
Appeal Decision

Site visit made on 6 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 05 February 2020

Appeal Ref: APP/D0840/W/19/3235305

50 Trefusis Road, Flushing, Falmouth TR11 5UB

- 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 Mr Adam Proctor against the decision of Cornwall Council.
 - The application Ref PA19/00963, dated 25 January 2019, was refused by notice dated 31 July 2019.
 - The development proposed is the construction of boathouse building to store boats with annexe accommodation for holiday use above (amendment to existing approval PA16/05628).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Adam Proctor against Cornwall Council. This application is the subject of a separate Decision.

Procedural Matters

3. The revised National Planning Policy Framework (the Framework) was published in February 2019 and, as such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Background and Main Issue

4. Planning Permission was granted by Cornwall Council for the construction of the boathouse with office space at first floor, with further works to include repair of the slipway and sea wall¹ (the Existing Planning Permission). The appeal scheme seeks to amend the Existing Planning Permission by replacing the proposed office space with holiday accommodation.
5. Although the Council has given one reason for refusal, having reviewed the evidence I have considered it appropriate to identify two main issues.
6. The main issues in this appeal are:
 - The effect of the proposed development on the Fal and Helford Special Area for Conservation (the SAC); and,

¹ Local Planning Authority Reference: PA16/05628

- The effect of the proposed development on the character and appearance of the area, having particular regard to the location of the appeal site within the Cornwall Area of Outstanding Natural Beauty (the AONB).

Reasons

The Fal and Helford Special Area for Conservation

7. The evidence before me indicates that Natural England were consulted on the Existing Planning Permission. However, I also acknowledge that the Council are concerned that the change of use from office space to holiday accommodation would result in more pressure on the SAC. From the evidence before me, it would appear that no separate consultation on the appeal scheme was conducted.
8. The SAC is an important resource, well frequented by the public and there is potential for the proposed change of use to holiday accommodation would result in increased number of visitors to the SAC and thereby potentially increasing levels of disturbance through recreational activity. It is therefore necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the appeal scheme on the SAC.
9. In their response, Natural England, as the Statutory Nature Conservation Body, confirmed that subject to the provision of mitigation, the proposal would not have an adverse effect on the integrity of the SAC.
10. Policy 22 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) requires that development which comprises residential, student or holiday accommodation, provide appropriate management mitigation and/or financial contributions towards off site mitigation and management, for recreational impacts on European Sites.
11. In this instance, there is no evidence or submissions before me which indicate that the appeal proposal would provide any form of mitigation, either by means of appropriate management mitigation or by means of financial contribution towards off site mitigation.
12. I cannot therefore be satisfied that the proposal would provide adequate measures to avoid and mitigate its potential adverse effects on the integrity of the SAC. Consequently, it would conflict with the requirements of Policy 22 of the Local Plan and would conflict with those parts of the Framework which concern the protection of habitats and biodiversity. The scheme would also therefore not accord with the environmental dimension of sustainable development in terms of the Framework, and therefore would not represent sustainable development for which Policy 1 of the Local Plan provides a presumption in favour of. Additionally, the appeal scheme would be contrary to the Conservation and Habitats and Species Regulations (2017).

Character and Appearance

13. The appeal site comprises a substantial two storey dwelling with gardens, located at the eastern edge of Flushing. To the rear of the dwelling and situated at the bottom of a steep set of steps, is an area of hardstanding for the storage of boats and to provide a slipway, with this area overlooking a section of the Fal River. The area surrounding the appeal property to the west

and east, is characterised by substantial detached and semi-detached dwellings sited within well-proportioned plots that adjoin the Fal River beach. From the evidence before me and from observations made on my site visit, there appear to be a number of residential properties which adjoin the beach, and which incorporate boat houses and slipways which enter into the river.

14. The site is located within the South Coast Central Section of the AONB. The Cornwall AONB Management Plan 2016-2021 and the Cornwall and Isles of Scilly Landscape Character Study identifies that the site lies within Area CA13 Fal Ria, Truro and Falmouth. This area owes much of its character to the interlocking ria system, with creeks and rivers forming steep valleys that are largely wooded.
15. Along with National Parks, AONBs are afforded the highest status of protection when it comes to their landscape and scenic beauty. The Framework provides that great weight should be given to conserving landscape and scenic beauty of AONBs. Policies 12 and 23 of the Local Plan require, amongst other things, that development respects the character of its setting, promotes local distinctiveness, and conserves and enhances the AONB's distinctive natural character.
16. Planning Permission, with changes to internal arrangements in order to provide holiday accommodation. When compared to the Existing Planning Permission, the evidence before me indicates that the appeal scheme would not result in changes to external appearance, the scale of the boathouse, its overall footprint nor siting. Consequently, the appeal scheme should be assessed in relation to its potential impact resulting from the proposed change of use of part of the structure from office space to holiday accommodation.
17. In this regard, it is noted that the principle of siting the proposed boathouse at the appeal site would not be detrimental to the landscape and scenic beauty of the AONB. The Council are concerned that the change of use from office to holiday accommodation would result in an intensification of use of the site, especially at night, and as such would be detrimental to the qualities of the AONB.
18. I note that the fallback position to use of part of the building for office space would be unrestricted in terms of hours of use or in terms of the periods during the year in which it could be used. The appeal scheme could therefore be used just as intensively as the permitted use as office space, during the night.
19. However, the appeal scheme would likely result in additional numbers of residents at the appeal property at any one given time. The additional numbers of residents would be likely, in my view, to result in additional domestic paraphernalia being present at the boathouse and this would be somewhat detrimental to the landscape beauty of the AONB. By reason of the likely low numbers of additional residents that would result from the appeal scheme, I conclude that the harm to AONB would be limited in extent.
20. Whilst the harm to AONB may be limited in extent, as described above the Framework places significant weight on conserving and enhancing the landscape and scenic beauty of the AONB. However, the evidence before me also indicates that the appeal scheme would result in some improvements to the slipway and the adjoining sea wall. These factors represent positive elements of the scheme which, in my view, would outweigh any harm that

would result from the additional small numbers of residents and their likely impact with regards to the introduction of additional domestic paraphernalia.

21. The proposed boathouse would be sited on the side of the hillside and would blend in with the associated residential development within Trefusis Road, and would be comparable to the other boathouses and structures which are present close to the site and on the banks of the Fal River. Furthermore, the proposal would result in an improvement to the slipway and the adjoining sea wall and, consequently, overall the proposal would conserve and enhance the appearance of this part of the AONB and would not be harmful to the character and appearance of the surrounding area.
22. For the above reasons, the appeal scheme would comply with the provisions of Policies 2, 12 and 23 of the Local Plan and would accord with paragraphs 170 and 172 of the Framework. Together, these Local Plan policies and the provisions of the Framework, amongst other things, require that development conserve and enhance the natural environment and the landscape and scenic beauty of the AONB.

Other Matters

23. Interested parties have raised additional objections to the proposal regarding the effect of the appeal scheme on flooding and drainage. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue concerning the effect of the proposal on the SPA, these are not matters which have been critical to my overall decision.

Conclusions

24. Given the sensitivity of the SAC and the protection afforded to the conservation of habitats and biodiversity within the Framework, I give significant weight to the harm of the potential adverse effects on the SAC, arising from the proposal. The fact I have concluded that the appeal scheme would not result in harm to the character and appearance of the surrounding area or the AONB, does not outweigh the harm to the SAC.
25. For the reasons given above, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR