



Appeal Decision

Hearing held on 7 January 2025

Site visit made on 7 January 2025

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/D0840/W/24/3351570

Land to the east of Ennis Cottage, Trannack Road, Sancreed, Cornwall TR20 8QW

- 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 TW and WT James against the decision of Cornwall Council.
 - The application Ref is PA24/01551.
 - The development proposed is described as the 'Retention and completion of a building to form an agricultural workers dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address referred to in the planning application form is different to that on the Decision Notice. I have used the address as set out on the Decision Notice in the banner heading above as this more clearly describes the location of the site, and I note that the revised address has been used on the appeal form.
3. The appeal is made by Messrs TW and WT James who are father and son. Mr William James appeared at the hearing. For the sake of convenience only, I shall refer to him as Mr James, and his father as Mr James Senior.
4. Mr James confirmed at the Hearing, and I observed at my site visit, that the appeal building has already been constructed and is occupied. The application is therefore retrospective in nature.
5. While not referred to specifically in the first refusal reason, the parties agreed at the Hearing that Policy 7 of the Cornwall Local Plan Strategic Policies 2010-2030, adopted November 2016 (CLP), is relevant in the determination of the appeal.

Main Issues

6. The main issues are:
 - whether there is an essential need for the dwelling to accommodate a rural worker;
 - the effect of the development on the character and appearance of the area; and

- whether the development includes appropriate measures to achieve Net Zero Carbon.

Reasons

Essential need

7. The appeal site comprises an area of land which forms part of Trannack Mill Farm. The holding amounts to 20 hectares in total. It includes pastureland, various agricultural and other buildings, and the farmhouse at the site and 8 hectares of heathland elsewhere.
8. The appeal scheme is an agricultural worker's dwelling for Mr James, who is employed full time at Trannack Mill Farm and currently resides in the existing farmhouse. His parents, including his father, Mr James Senior, live in the newly constructed dwelling. They recently moved to the site after the sale of their farmhouse and land elsewhere. It was confirmed at the Hearing that, this is a temporary arrangement and that it is intended that Mr James will move into the new dwelling and his parents will move into the farmhouse. Mr James Senior is no longer as involved in the day to day running of the farm and is due to retire imminently.
9. The site is located in an area of open countryside. Policy 7 of the CLP sets out that new homes in the open countryside will only be permitted in special circumstances, which includes, among other things, for full time agricultural workers where there is up to date evidence of an essential need of the business for the occupier to live in that specific location. Similarly, the National Planning Policy Framework (the Framework) seeks to avoid the development of isolated homes in the countryside unless specific circumstances apply. This includes the need for a rural worker, including those taking majority control of a farm business, to live at or near to their place of work in the countryside. The parties agree that there is a need for 1 full time equivalent worker at the holding¹. However, this is separate to whether there is a functional need for that worker to have a 24-hour presence all year round.
10. The evidence indicates that the business comprises up to 50 beef cattle, 50 breeding ewes and 10 red deer hinds as well as a stag. Daily duties include changing of bedding during periods of indoor housing, and feeding, with the finishing cattle having a 6 hour feeding regime, starting at 0500 hours and the last feed at 2300 hours. In addition, the appeal submissions set out that on-site presence is required throughout the night to ensure the welfare of the livestock, which requires regular checks of the animals to enable early detection of health issues or irregularities and monitoring fertile periods. The presence of an agricultural worker is also necessary during calving and lambing, which may take place during the night, to enable monitoring of the mothers and offspring throughout the birthing process, so as any emergencies can be dealt with quickly. Mr James advised that last spring a vet had to be called to assist with an incident that occurred during calving, in order to prevent any negative consequences. This would not have been possible without the alarm being raised by a farm worker who was present on site at the time.

