



Appeal Decision

Hearing Held on 21 November 2017

Site visit made on 21 November 2017

by Mike Fox BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th December 2017

Appeal Ref: APP/D0840/W/17/3177902

Land at Fish Strand Hill, Fish Strand Hill, Falmouth, Cornwall, TR11 3BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Wilson and Sharp Investments against the decision of Cornwall Council.
 - The application Ref PA16/10836, dated 9 November 2016, was refused by notice dated 27 April 2017.
 - The development proposed is a purpose-built student hostel with a mixture of studio rooms/cluster rooms and town house rooms, associated amenities spaces and staff office.
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Decision

1. The appeal is allowed and planning permission is granted for a purpose-built student hostel with a mixture of studio rooms/cluster rooms and town house rooms, associated amenities spaces and staff office at land at Fish Strand Hill, Fish Strand Hill, Falmouth, Cornwall, TR11 3BD in accordance with the terms of the application Ref PA16/10836, dated 9 November 2016, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appeal proposal is for 112 self-contained student studios and cluster rooms with shared communal rooms. This is a slight reduction from 116 student rooms in the original proposal. The total was reduced following detailed discussions between the Appellant and the local planning authority over a five month period prior to submitting the appeal application.
3. The appeal application was accompanied by a signed and dated Unilateral Undertaking under the provisions of section 106 of the above Act. The document makes provision for financial contributions towards the provision of and improvements to open space facilities and towards the mitigation of recreational impact on the Fal and Helford Special Area of Conservation. I return to this matter later.
4. The Hearing was closed in writing on 24 November 2017, following the receipt of details from the Council of a suggested additional condition relating to securing an archaeological recording/watching brief of the site, further observations by the Smithick Ward Residents' Association and a response to these observations by the Appellant.

5. In determining the appeal I have taken into account the Statement of Common Ground (SCG)¹ that has been agreed by the Appellant and the Local Planning Authority. This is a helpful document which states both the areas of agreement and also those aspects which are still at issue between the parties.
6. My attention was drawn to a recent appeal decision which has granted planning permission for a 190 bed student accommodation block on land at Ocean Bowl in Falmouth². This decision, whilst not functioning as a precedent for subsequent appeals, and whilst it relates to a different site within the town, nevertheless has strong parallels with the appeal before me and I have therefore had regard to that decision, especially as the planning background and circumstances which influenced that appeal decision have not materially changed in the intervening few weeks.

Main Issue

7. Having read all the submitted written statements and representations and listened to the discussion of the evidence at the Hearing, and from my observations on and around the appeal site, I consider that the main issue is whether the benefits of the proposed development would outweigh any harm, having regard to the adopted and emerging development plan policies relating to the Combined Universities in Cornwall and also to the backdrop of national planning policy.

Reasons

8. The appeal site is a privately run, unsurfaced car park for about 40 cars. It is located one row back from and largely out of sight of, Market Street, which is the principal shopping area in Falmouth. It is also situated within the Falmouth Conservation Area. There is a high rock face which visually contains the site to the south-west, although there are views into the site from the footpath which connects Fish Strand Hill to the south-east and Smithick Hill to the south-west, at the top of the rock wall.

Planning Policy

9. The development plan for Cornwall is in several parts. The Cornwall Local Plan Strategic Policies 2010-2030 (LP) was adopted in November 2016. LP policy 3, which is referred to in the Council's reason for refusal, states that the delivery of the growth in the main towns will be managed through site allocations in order to ensure that growth is genuinely plan-led.
10. There was considerable debate at the Hearing as to whether the development plan could be taken to support the provision of purpose-built student accommodation (PBSA) in Falmouth or whether it was silent on the matter.
11. The 'upper case' LP policy 3 wording is silent on the need to provide for PBSA. However, the explanatory text to this policy (paragraph 1.56) states that the Plan seeks to ensure additional PBSA for students in Falmouth and Penryn. The same paragraph gives two important reasons for this, which are to help alleviate the very specific pressure that is placed on the housing market in those towns, and to allow for the future expansion of the university in this

¹ Hearing Document 1.

² Appeal Ref APP/D0840/W/17/2182360; for purpose-built student accommodation block comprising 190 beds, communal facilities (reception, gym, study rooms), along with ancillary infrastructure and landscaping on land at Ocean Bowl, Pendennis Rise, Falmouth; appeal allowed 15 November 2017.

location. It is also true that the majority of this pressure, as evidenced in the number of houses in multi-occupation (HMOs) is concentrated in Falmouth, which has over half the stock of HMOs in Cornwall. A recent Article 4 Direction is in place to prevent the increase in the number of HMOs in the town. Falmouth is the larger of the two towns and the one with the most facilities which are used by students outside the university campuses.

