



Appeal Decision

Hearing held on 3 September 2024

Site visit made on 3 September 2024

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/D0840/W/24/3337129

The Sanctuary Cornwall, Downs Hill, Golant, Fowey, Cornwall PL23 1LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Miss Karen Wells-West and Mr David Johns against the decision of Cornwall Council.
 - The application Ref is PA23/06507.
 - The application sought planning permission for development of new single storey Outdoor Activity Centre with multi use accommodation, workshops and meeting rooms to replace existing agricultural building without complying with a condition attached to planning permission Ref PA17/06249, dated 6 October 2017.
 - The condition in dispute is No 3 which states that:
The development hereby permitted shall be used as an activity centre and holiday accommodation only and shall not be occupied as a person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of each individual unit on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
 - The reason given for the condition is:
To accord with development plan housing policies under which permanent residential accommodation would not normally be permitted on the site and in accordance with the aims and intentions of policy 7 of the Cornwall Local Plan Strategic Policies 2010 - 2030 and paragraphs 28 and 55 of the National Planning Policy Framework 2012.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the Hearing, a Draft Statement of Common Ground (SOCG) was signed by the Council and the appellants. However, it transpired that the appellants, who were not professionally represented, had only signed it 'on receipt' and did not agree with some of its wording. In the circumstances, I have therefore disregarded the SOCG.

Background and Main Issues

3. The site consists of a building located on the edge of the village of Golant. The building was granted under the 2017 permission as an outdoor activity centre including holiday accommodation. It was used as part of a kayaking tour

business and has been built to high environmental standards, being off-grid and supplying its own electricity and water.

4. The business model had to change following the coronavirus pandemic, when it became more focused on bed and breakfast guests, based on green and sustainable living. Within the appeal building, the accommodation has four bedrooms, together with a meeting room, kitchen and other facilities. There is also a separate camping pod within the site.
5. The appellants now seek to relocate from their current accommodation in the village, to instead occupy Room GF4 within the main building. This would be on a full-time basis, as their only residence, thus providing manager accommodation. They therefore propose to vary condition 3 of the 2017 permission, which restricts occupation to holiday use and not as a sole or main residence.
6. The main issues are whether the proposal would comply with the spatial strategy of the Development Plan in respect of:
 - accessibility to services and facilities and
 - the character and appearance of the countryside and the Cornwall National Landscape¹.

Reasons

Access to Services and Facilities

7. Amongst other things, Policy C1 of the Climate Emergency Development Plan Document (CEDP), adopted February 2023, seeks a mix of uses to maximise the ability to make trips by public transport and other sustainable modes of travel. This is to support walking and cycling for daily living, rather than car use, to reduce greenhouse gas emissions. Although Golant has a church, hall and public house, there is no dispute that the village has few facilities, and no shop or public transport.
8. The narrow, steep and unlit lanes into the village make walking or cycling elsewhere difficult, especially at night, in inclement weather or for those with limited mobility. Whilst the appellants undertake shopping trips to Fowey by kayak or electric vehicle, these may not be suitable for future occupiers. As such, the proposal would result in new permanent residential accommodation, in a location where its occupiers would be heavily reliant on private vehicles. It would therefore conflict with CEDP Policy C1.
9. CEDP Policy AL1 supports low impact residential development. However, it does so only as part of proposals for the regenerative use of land, whereas the proposal is primarily for tourist use. The Policy requires that day-to-day travel patterns can be met sustainably, with which I have already found conflict. The property has not been the appellants' principal residence, as required by the policy, and I have little evidence of compliance with its other criteria, for instance the submission of a Carbon Statement. For these reasons, the proposal would not accord with CEDP Policy AL1.

¹ Also known as the Cornwall Area of Outstanding Natural Beauty (AONB).

10. In the context of the proposal, Policy 3 of the Cornwall Local Plan (CLP), adopted November 2016, only permits new housing within or immediately adjoining settlements. At the Hearing, the Council confirmed that Golant constitutes a settlement for these purposes. However, although not isolated, the appeal building is separated from the built-up edge of the village by a field. As such, it is not within or immediately adjoining the settlement, but instead lies in the countryside. Accordingly, the proposal would not comply with CLP Policy 3 or the similar requirements of Policy H1 of the St Sampson Parish Neighbourhood Development Plan (NP), made April 2021.
11. In the countryside, CLP Policy 7 only allows housing in special circumstances. Relevant to the appeal, these include where there is an essential business need for full time workers in a rural occupation to live on-site. The enterprise includes an orchard, woodland, kitchen garden, vineyard and the keeping of chickens. Operation of the tourist accommodation requires early starts and late evening finishes, including communal interaction with guests, which is an important part of the appellants' business model. Courses and trips are also provided. Some guests may require assistance, for instance to use the steep access road, or may have welfare needs.
12. However, these issues are dealt with by the appellants' current living arrangements. I have little substantive evidence of significant problems, such as risks to human or animal health, crops, or in respect of security, which would make an on-site presence essential. This is particularly the case given the relatively small scale of the enterprise. Some types of tourist accommodation have an on-site presence, such as B&Bs, but this does not mean that a permanent presence is always necessary. Consequently, and despite any current insurance requirements, I am not convinced of an essential business need for the proposal. It would therefore conflict with CLP Policy 7.
13. CLP Policy 5 seeks to encourage the provision of tourist accommodation and discourages the loss of business space. At the Hearing, the appellants confirmed that all four rooms were regularly booked, particularly in the peak season. In reducing the number of bedrooms available for guests, the proposal would result in the loss of business space, and its replacement with personal accommodation.
14. The existing dwelling is said to be used essentially as a dormitory by the appellants. Its sale may release capital for the business, although no accounts have been provided. Nevertheless, even with further camping at the site, the proposal would appreciably reduce the amount of holiday accommodation available. As a result, I am not convinced that it would result in better-quality business or employment space overall. As such, the proposal would conflict with CLP Policy 5.
15. CLP Policy 2 supports live/work units, but only in the context of sustaining economic activity and improving business conditions, which I have found would be diminished by the proposal. Therefore, even if it would constitute a live/work unit, it would conflict with CLP Policy 2. For similar reasons, the proposal would conflict with NP Policy E1, which seeks to retain and encourage employment uses. Chief Planning Officer Advice Note 'Providing Homes' (May 2023) only supports live/work units where occupiers would have a range of sustainable transport modes, which I have already found would not be the case.

