
Appeal Decision

Site visit made on 10 July 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 04 September 2020

Appeal Ref: APP/D0840/W/20/3244465

Land off Barbican Hill, East Looe PL13 1BH

- 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 Walker Developments SW Ltd. against the decision of Cornwall Council.
 - The application Ref PA19/07490, dated 22 August 2019, was refused by notice dated 22 November 2019.
 - The development proposed is described on the application form as the 'demolition of derelict outbuilding and redevelopment of the site to provide four dwellings, access, parking, landscaping, gardens/ courtyards and associated infrastructure.'
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Notwithstanding nearby appeals brought to my attention,¹ to which I will return, each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan includes policies of the Cornwall Local Plan, Strategic Policies 2010-2030 ('LPSP') and saved policies of the Caradon Local Plan, First Alteration ('CLP').²
3. I have also had regard to various other material considerations, including relevant provisions of statute,³ of the National Planning Policy Framework ('NPPF'), the Looe Conservation Area Appraisal and Management Plan ('CAA', 'CAMP'),⁴ and the Cornwall and Isles of Scilly Landscape Character Study ('LCS').⁵ I understand that Looe Town Council is progressing work on a neighbourhood plan. A draft of that document was put out to consultation in early 2019. NPPF paragraphs 213 and 48 set out how existing policies should not be considered out-of-date simply because they pre-date the NPPF, and guide as to the weight that may be accorded to relevant policies in emerging plans (as addressed subsequently).

¹ APP/D0840/A/12/2174348 and APP/D0840/W/19/3220733. The reference to APP/D0840/W/16/3153632 in the information before me, potentially an error, is some miles inland, adjacent to the Chacewater Conservation Area rather than within it. As such the circumstances there and here are not comparable.

² Adopted November 2016 and, originally, in August 2007 respectively.

³ Notably section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

⁴ Both approved 19 March 2009.

⁵ Published in 2008.

Relevant policies

4. LPSP policy 2 sets out, at a strategic level, how development should maintain and respect the special Character of Cornwall (including as regards historic assets). LPSP policy 12 provides greater detail in terms of the design objectives that development should achieve in that context. LPSP policy 24 makes specific provision regarding the historic environment. It sets out how development should maintain the special character and appearance of Conservation Areas, especially in respect of elements of Conservation Areas identified within appraisals as representing a positive contribution to local character. Saved CLP policy CL9 relates to Areas of Great Landscape Value. It seeks to guard against development that would 'materially harm the character of the particular area [and which] does not closely reflect the traditional building styles and local materials, or the characteristic pattern of settlement, in the particular area'.
5. NPPF paragraph 127 sets out how all development should add to the overall quality of the area and be sympathetic to local character and history (including the surrounding built environment and landscape setting). Similarly, NPPF paragraphs 184 and 193 guide how 'great weight' should be given to the conservation of heritage assets, irreplaceable resources, in accordance with their significance. NPPF paragraph 194 further sets out how any harm to a designated heritage asset, not just that which is substantial, should require clear and convincing justification (with regard to any public benefits of a proposal).
6. Notwithstanding that the housing requirement in LPSP policy 2a is expressed as a minimum, there is neither evidence, nor contention, that the Council are presently unable to demonstrate in excess of a five year land supply of deliverable sites for housing in accordance with NPPF paragraphs 67 and 73.⁶ Similarly there is no robust evidence that, insofar as the Liskeard and Looe Community Network Area ('CNA') in which the appeal site falls is concerned, there is any meaningful divergence relative to the situation across Cornwall in the short term in that respect.⁷

Main issue

7. Against the context above, the main issue is the effect of the proposal on local character and appearance, including that of the Looe Conservation Area ('CA') and Area of Great Landscape Value ('AGLV') in which the appeal site falls. In the event that I find that harm would result, I will then gauge whether or not other material considerations nevertheless justify allowing the appeal.

Reasons

8. The appeal site is an irregular sweep of land of some 0.42 ha, tracking around a contour of the landform.⁸ I understand that it once formed part of the terraced grounds of Klymiarven, a former hotel (in all likelihood originally a turn of the nineteenth century property).⁹ I am told that Klymiarven was

⁶ Or, by extension, that NPPF paragraph 11. d) is engaged.

