

TOWN AND COUNTRY PLANNING ACT 1990
Section 192(1)(a)

Planning Statement

***Application for a Certificate of Lawfulness for Proposed Development
in respect of Carne Cottage***

Carne Cottage, Zennor, St Ives
Cornwall TR26 3BU



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CT/JAME-311-2

1 INTRODUCTION

- 1.1 This Planning Statement is made in support of an application (“**the Application**”) for a Certificate of Lawfulness (“**CLOPUD**”) certifying that proposed development at Carne Cottage, Zennor, St Ives, Cornwall TR26 3BU (“**Carne Cottage**”) (also known as Zennor Carne) would be lawful.
- 1.2 The Application is made on the basis of permitted development rights contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (the ‘**GPDO**’).

2 PROPOSED PERMITTED DEVELOPMENT AT CARNE COTTAGE

- 2.1 The submitted drawings show proposed development at Carne Cottage. These show:-
 - 2.1.1 An extension to the rear of the dwelling (footprint 37m²);
 - 2.1.2 An art studio / home office / home gym (etc) (90m²);
 - 2.1.3 An outbuilding (10m²);
 - 2.1.4 A double garage, plant and store room (56m²);
 - 2.1.5 A solar PV array.

3 PERMITTED DEVELOPMENT RIGHTS

- 3.1 Various Permitted Development rights are available for dwellinghouses via the GPDO, in particular Schedule 2, Part 1. References below are to Part 1 of Schedule 2 to the GPDO unless otherwise stated.
- 3.2 Some of these PD rights differ according to the designation of the land. The site is within an AONB, but otherwise is not within a designation which affects PD rights. Therefore the land is considered to be ‘Article 2(3) land’, but is not ‘Article 2(4) land’.
- 3.3 The site is not within the World Heritage Site, nor a Conservation Area.
- 3.4 There is no record of an Article 4 direction having been made which affects the land.
- 3.5 There is no record of any enforcement action having been taken which would affect the use of PD rights or the grant of a certificate.
- 3.6 There is no record of any conditions or limitations on a planning permission which would affect the use of PD rights or the grant of a certificate.
- 3.7 For the purposes of this certificate application, and in the absence of any evidence to the contrary, the main central part of Carne Cottage is considered to be the ‘original dwellinghouse’, i.e. that which existed on 01 July 1948. This

certificate application does not rely on the extensions either side of the main central part of Carne Cottage as it is not currently clear when these were constructed (before or after 01 July 1948).

- 3.8 In accordance with Article 2(2) heights are measured from (natural) ground level, immediately adjacent to the building in question or, where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.

4 REAR EXTENSION

- 4.1 A single storey extension is proposed to the rear of the original dwelling.
- 4.2 The rear extension is an enlargement of the dwelling which is permitted under Class A.
- 4.3 Para A.1 sets out that such development is not permitted where:
- (c) the height of the part of the extension would exceed the height of the highest part of the roof of the existing dwellinghouse. The highest part of the rear extension is lower than the highest part of the highest part of the original dwellinghouse;
 - (d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse. The eaves are lower than the eaves at the rear of the existing dwellinghouse.
 - (f) it extends beyond the rear wall of the original dwellinghouse by more than 4 metres, or exceeds 4 metres in height. The plans (P432.03) demonstrates that these criteria are met.
 - (i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres. The proposed extension is not within 2 metres of the boundary, nor do the eaves exceed 3 metres.
- 4.4 The proposed rear extension:-
- (a) is not concerned with a PD permission to use the dwellinghouse;
 - (b) (cumulatively with the other works) will not result in the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) exceeding 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
 - (e) does not extend beyond a wall which forms the principal elevation of the original dwellinghouse, nor does it front a highway and forms a side elevation of the original dwellinghouse;

(g) is on Article 2(3) land;

(h) does not have more than a single storey;

(j) does not extend beyond a wall forming a side elevation of the original dwellinghouse;

(ja) (together with any existing enlargement of the original dwellinghouse to which it will be joined) does not exceed the limits set out in sub-paragraphs (e) to (j);

(k) does not consist of or include—

(i) the construction or provision of a verandah, balcony or raised platform,

(ii) the installation, alteration or replacement of a microwave antenna,

(iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or

(iv) an alteration to any part of the roof of the dwellinghouse;

(l) is not related to a dwellinghouse built under Part 20.