12. The other key reason for supporting the growth of the universities in Falmouth and Penryn is their economic contribution to the area, which is also referred to in LP policy 2 (see section 3 (e)). In addition, LP policy 2a sets out, as one of five key targets for the whole of Cornwall, the provision of additional bed spaces within purpose-built accommodation commensurate with the scale of any agreed expansion of student numbers at the Penryn campus. The policy also refers to changes in student numbers at other campuses in both Falmouth and Penryn. It is therefore clear to me that the adopted part of the development plan supports the provision of additional PBSA in both Falmouth and Penryn.
13. The emerging Cornwall Site Allocations Plan³ (eSAP) allocates sites for PBSA in Penryn, which is where the main university campus is located. The appeal site is not allocated in the eSAP for PBSA; in fact, no sites in Falmouth are allocated for PBSA in the eSAP. However, this Plan has yet to be tested at a public examination, and it can therefore be given little weight.
14. Finally, there is an emerging Falmouth Neighbourhood Plan (eNP). Policy HMO3 of the eNP was originally supportive of PBSA on sites close to the town centre (such as the appeal site), but this has been replaced, and the current aim is to hold a referendum in spring 2018. As the eNP has yet to be finalised and independently tested I can therefore give this plan little weight.
15. The adopted development plan strategy to provide student accommodation in both Falmouth and Penryn is not reflected in the emerging parts of the development plan. This is doubtless an issue for the forthcoming examinations on the eSAP and eNP to consider, but it does not form part of the remit of this appeal.
16. In terms of the overall development plan, I conclude, based on the above considerations, that the adopted development plan recognises the importance of both Falmouth and Penryn to the student community and the need to respond to the challenges of providing PBSA within these towns and to maximise the economic opportunities that might arise from the growth of the universities in these towns. This is therefore, in a plan-led system, an important material consideration in favour of the proposed development.
17. I have also had regard to national planning policy in determining this appeal. Paragraph 216 of *the Framework*⁴ states that decision-makers may give weight to relevant policies in emerging local plans, but with the provisos that this is limited by the stage in preparation and the extent of unresolved objections. National policy therefore supports the increased weight given to the adopted local plan over the as yet untested emerging plans.

³ Cornwall Site Allocations Development Plan Document; March 2017 (eSAP)

⁴ DCLG: National Planning Policy Framework (the Framework); March 2012.

Benefits of the proposed development

18. The Appellant points to a number of benefits which would follow on from allowing the appeal. These can be summarised as: firstly, helping to meet a significant need for PBSA which the Combined Universities have; secondly, by providing PBSA in Falmouth, this will free up existing housing, especially HMOs, currently occupied by students, for use by the residential population of Falmouth; thirdly, the proposal would assist in the growth and success of the universities themselves; fourthly, it would help provide both short-term and long-term economic benefits for local people, including well paid professional jobs linked to the universities; and fifthly, the proposed development would deliver a high-quality development of a sustainably located brownfield site which would help to regenerate the town.
19. In addition to the above benefits, the Appellant also argues that the proposal accords with the adopted development plan, which aims to ensure additional purpose-built accommodation is provided for students in Falmouth and Penryn.
20. Finally, the Appellant argues that implementation would be swift, in contrast to other projects, particularly those in and around the main university campus at Penryn. To this end, the Appellant has agreed to reduce the standard time condition for commencement to 18 months from the conventional three years as evidence of its serious intent to achieve this aim.
21. Regarding the demand for student accommodation in Falmouth, my attention was drawn to a recent Cushman and Wakefield (CW) market demand report on PBSA⁵. This detailed report concludes that the demand for such purpose-built student accommodation in Falmouth is compelling in view of the current (April 2017) demand pool of 6,035 students, in which there are only 2,205 bed spaces to serve students, forcing large numbers of students to live HMOs. The report also argues that the current constraints on student accommodation in the Falmouth area risk harming the universities' reputation, which in turn would damage the significant economic benefits for the economy of both the local area and Cornwall as a whole, and the associated job opportunities, particularly for young people.
22. The Council argues that too much weight should not be attributed to the CW report, as 25% of the students are expected to come from Cornwall and that HMOs will always form part of the students' accommodation supply.
23. However, the growth in the stock of HMOs in Falmouth has now been halted, whilst the SCG states that there is a need for student accommodation, which does not form part of the 52,000 dwellings set out in the adopted Local Plan. The CW report is also comparatively recent, less than a year old at the time of the issuing of this decision. The fact that 25% of students are expected to come from Cornwall does not mean that it will be a practical proposition for them all to be day students; it is unreasonable to expect students from the extremities of Cornwall, or even from some of the main settlements such as Penzance, St Austell, Newquay or Bodmin, to be expected to travel to and from the universities as day students whenever they attend lectures, or be excluded from evening activities. I consider the CW report to be thorough and well-reasoned, and I therefore give this report considerable weight.