⁷ With reference to LPSP paragraph 1.74, notwithstanding that part of CNA supply will likely arise from windfall.

⁸ Edged red on plan 18033.3.001.

⁹ Appellant's Heritage Impact Assessment, August 2019.

relatively recently redeveloped into what is now Russell Court and The Manor House, properties which fall to the east of the site.¹⁰

9. The intimate built form of Looe is focussed around the confluence of the West and East Looe Rivers and their historic harbourside. However the town has evolved over time. Successive expansion, historically and more recently, has taken place in piecemeal fashion up and around steeply-sloping land either side of the River. There is therefore some architectural variety in the surrounding area, ranging from an intricate amalgam of historic properties alongside Fore Street to the west, to more modern, understated and lower density development eastwards.
10. The physical form of the town reflects its history. As set out in the CAA, Looe originated as two medieval settlements astride the River. Fishing, marine trade and industry took precedence economically, giving way in importance during the Victorian era to tourism. The character and appearance of the CA and AGLV therefore not only derive from the presence of much historic architecture of differing eras, but also from the interplay of the landscape and built development. Approaches to Looe are often ancient enclosed routes, and the street pattern intimate and enclosed. The CAA notes how valley slopes remain wooded in parts, which is particularly the case as development becomes more sparse away from the historic core.
11. In that context the appeal site is principally seen in conjunction with other historic properties. It is visible primarily in conjunction with older buildings flanking the harbourside and also neighbouring properties along Shutta Road. Properties immediately to the north along Shutta Road are, as is the case of much peripheral development, archetypal mid-to-late Victorian dwellings. They feature two storey canted bays, painted render with accentuated bands, front-facing gabled or hipped dormers with natural slate roofs and decorative ridge tiles consistent with the architectural tastes of that era.
12. Reflecting the topography, the appeal site is a parcel of hillside land. There is a fall across it of around 20 metres from east to west. Immediately to the north there is a pedestrian linkage between Shutta Road and Pendrim Road, known locally on account of the changing landform as '78 steps'. The appellant's Heritage Impact Assessment describes how 'by virtue of its location, the site is visually prominent and conspicuous from a number of locations within both East and West Looe'. That accords with my site visit observations.
13. The appeal site has evidently been left to its own devices for some time, notwithstanding some relatively recent level changes associated with redevelopment of Klymiarven. There are glimpsed views of remains of retaining walls and different tiered levels. However the site is now largely overgrown with vegetation; certain trees are also covered by Tree Preservation Order of 9 November 2006 ('TPO').¹¹ I therefore disagree with the appellant's position that 'the site also presents clearly as man-made structures'.¹² Instead, in my view, the site appears essentially natural by virtue of the passage of time; the site originated, and remained for several decades, as landscaped gardens

¹⁰ Planning permission having been granted in 2006, Ref 06/00316/FUL (with two dwellings also granted to the east thereof in 2005, permission Ref E2/04/016665/FUL).

¹¹ As shown in particular on the supporting Tree Constraints Plan (Ref EV-0342-TCP).

¹² Appellant statement of case, paragraph 4.23.

associated with Klymiarven. It thereby provided, and still provides, some visual relief relative to the greater intensity of development towards the west.

14. As something of an aside, the application form gives a site area of about 0.56 ha. The difference between that figure and the area referenced in paragraph 8 accounts for additional land within the appellant's ownership to the south of Barbican Hill. That is similarly hillside land, albeit densely wooded. I understand that area of land has been, potentially, offered as some form of community use. For clarity, references in this decision to the appeal site do not relate to that additional land.
15. Simply, the proposal is to create four dwellings set into the hillside.¹³ The scheme represents a relatively low level of density, some nine dwellings per hectare.¹⁴ By consequence the appellant indicates that approximately 65% of the site area would remain 'natural' in that context (with an additional 11% if the area of low-pitched green roofs is included). Only trees of relatively poor arboricultural quality or contextual value would be removed, with replacement planting also proposed.¹⁵ The dwellings proposed would be of simple, contemporary, geometric design. The supporting Design and Access Statement ('DAS') explains how they would be stone-faced 'matching the materials already found within Looe and the site'.
16. Neither the policies set out in paragraphs 4 and 5 above, nor the CAMP, seek to prevent appropriate redevelopment or intensification within Looe. As set out above, hillsides around Looe have accommodated incremental development over time. In respect of Shutta Road and Barbican Hill in particular, page 29 of the CAMP sets out that 'there are large garden plots... some may be suitable for development, but only with the greatest care'. The Inspector who determined a recent appeal for a dwelling at land west of Pendrim Road next to the Eyrie, reasoned that would have been achieved in that instance.¹⁶ There are other buildings scattered around the appeal site, such that development here would not mark an incongruous departure from the overall built form of Looe.
17. The proposal has evidently been consciously designed so as to minimise its prominence. A low level of density, green roofs, and replacement planting would serve to limit visual impacts to some extent. The use of stone facing would also, by virtue of its muted tone and hue, assist the assimilation of the buildings proposed into their surroundings. I accept there is a tension between minimising prominence on the one hand and reflecting more traditional architecture nearby on the other.
18. Numerically I am also told that 0.425 hectares represents a very small proportion of the CA as a whole (the appellant cites a figure of less than half of one percent in that respect). I have also set out above how there is some architectural variety in the wider area. In my view, contemporary design and traditional building forms are not inherently inimical; in certain circumstances

¹³ As shown on plans 18033.3.007, 18033.3.00, and in the supporting visualisation modelling.

¹⁴ Density= (1/0.425)*4.

¹⁵ As set out in Tree Survey Update of November 2019, Arboricultural Impact Assessment of November 2019 (albeit that there would be an incursion into the theoretical root protection area of specimen T4 of some 7%, with reference to British Standard 5837:2012, Trees in Relation to Design, Demolition and Construction – Recommendations).

¹⁶ Ref APP/D0840/W/19/3220733, dated 17 April 2019.

the former may serve to better preserve the latter as opposed to some form of neo-classical approach.

19. Despite some mitigating factors, however, in my view the proposal would fail to integrate acceptably with its surroundings. Firstly the scheme would inevitably result in significant additional built-development here, thereby reducing the essentially natural quality of the site at present. In line with my reasoning above regarding the significance to the CAA of the interplay between landscape and the built environment, the CAA explains how 'the gardens of many of the 19th and early 20th century developments up the river valley side form an important element in the local character... such areas of open space, especially those containing trees, are a foil to the mass of building and an important feature of the overall landscape'.
20. The appeal site here has been a prominent and essentially natural feature of the historic landscape now since the turn of the nineteenth century. It attests to the changing fortunes of Looe during that time, and the societal value placed on tourism during the Victorian era. The site is widely visible from a number of vantage points, including from Looe Bridge where it falls within an expansive view towards the estuary. Other undeveloped areas within the built form of the town are less prominent by virtue of being nestled between nearby buildings set on different levels.¹⁷
21. Any replacement or additional planting would take time to mature and would inevitably only partially screen the proposed dwellings from view from certain vantage points. Pressure would also likely arise to maintain individual plots to a domestic standard, or so as to ensure that expansive views are maintained. Light spill from residential use would also likely be apparent from time to time. Consequently, the proposal would reduce the natural character of the appeal site and therefore its aesthetic and historic value to the CA. Whilst arrived at independently with regard to the particular circumstances of this case, that is a similar view as reached by the Inspector who dismissed an appeal in 2012 at land to the rear of Gregory's Flats (fronting Fore Street).¹⁸
22. Notwithstanding my reasoning in paragraph 18, diverging from more traditional, proximate, and characteristic architectural forms would, in this instance, serve to exacerbate the incongruous visual effects of the proposal. Relative to those nearby, the dwellings proposed would appear squat rather than reflecting classical proportions. They would have plain and geometric facades with limited architectural detailing to break up massing. I was unable to identify other buildings of comparable design in the immediate vicinity during my site visit; difference inherently draws attention. Similarly the use of local stone facing is not commonplace. Consequently, in my view, the dwellings proposed would make little reference to the prevailing architectural language of the CA, jarring rather than integrating appropriately with local character and appearance.
23. I therefore conclude that the development proposed would conflict with the statutory and policy provisions set out in paragraphs 4 and 5 of this decision, resulting in harm to the character and appearance of the CA and AGLV.

¹⁷ As I saw was the case of the Pendrim Road appeal, which was also for a single dwelling as opposed to four.

¹⁸ APP/D0840/A/12/2174348.