4.5 As the site is on Article 2(3) land para A.2 is applicable. In addition to the above, the development is not permitted if:-

(a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles. The proposed development is not cladding;

(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse. It does not extend beyond a wall forming a side elevation;

(c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse. The rear extension does extend beyond the rear wall, but is not more than a single storey.

(d) any total enlargement exceeds or would exceed the limits set out in sub-paragraphs (b) and (c). The rear extension (together with any existing enlargement of the original dwellinghouse to which it will be joined) will not cause the limits to be exceeded.

4.6 Accordingly, the rear extension is permitted development under the GPDO.

5 ART STUDIO

5.1 A single storey art studio (etc) is proposed to the rear of the original dwelling.

5.2 The art studio is a building required for a purpose incidental to the enjoyment of the dwellinghouse as such which is permitted under Class E.

- 5.3 The building is required for an art studio, home office, home gym etc. As set out in the Planning Encyclopedia, (3B-1042.25) “*it is a matter primarily for the occupier to determine what incidental purposes he proposes to enjoy*” and “*a wide range of recreational purposes is within it*”. In *Emin v Secretary of State for the Environment* [1989] J.P.L. 909, the High Court held that the inspector was also wrong to have considered that the proposed buildings (for archery, billiards and pottery) could not reasonably be said to be required for a use reasonably incidental to the enjoyment of the dwellinghouse as such, because they would provide more accommodation for secondary activities than the dwellinghouse provided for primary activities. It was held that this was not part of the test as to what buildings fell within this Class.
- 5.4 The art studio replaces a previous studio which was destroyed by wind in the not too distant past. Carne Cottage is closely associated with artists, having previously been occupied by Bryan Wynter¹ and then Margo Maeckleberghe². Photographs are available in the public domain of Bryan Wynter outside Carne Cottage, with the art studio visible³ (and also of Margo Maeckelberghe from a similar viewpoint) and also of him working in the studio⁴ and his wife⁵.
- 5.5 The proposed studio is comparable in size to the studio used by Bryan Wynter and Margo Maeckleberghe and is appropriate in size for its proposed use. Such a use is incidental to the use of Carne Cottage and would allow projects to be carried out in the studio that would not otherwise be possible within the Cottage (due to space and natural lighting issues).
- 5.6 Para E.1 sets out that such development is not permitted where:-
- (e) the height of the building, enclosure or container would exceed—
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
- The art studio is within each of those measurements.
- 5.7 (f) the height of the eaves of the building would exceed 2.5 metres. The eaves are lower than 2.5 metres.
- 5.8 The proposed art studio:-
- (a) is not concerned with a PD permission to use the dwellinghouse;

¹ <https://www.tate.org.uk/art/artists/bryan-wynter-2176>

² <https://www.tate.org.uk/whats-on/tate-st-ives/exhibition/margo-maeckelberghe-extended-landscape>

³ <https://www.artimage.org.uk/artists/w/bryan-wynter/>

⁴ <https://www.npg.org.uk/collections/search/portrait/mw67985/Bryan-Wynter?LinkID=mp64147&role=sit&rNo=0> and also at <https://www.agefotostock.com/age/en/details-photo/the-artist-and-teacher-bryan-wynter-working-in-his-studio-he-studied-at-the-slade-school-of-fine-art-and-was-one-of-the-st-ives-group-of-painters/MEV-10291025>

⁵ <https://www.npg.org.uk/collections/search/portrait/mw204321/Monica-Wynter-ne-Harman-and-her-son-Tom-Wynter?LinkID=mp93359&role=sit&rNo=2> and <https://www.npg.org.uk/collections/search/portrait/mw200707/Monica-Wynter-ne-Harman-and-her-son-Tom-Wynter?LinkID=mp93359&role=sit&rNo=1>

(b) (cumulatively with the other works) will not result in the total area of ground covered by buildings (etc) within the curtilage of the dwellinghouse (other than the original dwellinghouse) exceeding 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(c) would not be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

(d) would not have more than a single storey;

(g) is not situated within the curtilage of a listed building;

(h) does not include the construction or provision of a verandah, balcony or raised platform;

(i) does not relate to a dwelling or a microwave antenna; . . .