¹ Statement of Common Ground dated December 2024

11. I note the Council's suggestion that the breeding season can be controlled to a degree by restricting when conception takes place. However, Mr James indicated at the Hearing that calving and lambing is increasingly unpredictable depending on weather conditions and takes place for up to 8 months of the year during the spring and autumn. Furthermore, the red deer give birth between May and June.
12. Mr James highlighted a range of other activities associated with the operation of the farm, which he undertakes, including general maintenance and management of the land. In addition to the full-time work at the farm, Mr James manages a site nearby, where he is responsible for the welfare of Dartmoor ponies, which involves checking on them during the evening and early hours. However, these activities, which are largely during daytime hours, would not necessitate the presence of a rural worker 24 hours a day.
13. In addition to the above considerations, Mr James explained at the Hearing there have been several incidences of crime at the enterprise. These include the theft of cattle feed troughs, feedstuff, and red diesel, as well as damage to a mains water pipe and a dog attack on livestock. Although Mr James confirmed there have been no reported instances since the recent installation of CCTV at the site, I have no reason to dispute Mr James's assertions that a permanent presence on the farm would act as a deterrent to opportunist criminal acts. This also weighs in favour of the proposal, albeit to a limited extent.
14. Given the number of livestock and extended period in which the animals are likely to give birth, Mr James confirmed that temporary overnight accommodation, as suggested by the Council's Land Agent, would not meet the needs of the enterprise, and an on-site presence is necessary to secure the on-going operation and viability of the business. Based on the evidence before me, I am satisfied that, as an agricultural worker is required on site 24 hours a day for extended periods throughout the year, there is an essential need for an agricultural worker to reside on the site.
15. Planning Practice Guidance² offers advice when applying paragraph 84 of the Framework. It sets out that, when assessing the need for isolated homes in the countryside for essential rural workers, amongst other things, it may be relevant to consider matters including the degree to which there is confidence that the enterprise will remain viable for the foreseeable future. Whilst the farm has been operating in excess of 100 years, the longevity of the business alone does not demonstrate that it is financially sound. Furthermore, it is my understanding that until recently, it formed part of a larger holding operated by the appellants, together with wider family members, and now operates as a separate enterprise after the business was split.
16. It is agreed in the Statement of Common Ground that the business has not been profitable for the past 3 years. Mr James indicated at the Hearing that this was due to recent significant investment in the farm, including the new buildings, and the health of his parents. However, in the absence of any substantive evidence in the form of detailed accounts for the business, it has not been demonstrated that the business in its current form is viable. Consequently, there is insufficient information before me to allow me to

² Housing needs of different groups: Rural housing. Paragraph: 010 Reference ID: 67-010-20190722.

ascertain that the enterprise is financially viable or to have a sufficient degree of confidence that the enterprise will remain so moving forward.

17. Having regard to alternative accommodation, the Council suggest that there are other buildings within the farm complex which may be suitable for occupation by an agricultural worker, specifically buildings 2 and 3³. Building 2 is the subject of a retrospective planning application⁴ for the conversion of the barn for holiday use. While the application has not yet been determined, Mr James indicated it is subject to an objection raised by the Environment Agency due to its location within Flood Zones 2 and 3 and therefore permission is unlikely to be granted by the Council. This was not contested by the Council at the Hearing. While building 3 benefits from a Certificate of Lawfulness for its construction⁵, this does not relate to the use of the building. Mr James confirmed that the building is also located within Flood Zones 2 and 3, which was not disputed by the Council. For these reasons Mr James suggests these buildings are not suitable for residential use, and I have no reason to reach a different conclusion.
18. Notwithstanding the above considerations, the existing farmhouse, in which Mr James, who operates the business resides, currently meets the needs of the business. Therefore, at this time, there is not a need for the proposed dwelling to accommodate Mr James, given that he is living in an existing residential unit at the site. However, it was highlighted at the Hearing by Mr James that this is a temporary arrangement. He also confirmed that, while the planning application was submitted in the name of the business, which is owned by himself and his father, the land, farmhouse and existing buildings at Trannack Mill Farm, excluding the appeal site, is in the ownership of Mr James Senior, and not the business. It is intended that the land in Mr James Seniors name is to be transferred to Mr James, except for the farmhouse, which will remain in the ownership of the Mr James Senior.
19. Mr James's parents, who are currently living in the appeal property, after the sale of their own farmhouse and land, intend to move into the existing farmhouse on the site. Consequently, it is asserted by Mr James that the farmhouse will become unavailable to the farming business due to the retirement of his father, and that the new dwelling is required to meet the ongoing needs of the enterprise. In the absence of a planning condition to restrict the occupancy of the existing farmhouse, Mr James contends that the unfettered dwelling, will not be available for occupation by an agricultural worker in connection with the enterprise at Trannack Mill Farm.
20. While I sympathise with Mr James's parents desire to live at Trannack Mill Farm, there is no substantive evidence that land ownership is an insurmountable barrier to the functioning of the farm. Indeed, it would appear that the farmhouse is to be deliberately severed from the business and will not be part of the farming enterprise moving forward. Accordingly, it has not been demonstrated that the functional need for an agricultural worker could not be met by the existing dwelling at the enterprise and that the appeal property is required to ensure the continued operation of the farming business.