⁵ Cushman and Wakefield Summary Market Demand Report – Falmouth Proposed Student Accommodation Development; April 2017.

24. Moreover, the conclusions in the CW report align with the recent representation from the Combined Universities to the eSAP consultation⁶, which expresses deep concern, stating (paragraph 1.3) that adoption of the current proposals (which contain a lack of PBSA allocations for Falmouth): *"would put the growth of the Cornish economy at immediate risk by impeding the universities' ability to grow and increase their significant economic contribution"*. Their representation goes on to state (paragraph 6.3): that *"Falmouth is acknowledged as a particularly desirable destination for second year, third year, post graduate and mature students to live, given its unique blend of culture, location and amenities"*.
25. Paragraph 6.4 of this representation underlines Falmouth's advantages. These include a diverse range of smaller scale brownfield development plots, not always suited for family housing, and which would suit the local developer/builder market better than the large scale sites identified in the current eSAP that require a significant rate of investment currently rare in Cornwall.
26. The officer report⁷, however, does not acknowledge the identified pressing need for such accommodation, and its value in reducing pressure on the existing housing stock in both Falmouth and Penryn, other than a brief reference at the top of page 25, and this consideration is silent in its treatment of the balance of considerations and conclusions in the report. This key point, however, was made quite forcibly in the officer's report in relation to the Ocean Bowl application for PBSA a few months beforehand. It is surprising, particularly considering the length of the officer report in relation to the proposal before me, that this important material consideration has been side-lined.
27. Nevertheless, the officer report in relation to the appeal before me acknowledges the sustainability of the appeal site. It also states that the proposal is considered acceptable in respect of *"the issues summarised above"*, which in effect is the sum total of relevant issues which are covered in the long and comprehensive report, with the sole exception of the conflict between the appeal proposal and the eSAP and eNP.
28. The SCG also states that *"There is a need for additional student accommodation over the plan period commensurate with the scale of any agreed expansion of student numbers at the Penryn campus, taking into consideration any changes in student numbers within other campuses at the universities in Falmouth and Penryn"*.
29. Much was made by objectors that the universities were not represented or present at the Hearing. It is clear, however, from their written representations, that the universities are concerned that a significant need for PBSA exists in Falmouth and that the type, size and location of the appeal site fits their description of a suitable site which is more realistic to pursue than some of the larger sites currently allocated in the eSAP. I also explained at the Hearing that I would give equal weight to both verbal and written representations.

⁶ Letter from the Combined Universities regarding the Cornwall Site Allocation Development Plan Document; dated 7 September 2017.

⁷ Cornwall Delegated Officer Report, received on 17 November 2017.

30. In response to the universities' representations, and in support of the changed policy stance in the eSAP and eN, the Council argues that three quarters of the demand for PBSA is generated in Penryn and that the proposed development would undermine its strategy to concentrate new PBSA in and around the Penryn campus. PSBA delivery of 1,049 units of accommodation at the southern end of the campus is planned and the Council expressed concern that its strategy for delivering this strategic amount of student accommodation, as set out in its emerging plans, would be jeopardised.
31. My colleague who conducted the Ocean Bowl appeal, in referring to the above-mentioned project, expressed concern at the length of time for it to come to fruition⁸, concluding that the delivery of PBSA at the Penryn campus that would be necessary to meet existing and projected demand is unlikely to be delivered in the next few years. At the Hearing, the Appellant argued that this large scheme, which was granted planning permission in 2009, still has not been started, and that one of the development partners was no longer in place.
32. From the discussion at the Hearing, I am not convinced by the Council that there is a likely prospect of the completion of sufficient PBSA spaces to meet anticipated demand, especially as I was informed that the universities are actively seeking to raise the student cap at the Penryn campus from 5,000 to 7,500, to which needs to be added a further 2,190 students at the University of Exeter Campus at Falmouth.
33. The proposal before me is for a very small proportion of the schemes proposed for the Penryn campus and nearby sites, which are allocated in the eSAP. Moreover, there is every indication that the development could be achieved quickly, and meet some of the urgent demand.
34. Taking into account the above considerations, it is my view that the proposed development would not undermine the implementation of the sites allocated in the eSAP, even taking into consideration the Ocean Bowl planning permission on appeal for 190 units of PBSA.
35. I therefore consider that the likely benefits of the appeal proposal would be considerable, and that they would not undermine the eSAP. They would primarily meet urgently required student accommodation needs, especially taking into account the likelihood that the continuing supply of HMOs should cease following the Article 4 Direction (assuming enforcement action is effective) and this would potentially free up some existing housing stock for the resident population.
36. The academic and economic benefits stemming from the proposed development would also be considerable. Helping to address the universities' student accommodation needs would contribute to enabling the universities to pursue their development aspirations. This would be likely to give rise to economic benefits to the local community, as well as to the rest of Cornwall, both in the short term through employment in jobs through construction, but more importantly through the provision of permanent jobs. A high proportion of these jobs are likely to be well paid, both directly in the universities and indirectly through the multiplier effect in industries linked to the universities, e.g. through research and development, as well as the creation of other employment in service industries and facilities in the area.