However, as reasoned in paragraphs 16 to 18 there are certain factors that would limit the visual effects of the proposal, and the appeal site represents a small element of the CA as a whole. Consequently in my view it is reasonable to define the harm that would result in that regard as less than substantial within the terms of the NPPF, relative to which I will subsequently weigh any countervailing benefits to arrive at a balanced conclusion.

24. I note that, in the emerging NP, the appeal site forms part of the proposed 'Wooldown, Eastcliffe' local green space. Although that reflects that some value is placed on landscape character in this location, the NP is nevertheless at an early stage of preparation (having yet to proceed to submission, examination or referendum). However CLP policy PGS1 seeks to guard against development that would 'harm the openness, setting or a special character of a Local Green Space... unless there are very special circumstances'. An appeal is not the mechanism via which to assess whether a neighbourhood plan policy is in general conformity with the strategic priorities of a Local Plan, or otherwise complies with applicable basic conditions. Nevertheless by virtue of my finding in paragraph 23, logically the scheme would also conflict with emerging LP policy PGS1 (albeit that has not influenced my decision).

Other matters and planning balance

25. The proposal would have certain benefits. It would make use of a presently vacant site close to the centre of Looe, support housing delivery relative to the approach in LPSP policy 2a in pursuit of achieving delivery of some 1,500 homes in the wider CNA over the plan period. There would also be associated benefits in terms of supporting employment during construction and as future occupants would bring trade to nearby services and facilities. However the benefits of four new homes would inevitably be modest, particularly relative to strategic requirements. Moreover the support in the development plan and NPPF for the provision of new housing, including in respect of smaller sites, is not at the expense of ensuring that all development integrates appropriately with its surroundings.
26. The appellant has suggested that, as part of undertaking the proposal, a dedicated footpath be created alongside Barbican Hill connecting with Belinda Lane. As referenced above Looe is characterised by an intimate historic network of roads, Barbican Hill being particularly limited in width on occasion. I acknowledge that a footpath in this location would therefore result in greater convenience in the use of Barbican Hill for pedestrians and motorists. However there is no undertaking before me to secure that approach, which potentially relies on the agreement of third parties (the evidence before me is not definitive on that point). There is similarly no indication before me that Barbican Hill accommodates a significant volume of traffic, or that conflict between pedestrians and motorists is a particular cause for concern here (given that drivers will instinctively moderate their speed given the confines of the road and incline, and as pedestrians may elect to take alternative routes such as the 78 steps).
27. Similarly, as referenced in paragraph 14 above, the appellant has also suggested some form of community use, or transfer of land for such purposes, in respect of the parcel of land to the south of Barbican Hill. Section 5.0 of the CAA notes the paucity of publicly-accessible open areas or formal garden space

within the town. However, again, there is no mechanism before me to secure such a use, or evidence of specific needs or suitability of the site in that regard. Such a use may, theoretically, serve to increase use of Barbican Hill in conflict with the appellant's objectives of suggesting a footpath be established.

28. Given the character of Looe and steeply sloping nature of the appeal side, alongside previous instances of land instability and surface water run-off in the area, understandably many nearby residents have expressed concern regarding the potential effects of the proposal in that regard. I have also taken account of other concerns of those nearby, including in respect of the potential effects of the scheme as regards traffic generation, ecology, and disruption or damage to arise during construction. Some of those issues are governed principally by separate provisions or guidance, or could potentially be addressed via the imposition of conditions (were the scheme otherwise acceptable).¹⁹
29. However even were I to conclude that the development proposed would be acceptable in all other respects, that would effectively be a neutral finding rather than one which weighs significantly in favour of allowing the appeal. Fundamentally there is no robust justification before me that the proposed development is the sole means of securing any potential benefits referenced above relative to any other scheme (for example one which entails less harm to character and appearance). I therefore conclude that neither the public benefits of the scheme, nor any other material considerations, are sufficient to justify allowing the appeal.

Conclusion

30. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

¹⁹ For example all species of bats are protected via provisions of the Wildlife and Countryside Act 1981 as amended and the Conservation of Habitats and Species Regulations 2017 as amended. An appropriate approach to addressing ground stability via condition could, in theory, be secured via condition requiring adherence to a detailed construction and engineering methodology (with reference to NPPF paragraph 178. a) and 179).