³ Appendix 1 of the Council's Statement of Case

⁴ LPA ref. PA24/06980

⁵ LPA ref. PA24/02318

21. In conclusion, while I have found that there is an essential need for a rural worker to live permanently at the site, there is no compelling reason why the existing farmhouse could not fulfil this requirement. Moreover, despite the operation of the business for a considerable period, I have not been presented with any clear evidence to provide confidence that the enterprise will remain viable for the foreseeable future. For the foregoing reasons the development conflicts with Policy 7 of the CLP and Policy 1 of the CLP, which sets out the presumption in favour of sustainable development.

Character and appearance

22. The site is located in a rural area near the settlement of Sancreed. It falls within the Cornwall Area CCA 03: Penwith Central Hills and Cornwall Landscape Character Type LCT M: Prehistoric Farmland. The site and surrounding area are also within the St Buryan Area of Great Landscape Value (AGLV). The parties agreed at the Hearing that the nature and appearance of the appeal site and its surroundings display the key identified characteristics of the area. These include a dispersed settlement pattern, undulating valleys comprising a pastoral landscape, and historic small scale field patterns.
23. The dwelling is low in profile, reflects the general form of a simple traditional agricultural building, and has been constructed using materials which are sympathetic to the surrounding area. Indeed, it is not dissimilar in scale, size and siting to the agricultural building for which permission was granted by the Council⁶ at the site.
24. Short range views of the dwelling from Trannack Road are limited, given that it is largely screened by the existing field boundary hedge adjacent to the highway, with only the end gable visible in glimpsed views from the access to the site. By virtue of the elevated position of the land, which is open in nature and falls away steeply to the south east, the dwelling is seen in longer distance views from the higher ground to the south of the site on the opposite side of the valley. In such views it is seen against the backdrop of the rising ground which reduces its prominence. In addition, it is partially obscured by existing mature tree coverage, however the screening effects of such are likely to vary depending on the time of year and extent of leaf coverage. Moreover, while the building is set a short distance away from the existing buildings on the holding, it is observed in the context of the other built structures on Trannack Road, in particular the farmhouse and Perrans Barn immediately opposite the site at Ennestreven Farm.
25. Nonetheless, as a result of the number and design of apertures in the building, and associated use of the land immediately adjoining the dwelling as garden and for the parking of vehicles in connection with the dwelling, the development has the potential for a more pronounced domestic appearance that would be perceptible in longer distance views. This would be exacerbated at night or during inclement weather when internal artificial lights would be on. Furthermore, while planning conditions could be imposed to restrict permitted development rights for some forms of ancillary development, there may be a proliferation of domestic paraphernalia associated with the dwelling, such as garden furniture, washing lines and play equipment, which could not be controlled by conditions.

⁶ LPA Ref PA21/09130 granted 12 November 2021

26. The siting of the dwelling in a field previously free from built development, in addition to the associated ancillary use of the land, therefore, results in the encroachment of development into the countryside. The domestic use and subsequent appearance of the appeal site is at odds with the prevailing rural character of the area and detracts from the local landscape character.
27. The appeal site is located outside of the Cornwall National Landscape (NL), which is to the north of Trannack Road. The Framework sets out that great weight should be given to conserving and enhancing the landscape and scenic beauty in National Landscapes and requires that development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. The dwelling is visible in views to and from the NL from some vantage points, however these views are limited due to the topography of the land and existing vegetation. Furthermore, given the modest scale of the development, and close relationship with the nearby built form, the dwelling does not appear unduly prominent in these views. For these reasons, the harm is localised and there would be no significant effects on the NL or its setting.
28. The site is also adjacent to the Penwith International Dark Sky Park. There are a limited number of openings in the main elevation of the building which faces towards the dark sky designation. While the openings in the remaining elevations are deep set, which it is suggested minimises light spillage, there is no clear evidence that this would have any tangible effect in that regard. The proposal could therefore add to light pollution in the area. Nonetheless, by virtue of the design of the dwelling, in particular the position and size of the openings, and subject to a planning condition to control lighting, the proposal would not give rise to a level of light pollution that would detract from the qualities of the dark sky designation.
29. In light of the above, I conclude that, while the proposal does not adversely affect the NL or its setting, or the Penwith International Dark Sky Park, it would harm the character and appearance of the area and the AGLV. In that regard it would fail to accord with Policy 2 of the CLP which, among other things, requires development to respect and enhance quality of space, including maintaining and respecting the special character of Cornwall, and the combined aims of Policies 12 and 23 of the CLP which seek high quality design that maintains and enhances the distinctive natural character of Cornwall and recognises and respects landscape character. The development would therefore fail to accord with the presumption in favour of sustainable development set out in Policy 1 of the CLP. It would also conflict with Policy C1 of the Climate Emergency Development Plan Document, adopted February 2024 (DPD) in so far as it requires development to conserve and enhance the natural environment and Saved Policy CC-5 of the Penwith Local Plan, adopted 2004, which sets out that development will not be permitted where it would cause significant harm to the character and amenity of the AGLV.