⁸ Ocean Bowl decision Ref 3182360, paragraph 30.

37. On the basis of these considerations, I conclude that the benefits to the town of Falmouth and its wider area would be considerable, both in meeting PBSA requirements, in its economic benefits and because the proposals accord with the adopted LP. I regard these significant benefits to Falmouth and the wider area as a compelling consideration in support of the proposal.
38. Other benefits arising from the proposed development include the development of a sustainably located but unattractive brownfield site, which would also contribute towards the regeneration of Falmouth town centre. In this regard, the proposal would therefore accord with LP policies 1 (presumption in favour of sustainable development) and 21 (best use of land).

Harmful impacts of the proposed development

(i) *Impact on the development plan strategy to plan for student accommodation*

39. The SCG limits the matters which are not in agreement between the main parties to the relevance of the adopted and emerging Local Plans, including whether the adopted LP is silent on student accommodation; and whether the proposal would impact adversely on the deliverability of the eSAP allocated sites for PBSA to be delivered, with the Council arguing that the proposal would jeopardise the implementation of the eSAP. The SCG also states that it is common ground that the proposal is acceptable in all other respects, although this view is not accepted by many third parties who objected to the proposed development, which I will go on to address below.
40. The Council's single reason for refusal, although lengthy, is reflected in the SCG. In essence, the Council's view is that the proposal would prejudice the community-led eSAP and eNP process, which articulate the Council's strategy to provide a range of sites in and around the existing university campus at Penryn where students can both live and study in and around the same location, whilst allocating no sites for PBSA development in Falmouth.
41. Whilst it is clear that many local residents have written to object to the proposal and also turned up in significant numbers to voice their views at the Hearing, neither the eSAP nor the eNP have been tested publicly. It is not for me to predetermine the outcome of these two emerging plans, but at this stage they cannot be given the weight that the Council is asking me to give to them.
42. I also consider that the adopted LP, which addresses the strategic overview of Cornwall and its principal Community Network Areas, gives clear support towards more PBSA in both Falmouth and Penryn. The proposal is in conformity with this strategy.
43. On the basis of these considerations, I conclude that the proposal would not be contrary to the adopted LP strategy, whilst the eLP/eNP, which aim to prevent further allocated PSBA developments in Falmouth, have not been tested in a public examination and cannot therefore override the adopted LP. Moreover, the relatively small scale of the proposal in relation to the overall student accommodation requirements would not be sufficient to derail the emerging plans, but would provide much needed accommodation within a relatively short time scale.

(ii) *Impact on anti-social behaviour and a balanced community*

44. There is significant third party opposition to the proposed development based on concerns and fears of anti-social behaviour associated with the university students. The fear was expressed that the proposal would exacerbate the impact of this anti-social behaviour on their quality of life. Whilst I respect the integrity of the people at the Hearing who gave colourful examples of student behaviour that they had experienced, it is not clear from this anecdotal evidence whether this is a widespread problem, or whether it is more narrowly focused in geography and time. A few speakers at the Hearing, however, expressed the view that not all students lead antisocial lives; and that students are involved in community work and enrich the life of the town. It is also true that anti-social behaviour is not limited to students.
45. The view, however, was expressed in many representations and by several residents at the Hearing, that the proportion of students living in Falmouth is too high for a balanced community (a figure of 26% was cited, based on the ratio of students to total population, although this figure presumably includes a significant proportion of students who come from local families).
46. However, the central waterside area of Falmouth, with its concentration of shops, pubs, bars, cafes and other forms of entertainment, will continue to be the focus of student recreational activity (as well as for the population as a whole, including visitors), wherever the students reside. Many of the students who live in Penryn also choose to visit the attractions of Falmouth, facilitated by a convenient bus service. The contribution of the students to the town's night time economy is set to continue and grow in line with the development of the university and its projected increase in numbers, irrespective of the outcome of this appeal.
47. Whilst not wishing to downplay the seriousness and harmful impact of many of the examples of anti-social behaviour that were raised in the representations and at the Hearing, it is the case that much of this can be dealt with through civil and criminal legislation. It is also a fact that the police did not object to the proposal and neither was this included as part of the Council's reason for refusal.
48. The Appellant is also mindful of residents' concerns, and consequently, the proposal includes a permanent on-site manager (over a 24 hour period), which can be secured by condition. The area immediately around the appeal site, including the central shopping area, would lend itself to the installation of CCTV, which can be secured by condition. In fact, the introduction of CCTV and more lighting into this area would improve safety and the public perception of safety. A combination of these measures would in my view go a long way to deterring anti-social behaviour, and these would be brought about by the proposed development.
49. On the basis of these considerations, including the lack of objections to the proposal from the police and the fact that the Council has not registered this as a reason for refusal, I conclude that this is not a matter that justifies dismissing the appeal.

(iii) *Impact on the character and appearance of the Falmouth Conservation Area*

50. I am required by statute to consider whether the proposed development would either preserve or enhance the character or appearance of the Conservation Area⁹. I have also had regard to paragraph 138 of *the Framework*, which recognises that not all elements of a Conservation Area necessarily contribute to its significance, and this consideration is relevant in relation to the proposed development.
51. The appeal site, although located in the heart of the Falmouth Conservation Area within close proximity to a number of listed buildings, including the former Royal Hotel, is an unprepossessing, cleared site which does not contribute to the significance of the Conservation Area in any positive way. Moreover, the site is largely hidden from the public realm in Market Street. However, it is still important to consider whether the proposed development would comply with the statutory tests which I refer to above.
52. Third party opposition to the proposal focuses on alleged overdevelopment in relation to the size of the site, inappropriate design in the Conservation Area and its impact on public views, in particular from Smithick Hill which overlooks the site from the south-west.
53. The Council officer report acknowledges that the Appellant has responded to a number of the Council's and its Design Review Panel's concerns and states: *"the proposed development is a significantly superior design to that which was approved under the most recent (2009) planning permission for the erection of 20 flats with 20 on-site parking spaces....the permission remains highly relevant as an indication of the scale and massing of development that the local planning authority considered to be acceptable mas recently as 2012"*¹⁰.
54. I agree with the Council's officer report that the existence of a recent permission for a building on the appeal site, which is regarded as visually inferior to the proposal before me, is a significant material consideration in favour of allowing the appeal. Although the proposed 5 storey building is large in comparison to many of its neighbours, I consider that its contemporary design is distinct and it takes into account its setting and context, which is one of a high density urban grain. It would represent a significant improvement on the existing site, which amounts to an eyesore, which currently significantly detracts from the character and appearance of the Conservation Area. The massing of the proposed building has been broken down into distinct sections, giving a pleasant cadence, whilst the proposed landscape wedge at the rear, facing Smethick Hill, would introduce a welcome softer feature into an area with a predominantly hard texture.
55. At the accompanied site visit I observed that the proposed roof height would interrupt some long distance views from private properties on Smithick Hill. It would still be possible, however, for the public to gain views eastwards over the roofscape of the Conservation Area and across to the Carrick Roads, the countryside beyond and the open sea.
56. Taking account of the above considerations, I conclude that the effect of the proposed development on the character and appearance of the Falmouth

⁹ The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72 (1).

¹⁰ Page 31 of the Officer's Report, 4th paragraph.

Conservation Area would be at worst neutral; there would be less than substantial harm to the public view of the Conservation Area from Smithick Hill, whilst the development would improve the appearance of the existing poor quality site and its scale and design would not be out of place among its neighbouring buildings. The effect of the proposal on the character and appearance of the Conservation Area would therefore not justify dismissing the appeal.

(iv) *Other considerations*

57. Several other arguments were raised by the scheme's objectors. Whilst the construction stage would inevitably be disruptive, the suggested planning condition to require a Construction and Environmental Management Plan would address these concerns in a detailed and positive way with the aim of limiting the impact to acceptable levels. Regarding flood risk and other drainage issues, South West Water has not objected, and I see no reason to take a different view. The proposed transport plan would commit all parties to its implementation, and it is supported by the Council's highways officer. The minimal amount of on-site parking provision which is included in the scheme is required for servicing, deliveries and refuse collection.
58. The Council's officer report also makes a number of pertinent points. These include the fact that many students will be unlikely to bring a car to university faced with the possibility of punishment that could be as severe as expulsion from their course and/or fines by the operator (of the scheme) and the university, plus the fact that parking in the vicinity of the site is strictly controlled.
59. The Council has the opportunity, through the suggested condition, to ensure that parking is strictly controlled, whilst at the same time provide real incentives for students to use alternative and sustainable modes of transport. In addition, many of the facilities that students would use are located within a short walking distance from the proposed development. I am satisfied that the highways and parking issues have been realistically addressed by both the Appellant and the Council's highways officer, and I therefore do not consider that this consideration would weigh against allowing the appeal.
60. Finally, peaks in car usage, such as student arrivals and end of term collection, as well as being short-lived, are issues which have been satisfactorily addressed at many other universities, and it is in the universities' own interests to ensure that this is a well-regulated and smooth process.

