
Appeal Decisions

Site visit made on 19 August 2024

by A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 22 NOVEMBER 2024

Appeals A to D Refs: APP/D0840/C/22/3313784, 85, 86 and 87

Land West of Plantation Chapel, Plantation, Troon, Cornwall, TR14 9JW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (referred to as "the 1990 Act").
- The appeals are made by Mr Peter Clark-Roberts (Appeal A), Ms Zania Clark-Roberts (Appeal B), Mr Daniel Lawson (Appeal C) and Ms Pamela Salas Quesada-Lawson (Appeal D) against an enforcement notice issued by Cornwall Council. The notice was issued on 17 November 2022.
- The breach of planning control as alleged is stated in the annexe to this Decision.
- The requirements of the notice are to set out in annexe attached to this Decision.
- The period of compliance with the requirements is set out in the annexe to this Decision.
- Appeal A is proceeding on the ground set out in section 174(2)(a), (f) and (g) of the 1990 Act. Appeals B - D are proceeding on the ground set out in section 174(2)(f) and (g) of the 1990 Act.

Appeal E Ref: APP/D0840/W/22/3313748

Chapel Hill Farm, Plantation, Troon, Camborne, TR14 9JP

- 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 Peter Clark-Roberts on behalf of the Plantation Christian Community against the decision of Cornwall Council. The application Ref is PA22/07613.
- The development proposed is described in the application form as the retention of residential caravan.

Decisions

1. Appeals A to D are dismissed, the enforcement notice is upheld, and, in Appeal A, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal E is dismissed.

Ground (a) and the s78 appeal

3. The terms of the deemed application are directly derived from the allegation. Planning permission is sought for the change of use to residential and the running of a reptile business, through the stationing of a static caravan used for residential purposes along with associated paraphernalia and motor vehicles, and the construction of a concrete block outbuilding, wooden shed for the reptile business and creation of vehicular access. The s78 application relates to the retention of the same caravan. I understand the reptile business has since ceased.
4. The common main issue is whether the development is appropriate for its location.
5. Policies 2 and 2a of the Cornwall Local Plan Strategic Policies 2010-2030 set out

a sustainable approach to accommodating growth and maintaining the dispersed development pattern. The latter establishes key targets for the delivery of new homes during the plan period and Policy 3 establishes a hierarchy in which new development will be accommodated up to 2030. Policy 7 relates to housing in the countryside, policy 12 to design, and policy 23 to natural environment. I consider the local plan policies are consistent with the aims and objectives of the national planning policy framework (NPPF).

6. Clearly, a residential caravan site of this kind is unacceptable given the rural location. The development conflicts with the objectives of local and national policies that seek to manage residential development in a sustainable manner.
7. I appreciate the need for affordable housing in the area and the caravan provides much needed accommodation to its occupiers. I am also mindful that the site provides accommodation and services to a religious community. In addition, there are personal circumstances of the individuals who occupy the caravan. Nevertheless, the evidence suggests residential activity has spread on the land due to the siting of the caravan, which is accessed via the driveway. The residential use is also facilitated by installation of drainage system and water supply. The display of residential paraphernalia such as outdoor seating and washing lines as well as coming and goings associated with the residential living, and erection of an outbuilding housing the water facility and shed, cumulatively, give a sense of domesticity in this part of the countryside.
8. The site is accessed via a track which is said to serve an outbuilding that houses a water pump. However, as I have said elsewhere, the access also facilitates the residential use of the land. The design and scale of the caravan combined with the location of the access is at odds with the character of the Carnmenellis Area of Great Landscape Value: the development has an unacceptable urbanising visual effect in this countryside setting.
9. I am mindful of the human rights implications given the potential homelessness because of dismissing these appeals. However, the interference with the rights of the occupiers is a proportionate response in pursuance of the well-established and legitimate aims of planning policies in the public interest. Turning to the public sector equality duty. I understand the family who occupy the caravan is part of a religious community and share protected characteristics. Enabling the occupiers to remain on the site, with the benefit of planning permission to establish a lawful use, has the potential to foster improved relations and to eliminate discrimination.
10. Drawing all the above points together, there is conflict with local plan policies and the NPPF which seeks to coordinate delivery of housing in sustainable and suitable locations. Other considerations advanced include personal circumstances, provision of affordable housing, and my considerations on human rights and the PSED. However, given the inappropriate location of the residential caravan site, I attach limited weight to these matters.
11. The development does not accord with the development plan policies referred to above, as a whole, and there are no other considerations to indicate that the appeals should be determined otherwise. Therefore, for the reasons given above, I conclude that Appeal A and E should not succeed, and that planning permission should not be granted. This action would not unacceptably violate occupiers' human rights and the protection of the public interest cannot be

achieved by means that are less interfering of their rights.

