously shown as Dark Green hatch and numbered as 8 |
| PA12/00991 | I, Previously shown as Dark Blue hatch and numbered as 9 |
| A, Previously shown as Light Blue and numbered as 1 | J, Previously shown as Dark Pink/black outline and numbered as 10 |
| B, Previously shown as Light Pink and numbered as 2 | K, Previously shown as Black hatch and numbered as 11 |
| C, Previously shown as Light Green and numbered as 3 | i, Previously shown as Brown |
| D, Previously shown as Grey and numbered as 4 | ii, Previously shown as Orange |
| E, Previously shown as Yellow and numbered as 5 | iii, Previously shown as Orange/black outline |
| F, Previously shown as Yellow/black outline and numbered as 6 | iv, Previously shown as Dark Pink |
| G, Previously shown as Purple and numbered as 7 | v, Previously shown as Black |