Planning Obligation

61. The Appellant submitted a Section 106 Unilateral Undertaking with the planning application. It makes provision for a financial contribution of £61,138.56 towards the provision of and improvements to open space facilities on Gyllying Street and Malborough Road, Falmouth, and another financial contribution of £7,465.92 towards the mitigation of recreational impact on the Fal and Helford Special Area of Conservation. Both of these financial contributions are included in the SCG and are supported by the LP policy 22 and in the eNP. I consider that the provisions in the Unilateral Undertaking are fairly and reasonably related in scale and kind to the appeal scheme, and comply with the criteria set out in paragraph 204 of *the Framework* and paragraphs 122 and 123 of the

Community Infrastructure Levy Regulations (2010). I have taken these contributions into account in determining the appeal.

Planning Conditions

62. I have considered the list of conditions which has been agreed by the main parties and included in the SCG. It accords with paragraph 206 of *the Framework*, and I have therefore used it as the basis for my conditions. Condition (1) is a standard condition, although in view of the pressing need to secure the development and ensure its timely delivery, I agree with the main parties that a shorter period of 18 months instead of the standard 3 years should be specified for the commencement of the development. Condition (2) is also a standard condition which is required for the avoidance of doubt and in the interests of proper planning.
63. Condition (3) is to safeguard the living conditions of neighbouring residential occupiers and to reduce environmental impact. Conditions (4) and (6) are in the interests of sustainable transport, including limiting car parking and hence its impact in the immediate area. Conditions (5), (7) and (8) are to limit disturbance to the living conditions of neighbouring residents. Condition (9) is to safeguard public health and the living conditions of existing neighbouring occupiers and future occupiers of the proposed development. Condition (10) is to decrease the risk of flooding. Conditions (11), (12) and (13) are in the interests of enhancing the character and appearance of the area. Condition (14) is necessary to safeguard archaeological details.

Planning Balance/Overall Conclusion

64. In considering all the impacts of the proposed development together, it is clear in my mind that the benefits of the proposed development to the town and the wider area are considerable. The scheme would directly benefit the universities in terms of their pressing need for PBSA, which indirectly assists their future prospects as educational institutions, given the importance of student accommodation in attracting new students to the universities in the first place. The scheme would also deliver public benefits, in stimulating the economy and local jobs, assisting the regeneration of Falmouth town centre and securing the satisfactory development of an unattractive brownfield site and providing increasing lighting and security in this area. I also consider that the effects of the proposal on the character and appearance of the Falmouth Conservation Area would be at worst neutral.
65. In the light of the above considerations there would be no conflict with the adopted LP or with national planning policy. I have already concluded that the proposal accords with the adopted development plan support for PBSA in Falmouth, as evidenced by LP policies 2a.4 and the supporting text to policy 3. The policy also accords with LP policy 21 (securing the best use of land and buildings) and is not contrary to LP policy 24 (which relates to the historic environment). Finally, the proposed development is sustainably located as well as comprising sustainable development, and hence accords with the provisions of LP policy 1.
66. I have to set these benefits and the fact that the proposal accords with the adopted development plan against the Council's primary concern that the proposed development would conflict with the emerging strategy for PBSA, as set out in the eSAP and eNP. I accept that there is conflict with these

emerging plans, as the Council outlines. However, I can only give little weight to these emerging plans, because at the time of writing this decision, neither of these plans has been independently examined. This is a critical consideration in leading me to the conclusion that I should allow the appeal.

67. I am aware that many local residents and organisations who care for the future of Falmouth objected to the proposed development, primarily on the grounds that they consider that increasing the number of students would exacerbate what they consider to be an imbalance in relation to the population of the town as a whole and that the impact of some of the students' anti-social activities are unacceptable.
68. Whilst I do not mean to downplay the concerns expressed by third parties, they are not shared by the Council or the police, at least in relation to the proposed development. Moreover, the Appellant has gone to some lengths to propose improving and encouraging the alternatives to car use through a detailed travel plan, by ensuring continuous, 24 hour, seven days a week on-site supervision as part of the scheme, and by improving security through the use of CCTV and lighting. In addition, the administrative and enforcement authorities have legal powers to control anti-social behaviour, including inconsiderate parking, whether this is caused by students or by other residents or visitors to the town. These considerations therefore do not outweigh the reasons that led me to allow the appeal.
69. For the reasons given above and having regard to all other matters raised, and subject to the conditions and unilateral undertaking discussed above, I conclude that the appeal should be allowed.