(j) is not a container exceeding 3,500 litres capacity;

(k) is not related to a built under Part 20.

5.9 As the site is on Article 2(3) land para E.2 is applicable. Hence, in addition to the above, the development is not permitted if the total area of ground covered by buildings situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres. The art studio is entirely within 20 metres of the rear wall of the original dwellinghouse.

5.10 The works will not result in the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) exceeding 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).

5.11 None of the works will extend beyond a wall which forms the principal elevation of the original dwellinghouse.

5.12 As the site is on Article 2(3) land para E.3 is applicable. Hence, in addition to the above, development is not permitted by Class E if any part of the building would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse. The art studio does not extend beyond the wall forming the side elevation of the dwellinghouse. It should be noted that this limitation is: i) related to the dwellinghouse, not the original dwellinghouse; and ii) relates to development between the wall forming the side elevation and the boundary, not (per Class A) extending beyond a wall forming a side elevation of the original dwellinghouse. The art studio is not therefore situated between a wall forming a side elevation and the boundary.

5.13 Accordingly the art studio is permitted development.

6 THE OUTBUILDING

- 6.1 The proposed outbuilding is for use as a shed, for the storage of tools, lawnmowers etc.
- 6.2 The outbuilding is a building required for a purpose incidental to the enjoyment of the dwellinghouse as such which is permitted under Class E.
- 6.3 For the same reasons as set out above the proposed development complies with paras E.1 and E.3.
- 6.4 The development is more than more than 20 metres from any wall of the dwellinghouse, but the floor area beyond 20 metres will not exceed 10m².
- 6.5 The outbuilding is therefore permitted development.

7 THE GARAGE

- 7.1 A single storey double garage, plant and store room is proposed to the south west of the southern end of the dwelling.
- 7.2 The building is required for a purpose incidental to the enjoyment of the dwellinghouse as such which is permitted under Class E.
- 7.3 The isolated nature of the dwelling and the numerous reports of vandalism to the property mean that a secure area for storing vehicles is required and is an entirely usual incidental building for a dwellinghouse. The property, being relatively isolated in a rural position will require plant for dealing with potable and waste water.
- 7.4 A standard size for a double garage is in the region of 6 metres by 6 metres, with an additional 20m² provided for plant and storage.
- 7.5 For the reasons set out above in section 5, the proposed development is in accordance with paras E.1, E.2 and E.3.
- 7.6 Accordingly, the garage is permitted development.

8 THE PV ARRAY

- 8.1 A standalone solar PV array is proposed.
- 8.2 Development consisting of the installation of stand-alone solar equipment on domestic premises is permitted under Part 14, Class B.
- 8.3 Para B.1 sets out that such development is not permitted:-
 - (a) in the case of the installation of stand-alone solar, the development would result in the presence within the curtilage of more than 1 stand-alone solar. This is the only stand-alone solar on this site.

(b) where the PV:-

(i) would exceed 4 metres in height. The proposal is less than 4m in height;

(ii) would be nearer to the highway than the dwellinghouse (but only where in a Conservation Area or World Heritage Site). The proposal is not within a CA or WHS.

(iii) would be installed within 5 metres of the boundary of the curtilage. The proposal is not within 5 metres from the boundary;

(iv) would be installed within the curtilage of a listed building. The PV is not in the curtilage of a listed building.

(v) would be installed on a site designated as a scheduled monument. The PV is on a SM.

(c) the surface area of the solar panels forming part of the stand-alone solar would exceed 9 square metres or any dimension of its array (including any housing) would exceed 3 metres. The proposal is within these dimensions.

8.4 Para B.2 is also applicable, however, the stand-alone solar has, so far as practicable, been sited so as to minimise its effect on the amenity of the area and will be removed as soon as reasonably practicable when no longer needed

8.5 The proposed stand-alone solar is therefore permitted development.

9 CONCLUSIONS

9.1 Each of the five proposed developments have been shown to be within the terms of the permitted development.

9.2 A certificate of lawfulness for proposed development should be granted accordingly under s192 TCPA 1990.

Stephens Scown LLP

07 January 2022