16. The refusal reason refers to what is now Paragraph 84 of the National Planning Policy Framework (the Framework). However, as the Council accepts that the site is not isolated, this Paragraph is not relevant to the proposal. Nevertheless, for the reasons given above, the proposal would not comply with the spatial strategy of the Development Plan in respect of accessibility to services and facilities. It would therefore conflict with CEDP policies C1 and AL1, CLP policies 2, 3, 5 and 7 and NP Policies H1 and E1. It follows that, because of the location of the site and its economic effects, the proposal would not accord with CLP Policy 1 and its presumption in favour of sustainable development.

Character and Appearance

17. Policy PD-P2 of the Cornwall AONB Management Plan (CMP) identifies the harmful cumulative effects of uncharacteristic elements in the landscape, such as domestic paraphernalia and light spill. CMP Policy PD-P8 requires proposals to not harm amongst other things tranquillity.
18. The authorised use for holiday accommodation already results in a degree of domestication, for example from parked cars and internal and external lighting. No physical changes are proposed to the building, and I am aware of no restriction preventing use of the accommodation for holidays throughout the year.
19. However, although the appellants undertake management and maintenance of the land and buildings in winter, the property is not currently used for holiday accommodation for four months of the year. As a result of the proposed permanent use, the property is more likely to be intensively used particularly in winter, with the attendant increases in light spill, parked cars, noise and movement, and additional paraphernalia.
20. Furthermore, permanent occupiers of the building are likely to have a greater need for space than holidaymakers, for example to store large items. As such, the proposal could result in future pressure for extensions to the building, or for domestic outbuildings, particularly as only Room GF4 is proposed for full-time occupation. Even if a planning condition were imposed restricting permitted development rights for extensions and outbuildings to the property, it would be difficult for the Council to resist such proposed developments if permanent use were permitted. Consequently, the proposal would not conserve or enhance the countryside and National Landscape.
21. For these reasons, the proposal would conflict with the spatial strategy of the Development Plan in respect of the character and appearance of the countryside and the Cornwall National Landscape. As a result, it would not accord with CMP Policies PD-P2 and PD-P8, CLP policies 2 and 3, or CEDP Policy C1, which require that the special character of Cornwall is maintained, and that the AONB landscape is both conserved and enhanced. It would also conflict with the similar aim of the Framework, now at Paragraph 182, to which I give great weight.

Other Matters

22. The appellants do not wish to see the site become used entirely for housing and seek to continue their sustainable lifestyle, whilst also making plans for their future. Even so, planning permission runs with the land, and the proposal seeks full time, permanent residential use of part of the building. I have

therefore determined the appeal on this basis. The proposal would result in the release of the appellants' existing two-bed home into the stock of available housing, but this would be a small benefit and would not justify the adverse effects identified above.

23. Reference has been made to other residential development approved in Golant, for example at the former Cormorant Hotel, the Youth Hostel, and elsewhere. I do not have full details of these proposals or decisions, although I have found that the Development Plan does not preclude all new housing in the area. The need for consistency in decision-making is important. However, this must be set against the need to properly apply the policies of the Development Plan to the proposal, against which I have found conflict.
24. The *Finney*² case confirmed that a section 73 application cannot be used to change the original description of the development. As set out in the banner heading above, the original planning permission granted consent with a description including 'multi-use accommodation'. I understand that use of the property for permanent accommodation was not anticipated or proposed at that stage. However, unlike in the Saltash³ appeal, the original description does not specify the type of accommodation. Given the broad nature of the original description of development, I am satisfied that the proposal before me would not conflict with it. Nevertheless, this does not change my conclusion on the main issues.

Planning Balance and Conclusion

25. For the reasons given above, I have found conflict with the Development Plan, read as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR

² *Finney v Welsh Ministers & Others* [2019] EWCA Civ 1868

³ PINS reference APP/D0840/W/21/3280016

APPEARANCES

FOR THE APPELLANTS:

Karen Wells-West
David Johns

Appellant
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

James Holman MRICS, MRTPI, FAAV
Alex Lawrey

Cornwall Council
Cornwall Council

DOCUMENTS HANDED IN DURING THE HEARING

1. Draft Statement of Common Ground
2. Record of Attendance