Mike Fox

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Gareth Hooper	DPP Planning
Mr Sam Mayou	CAD Heritage
Mr Charles Potter	Westworks Architects
Mr Till Scherer	Westworks Architects

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Holman	Cornwall Council
Mr Matthew Brown	Cornwall Council

INTERESTED PERSONS:

Cllr Alan Jewell	Cornwall Council
Cllr John Spargo	Falmouth Town Council
Stuart Martin	Chairman, Save Our Falmouth
Brendan Fitzgerald	Smithick Ward Residents' Association
Jim Forbes	Smithick Ward Residents' Association
Matthew Marris	Resident
Pam Cowan	Resident
Mike Fernihough	Resident
John Ellis	Resident
Marc Lawndon	Resident
Dr Michael Fleetwood	Resident
William Essex	Resident
Philip Haggard	Resident
Jessica Howey	Resident
Chris Sharpe	Resident
Tamsin Ward	Resident
Roland Tongue	Resident
Tracy Boulton	Resident
David Braeford	Resident
Perry Stacey	Resident
Diane Rayner	Resident
Judy Warren	Resident
Lauren Averly	Resident

DOCUMENTS

1. Statement of Common Ground between Wilson and Sharp Investments and Cornwall Council; dated 13 November 2017.
2. Map of Falmouth Conservation Area.
3. Final Report of Falmouth Neighbourhood Plan Steering Group Environment and Open Spaces Working Group: Work Programme Final Report; dated 20/12/2016.
4. Photograph of delivery truck parked on Smithick Hill, Falmouth.
5. Suggested new condition, to secure an archaeological watching brief, submitted by Cornwall Council; dated 24 November 2017.

6. Additional information submitted by Smithick Ward Residents' Association, dated 24 November 2017.
7. Comments on Smithick Ward Residents' Association and Falmouth Neighbourhood Plan Stakeholder Group, submitted by Wilson Sharpe Investments; dated November 2017.
8. Attendance List.
9. Falmouth Neighbourhood Plan Position Statement – November 2017.
10. Letter from Dave Bragford; forwarded by PINS on 24 November 2017.
11. Penrose Student Village Information Leaflet.

SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall begin not later than 18 months from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Ref 01 0100 A, dated 04/11/2016; Block Plan, Ref 01 0101, dated 19/02/2017; Elevation Plans, Refs 01 0300E, North Elevation; 020301D, East Elevation; 010303D, West Elevation; 01 0302D, South Elevation; Roof Plan, Ref 01 210D, dated 23/11/2016; Floor Plans, Refs 01 0200E, Ground Floor GA; Ref. 01 0201E, First Floor GA; 01 0202E, Second Floor GA; 0203E, Third Floor GA; 01 0204E, Fourth Floor GA, all dated 23/11/2015; Illustrative Plans, Refs 01 0500B, View 1; 01 0501B, View 2; 01 0502B, view 3; 01 0503B; 01 0503B, View 4; 01 0505B, all dated 08/08/2016; 01 0510B, 3D Views; 01 910C, Previous Massing, dated 15/02/2017; 01 0904, Shadow Study, dated 08/08/2016; 01 0905, Shadow Study Previously Consented, dated 16/02/2017; 01 910, Key Plan, dated 19/02/2017; and Existing Site Survey; Ref 2006-2190-01 A, dated May 2008.
3. No development shall commence (including works of demolition, site clearance or ground works) until a Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include:
 - Construction vehicle details (number, size and type);
 - Vehicular routes and delivery hours;
 - Means of access and parking of vehicles of site operatives and visitors;
 - Loading and unloading of plant and materials;
 - Storage of plant and materials;
 - Location of site compound and welfare facilities;
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - Wheel washing facilities;
 - Measures to control the emission of dust and dirt during demolition, site clearance and construction works;
 - Measures to control noise during demolition, site clearance and construction works;

- A scheme for recycling/disposing of waste resulting from demolition, site clearance and construction works;
- Hours of working;
- Management of surface water for the avoidance of pollution;
- Procedures to avoid pollution incidents, e.g. from fuel spills or site runoff, based on an understanding of the wildlife interest at risk (i.e. the designated sites);
- Contingency/emergency measures for accidents and unexpected events, including pollution incidents (e.g. use of spill kits with machinery);
- Risk assessments of potentially ecologically damaging construction activities;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- If necessary, the times during construction when specialist ecologists need to be present on site to oversee works;
- Responsible persons and lines of communication;
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- Use of protective fences, exclusion barriers and warning signs.

The development shall be carried out strictly in accordance with the approved CEMP, which shall be adhered to and implemented throughout the demolition, site clearance and construction periods.

