



Appeal Decision

Site visit made on 7 May 2024 by S Wilson LL.B. MSc MRTPI

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/D0840/C/23/3327693

Tamblyns Barn, Penstraze, Chacewater, Truro, TR4 8PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Daniel Cape on behalf of Cape Building Ltd against an enforcement notice issued by Cornwall Council.
 - The notice was issued on 12 July 2023.
 - The breach of planning control as alleged in the notice is described as follows: *Without planning permission the construction of a building. The approximate location of the building is shown by a blue X on the attached plan and the land has been outlined in red on the attached plan 'The Plan'.*
 - The requirements of the notice are to:
 - (1) Demolish the building shown in the approximate position by a blue X on attached plan.
 - (2) Remove all materials arising from compliance with the above from the land and restore the land to its former condition before the breaches took place.
 - The period for compliance with the requirements is: six months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused in respect of the development on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Ground (a) - Main Issues

3. The effect of the development on the character and appearance of the area with regard to the Devon and Cornwall Mining World Heritage Site (WHS) and, linked to that, the principle of the development with specific regard to its location.

Reasons for Recommendation

Character and Appearance

4. The appeal building is a single storey L-shaped form, constructed of steel frame with blockwork infills. The exterior is clad in timber and with a stone plinth in some places. The corrugated sheet clad roof appears high due to the high

eaves' height. There is a bungalow with a squat roof adjacent to the building occupied by the appellant. A railway runs to the north-west of the site and a footpath runs to the south-east, directly adjacent to the building and on the appellants property. The appeal site is isolated in a rural location and in the context of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) would be development in the countryside located away from services and would contribute to the encouragement of unsustainable development patterns contrary to LP Policy 1.

5. The site is located in the WHS, the largest industrial World Heritage Site in the UK, designated, amongst other things, for its Outstanding Universal Value (OUV). The Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025 (MP) sets out that the OUV is derived from multiple factors including geography and landscape; views; history and character; communications; notable sites; interpretation of sites and area character statements. There are 10 Areas with their own specific character statements, and it is noted that any affect must be considered on the WHS as a whole. For the purposes of this appeal the site is located in Area 6, The Gwenapp Mining District with Devoran and Perran and Kennall Vale. This landscape is noted, amongst other things, as being former downland and that much of this area is characterised by former smallholder fields and cottages. World Heritage Sites are an irreplaceable asset and should be conserved in a manner appropriate to their significance.
6. Where development affects a heritage asset it is required that an applicant describe the significance of that asset and the effects of the development upon it. The level of detail should be proportionate to the assets importance and no more than is sufficient to understand the potential impact of the proposal on its significance. That is not possible in this case as the appellant has already constructed the development without undertaking the necessary assessments. This failure to inform the development by a proportionate heritage impact assessment, which would identify the significance of the WHS and demonstrate how any harm would be avoided, minimised or mitigated is contrary to Policy 24 LP. A condition requiring a heritage survey be undertaken to minimise or mitigate the harm identified is unreasonable as the building has already been constructed.
7. Whilst the footprint and exterior materials cladding the structure are sympathetic to the character and appearance of the area and the WHS, the overall height of the structure appears incongruous in its setting. The appellant states the height is required to store machinery; however, I noted that the forklift could easily enter the barn through the main doors, and it was not necessary to park it with its forks raised. I also observed cereal crop hay bales stacked unnecessarily high. The height of the roof is unnecessary.
8. I observed from the public footpath that the appeal building is considerably taller than that of the adjacent, associated bungalow and dominates the site within which it is located, contrary to LP Policy 12 . Consequently, the scale of the appeal building stands out within the wider landscape, failing to be respectful of its setting and failing to add to the quality, distinctiveness and historic setting of the WHS contrary to Policies C2 and C9 MP and The Chacewater Parish Neighbourhood Development Plan 2018-2030 (NDP) Policies LGOS1,HE2 and HE4.

9. Furthermore, it is impossible to assess the impact upon the landscape, environment, and any protected species without the appropriate surveys. There is no evidence provided to indicate that an assessment of impacts to the landscape or environment has been undertaken and its findings implemented. I am not able to overcome this issue by conditioning that a survey should be undertaken, as the survey may conclude that mitigations are required. Consequently, the development is contrary to Policy 23 of the LP and LGOS3 of the NDP.

The development is also unjustified in this rural location and is likely to encourage unsustainable patterns of development contrary to LP Policy 1. Furthermore, I find that the development causes harm to the character and appearance of the area with regard to the WHS and is therefore contrary to Policies 2,12,23 and 24 of the LP , Policies HE2, HE4, LGOS1 and LGOS3 of the NDP as a whole.

Other Matters.

10. Whilst there are some agricultural type buildings in the vicinity, it is not possible to discern, on the evidence submitted, the merits of those schemes, under which development plan or legislation these buildings were approved, or if they benefit from planning permission at all. I therefore attribute them little weight.
11. On 30 April 2020, under reference PA20/03327, the Council deemed that Prior Approval was not required for the proposal submitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) Part 6, Schedule 2. However, the unauthorised building constructed is not as per the submitted plans. It is significantly higher, with a smaller footprint. Consequently, the appeal building, as constructed, is not the same building deemed permitted development under ref PA20/03327 and I attribute the prior approval limited weight.
12. There is a distinct lack of evidence to demonstrate that the appellant has a need for the building that may override the harm found above. The land upon which the appeal building is located does not reach the 5-hectare requirement to trigger permitted development for an agricultural building and further evidence supplied to demonstrate that the holding, as a whole, is above the 5-hectare threshold is inadequate. Even if I concluded that the holding was big enough to trigger the use of permitted development, I have already concluded that the building is substantially different to the prior approval permission.
13. Furthermore, at the time of my visit I could not discern any grass for fodder in the barn or in the general area, only what appears to be cereal crop hay bales that were stacked unnecessarily high. I have no evidence that the appellant is farming cereal crops and there was no machinery present that would indicate that. Whilst the appellant has suggested that a condition requiring the building to only be used for agriculture, I am not convinced that such a condition would overcome the harm to character and appearance. To conclude, for the reasons above, I am not convinced that there is an acceptable justification that would outweigh the harms identified.

Conclusion on ground (a)

14. The appeal on ground (a) must be determined based on the matters alleged. In that regard, I have found unjustified harm to the character and appearance of the heritage asset, that being a matter to which I must attach great weight. Furthermore, I have found that there is no justification for the development in the countryside. The appeal on ground (a) should fail.

Ground (f)

15. The building, to which the EN relates, is an enclosed structure. The challenge is that the steps required by the notice are excessive.
16. As I have already explained, the building does not accord with the plans for the prior approval ref PA20/03327 and is a significantly different structure. I note there is no proposal of how the building could be made acceptable. The notice relates to the building as a whole and the steps required could not be varied to retain some elements of the building and not others without the introduction of significant imprecision.
17. Furthermore, the purpose of the notice is to remedy the breach which can only happen by complying with the notice. The requirements of the notice are not excessive and the appeal on ground (f) should fail.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed, and planning permission refused on ground (a). Furthermore, I recommend that the appeal on ground (f) should fail.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed as set out in my Decision above.

A U Ghafoor

INSPECTOR