Other matters

12. In Appeal E, the Council also raised concerns about the impact of the residential use on Fal and Helford Special Area of Conservation for which there is evidence of an identified need, the proposal is considered to be contrary to policy 22 of the Cornwall Local Plan. There is concern about the absence of a mechanism to secure the provision of financial contributions to mitigate the recreation impact. As I am dismissing the s78 appeal, this matter does not require my assessment.

Ground (f)

13. The claim is that steps 5), 6) and 9) of the requirements are excessive as it would result in the removal of would concrete block outbuilding, water tank, shed and access. The latter is required to access the site, but it has created in connection with the residential caravan site and has sustained the residential use.
14. The alternative is to delete step 5), 6) and 9) from the requirements but I have already found the facilitating development to be unacceptable in terms of planning merits. This kind of under-enforcement would not achieve the purpose behind the notice, namely, to remedy the breach by restoring the land to its condition before the breach occurred. No lesser steps have been advanced to remedy the breach through restoration. The latter derives from s173(4)(a) and requires full compliance to achieve the purpose behind the notice. Ground (f) must fail.

Ground (g)

15. The claim is that the period of compliance (18 months) is too short, and a reasonable period would be 24 months. I am mindful of the personal circumstances of the occupiers, the need to find alternative accommodation and risk of homelessness. I also appreciate Cornwall's housing crises. However, the evidence presented does not show to me alternative and suitable accommodation is not available. I consider that 18 months from the date of this decision is a reasonable period to find alternatives. The period of compliance is reasonable to comply with the requirements of the notice. Ground (g) must fail.

Conclusions

16. For all the above reasons and having regard to all other matters raised, I conclude the appeals should not succeed. I further conclude that the Appeal on ground (a) and Appeal E s78 should not succeed.

A U Ghafoor

INSPECTOR

Annexe to Appeals A to D

Refs: APP/D0840/C/22/3313784, 85, 86 and 87

The alleged breach of planning control:

Without planning permission, the change of use of the land from agricultural/scrub land to residential and the running of a reptile business, through the stationing of a static caravan used for residential purposes along with associated paraphernalia and motor vehicles. Also, the construction of a concrete block outbuilding, wooden shed for the reptile business and creation of vehicular access. The approximate position of the residential caravan is marked with a blue 'X' on the attached plan.

What you are required to do:

- (1) Cease the residential use of the caravan shown in the approximate location by a blue 'X' on the plan attached to the enforcement notice.
- (2) Remove all services connected to the caravan for the purposes of independent human habitation, i.e. electric cabling, water pipes and sewage pipes etc.
- (3) Remove the caravan indicated by the blue 'X' on the attached plan from the land.
- (4) Remove the hardcore under the caravan from the land and restore land to its original condition.
- (5) Demolish and remove the concrete block outbuilding and water tank shown in the approximate location by a blue 'A' on the plan attached to the enforcement notice.
- (6) Cease the operation of reptile business and dismantle and remove the shed shown in the approximate location by a blue 'B' on the plan attached to the enforcement notice.
- (7) Dig up and remove from the land the sewage treatment plant and connected pipping shown in the approximate location by a blue C on the plan attached to the enforcement notice.
- (8) Remove all motor vehicles from the land.
- (9) Remove the new access track from the land and restore land to its original condition.
- (10) Remove from the land all materials and debris resulting from the residential use of the land, including washing line, outdoor furniture, plant pots, domestic waste, etc.
- (11) Remove from the land all materials and debris resulting from the above works and restore the land to its former condition and use before the breaches took place.

Period of compliance

For (1) - (11) above, eighteen months after this notice takes effect.

End of annexe.