4. No development shall take place until a detailed Travel Plan has been submitted to and approved in writing by the local planning authority in line with Cornwall Council guidance: 'Travel Plans - Advice for Developers in Cornwall'. No part of the new development shall be occupied prior to implementation of those parts identified in the Approved Travel Plan as capable of being implemented prior to occupation. Those parts of the Approved Travel Plan that are identified therein as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented in accordance with the approved details as long as any part of the development is occupied.
5. The development hereby permitted shall remain in single ownership and the development shall be residentially occupied solely by persons who are registered students with Falmouth and Exeter Universities. The names of the occupiers of the development shall be kept on a register on site along with proof of their registration. Residential occupation shall be managed by a single management company fully in accordance with a detailed Management Plan to be submitted to and approved in writing by the local planning authority before the development is first occupied. The Management Plan shall include provision for a manager to be present on-site at all times over a 24 period while the student accommodation hereby approved is occupied.
6. Before the student accommodation hereby permitted is first occupied, the cycle parking shown on the approved plans shall be provided in accordance with the approved details. The cycle parking shall be maintained and made available for the use of residents of the development at all times thereafter.

7. The development hereby permitted shall not be occupied until details of Closed Circuit Television (CCTV) cameras to monitor the development have been submitted to and approved in writing by the local planning authority. The details shall include the type and number of cameras and their locations together with details of lighting to enable surveillance and details of signage appropriately located to indicate which areas are off limits to the public and that CCTV is in use. The CCTV cameras shall be installed in accordance with the approved details and brought into use before the development is first occupied.
8. Details of any floodlighting shall be submitted to and approved in writing by the local planning authority before the building(s) is/are occupied. Development shall be carried out in accordance with the approved details.
9. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until criteria 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until criterion 4 has been complied with in relation to that contamination.

Criterion 1: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval, in writing, of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwater and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Criterion 2: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and approved in writing, by the local planning authority, and the remediation work must be implemented in accordance with the approved

scheme. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Criterion 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (sometimes referred to as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

Criterion 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of criterion 1, and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of criterion 2, which is subject to the approval, in writing, of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with criterion 3.

10. The foul and surface water drainage schemes serving the development approved by this permission shall not be commenced until all areas of made ground identified in the Red Rock Geoscience Ltd Report Ref RP6556 have been removed and the land fully stabilised and remediated in accordance with a remediation scheme first approved in writing by the local planning authority. The details shall include:

- Details of the removal of made ground/remediation and stabilisation methods and extent of works.
- Results of percolation testing following the removal of made ground/remediation and stabilisation works.
- A description of the foul and surface water drainage systems operation.
- Details of the final drainage schemes including calculations and layout.
- A Construction Environmental Management Plan.
- A Construction Quality Control Procedure.
- A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features.
- A timetable of construction including a plan indicating the phasing of development including the implementation of the drainage systems.

- Confirmation of who will maintain the drainage systems and a plan for the future maintenance and management, including responsibilities for the drainage systems and overland flow routes.

Thereafter, the approved scheme shall be implemented in accordance with the details and timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details. Details of the maintenance schedule shall be kept up to date and be made available to the Local Planning Authority within 28 days of the receipt of a written request.

- 11.No development shall commence until full details of hard landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out in accordance with the approved details prior to the occupation of any unit hereby permitted and notice shall be given to the local planning authority when the approved scheme has been completed.

The hard landscaping details shall include:

- proposed finished ground levels or contours;
- means of enclosure;
- car parking layout;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- proposed and existing functional services above and below ground (eg. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports, etc.

- 12.No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority.

The landscaping scheme shall provide planting plans with written specifications including:

- Details of all existing trees and hedgerows on the land, showing any to be retained and measures for their protection to be used in the course of development;
- Full schedule of plants;
- Details of the mix, size, distribution and density of all trees/shrubs/hedges;
- Cultivation proposals for the maintenance and management of the soft landscaping. The protection measures proposed shall be completed in accordance with the approved scheme before the development hereby permitted commences and shall thereafter be retained until it is completed. Notice shall be given to the local planning authority when the approved scheme has been completed.
- All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Notice shall be given to the local planning authority when the approved scheme has been completed.

- Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.
- 13.No development shall commence until details of the materials to be used in the construction of the external surfaces (doors/windows/lintels/sills/stonework/brickwork /roof covering and method of fixing) of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 14.No development shall take place until the applicant has secured the implementation of a programme of archaeological recording/watching brief based on a written scheme of investigation which shall have been submitted to and approved by the local planning authority. The recording/watching brief is to be undertaken throughout the course of works affecting the below ground deposits and historic fabric of any on-site structures. The recording/watching brief is to be carried out by a professional archaeological/building recording consultant or organisation in accordance with the approved details.