Net Zero Carbon

30. In relation to new residential development, Policy SEC1 part 2b of the DPD sets out that residential development proposals will be required to achieve Net Zero Carbon. An 'Energy Statement' is required to demonstrate how a proposal would achieve specific targets in relation to space heating demands, energy consumption, and on-site renewable generation to match the total

energy consumption. Paragraphs 12.3 and 12.4 of the Policy Guidance dated March 2023, which accompanies the DPD, are clear that Policy SEC1 Part 2b applies to new-build homes and that changes of use, barn conversions and non-residential proposals are not subject to the requirements of Policy SEC1 Part 2b. The guidance also sets out that the policy is to be applied to full planning applications (including retrospective applications) received from 15th June 2023. Mr James contends that the dwelling is a converted agricultural building and is therefore exempt from the requirement to achieve Net Zero Carbon.

31. Planning permission was granted⁷ for the construction of an agricultural building at the site. Mr James explained at the Hearing that due to a change of circumstances, including the need for Mr James's parents to live at the site due to health issues, when the building was 70/75% complete, it was decided to carry out alterations and the remaining construction work to enable its use as a dwelling. The partially constructed building was subsequently completed to form a habitable residential unit, to meet the additional accommodation needs at the farm. Work to enable its occupation as a dwelling included the addition of insulation to the walls and roof in accordance with relevant building regulations and a different arrangement of window openings.
32. In addition, Mr James explained that, while the form and siting of the dwelling is similar to the approved plans, the dwelling differs from the approved scheme in terms of its finished floor level, and eaves and ridge height. The submitted drawings also show it is greater in length and has been constructed using different external materials. I acknowledge Mr James's intention to implement the planning permission for an agricultural building, and his confirmation that the incomplete building was used for the storage of animal feed for 4 to 6 months. Nonetheless, based on the evidence before me, and lack of information to suggest that the agricultural building was lawfully implemented and substantially complete, I cannot be certain that the development that has taken place comprised the conversion of the agricultural building.
33. Moreover, given that the building was incomplete at the time the decision was taken to use it as a dwelling in lieu of the approved agricultural building, and the extent and nature of the work required in addition to that relating to the partial construction of the agricultural building, there was ample opportunity at that point to incorporate measures to comply with the requirements of Policy SEC1 of the DPD.
34. Whether the planning application was registered by the Council without an Energy Statement, is not a determining factor in the appeal, which I have assessed on the merits of the scheme.
35. Accordingly, I find that the dwelling is not exempt from the requirements of Policy SEC1 of the DPD. In the absence of an Energy Statement, it has not been demonstrated that the dwelling incorporates appropriate measures to achieve Net Zero Carbon. Accordingly, it would therefore conflict with Policy SEC1 of the DPD.

⁷ LPA Ref PA21/09130

Other Matters

36. I am aware of a separate appeal at the site for the erection of a livestock building⁸ which has not yet been determined. Considering my findings in relation to the main issues above, the outcome of that appeal does not have any bearing on my decision.
37. In dismissing the appeal no permission to develop the land would occur, accordingly the NL would be conserved. Furthermore, there are no other alternative steps to further the purpose of the protected landscape.

Conclusion

38. For the above reasons, the development conflicts with the development plan when considered as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

E Worley

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr William James	Appellant
Mr Samuel Fuller BA (Hons)	Associate Planner, Laurence Associates

FOR THE LOCAL AUTHORITY:

James Holman MRTPI, RICS, FAAV	Principal Development Officer
Peter Blackshaw BA (Hons) MRTPI	Principal Development Officer

INTERESTED PARTIES:

Councillor Brian Clemens	Local Member for Land's End
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⁸ APP/D0840/W/24/3351263