



## Appeal Decision

Site Visit made on 2 November 2021

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

**an Inspector appointed by the Secretary of State**

**Decision date: 24 November 2021**

---

**Appeal Ref: APP/D0840/D/21/3279568**

**7 Polkirt Heights, Mevagissey, St Austell PL26 6TT**

- 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 Dave Taylor against the decision of Cornwall Council.
  - The application Ref PA20/00723, dated 20 January 2021, was refused by notice dated 9 June 2021.
  - The development proposed is a shed and lower deck area.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a shed and lower deck area at 7 Polkirt Heights, Mevagissey, St Austell PL26 6TT in accordance with the terms of the application PA20/00723, dated 20 January 2021, subject to the following conditions:
  - 1) Within 2 months of the date of this permission, a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All landscaping works shall be carried out in accordance with the approved details in the first planting season following the written approval. Any hedge or planting within the approved details which are subsequently removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
  - 2) Within 2 months of the date of this permission details of the colour scheme of the development hereby permitted shall be submitted to the Local Planning Authority for its approval in writing, and within 2 months of that approval the development hereby permitted shall be coloured in the approved colour scheme. Thereafter the colour scheme for the development shall at all times be in accordance with a colour scheme that has first been approved in writing by the Local Planning Authority.

### Preliminary Matters

2. In allowing the appeal I have altered the description of the proposed development in the banner heading above to remove reference to the term retrospective permission, as this is not a description of development.
3. Nonetheless, as at the time of my site visit, the deck area and shed had been erected within the appeal site. The application has been submitted retrospectively, and consequently I have dealt with the appeal on that basis.

## **Main Issues**

4. The main issue in this appeal is the effect of the appeal scheme on the character and appearance of the area, with particular regard to the Cornwall Area of Outstanding Natural Beauty (the AONB), to the preservation or enhancement of the character or appearance of the Mevagissey Conservation Area (the Conservation Area) and to the setting of listed buildings.

## **Reasons**

5. The appeal property is located on high ground with the rear of the dwelling having garden land which steeply slopes downhill away from the host building. The appeal building forms part of a row of similar scaled dwellings which, by reason of the steeply sloping nature of the land, appear as a single storey building to the front, but which appear as significantly more substantial buildings in terms of height and scale when seen from the rear of these properties. As I observed on my site visit, the rear of the row of dwellings which the appeal property forms part of, appeared to exhibit a number of balconies, raised decked areas and conservatories.
6. The appeal site is located within the Conservation Area. Whilst I have not been provided with any Conservation Area appraisal, I was able to explore the Conservation Area at my site visit and, from the observations made, I consider that the significance of the Conservation Area is predominately derived from the narrow streets centred around its harbour area, housing and historic buildings which are positioned on hillsides overlooking a historic fishing harbour, and its setting within the AONB.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas, which is reflected in the wording of Policy 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan).
8. Planning history for the site indicates that permitted development rights were removed when the housing development at Polkirt Heights was granted planning permission in December 1997. Nevertheless, planning permission for a conservatory and balcony extension at the rear of the host building was granted by the Council in 2016. The appeal scheme before me proposes the retention of a shed and an additional decked area which has been constructed in the rear garden area of the host property at a lower level than the permitted conservatory and balcony extension described above.
9. The Council have put it to me that the garden spaces to the rear of the row of properties which form Polkirt Heights act as an important buffer between the heart of the Conservation Area and the more modern form of development at Polkirt Heights, and that the scheme erodes that space to the detriment of the character and appearance of the Conservation Area.
10. However, during my visit to the Conservation Area it was apparent that the additional deck area and modestly sized shed structure was barely perceptible in views from within the wider surrounding area. In views from the public realm, including views from the harbour area, the hillside is dominated by the presence of the modern and substantially scaled dwellings which form the row of properties at Polkirt Heights and which significantly contrast, in terms of

scale and appearance, with the more traditional forms of development located closer to the harbour area.

11. By reason of the steeply sloping land at this location and given the modest scale of the decked area and shed, views from the nearby dwellings located towards the bottom of the hillside would be extremely limited and would again be dominated by the scale and appearance of the properties on Polkirt Heights and by the existing balconies and conservatories which are located to the rear of those properties. Whilst it would be possible to view much of the decking and shed from the rear of the neighbouring properties, the scheme would be seen in the context of similar decked areas and extensions to the rear of neighbouring dwellings.
12. The decking and shed are modestly sized structures and are concealed by changes in land levels and vegetation when viewed from most directions. Its design and materials are compatible with the host building and, in combination with its dark colour and the planting at the site the retention of which could reasonably be controlled by condition, would integrate successfully into its surroundings. Despite the presence of the additional deck area and shed, the appeal scheme would allow for the retention of an area of undeveloped land towards the end of the garden area, and which would continue to act as a buffer between the modern development at Polkirt Heights and the historic core of the village. For the above reasons, in my view, the appeal scheme would preserve the character and appearance of the Conservation Area.
13. Section 66(1) of the Act requires the decision maker, in considering whether to grant planning permission for development which affects a listed building, or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. In this respect, it appears that the Council's concerns are in relation to the potential impact of the scheme on the significance and setting of the grade II\* listed harbour piers and quays at Mevagissey. However, within the Council's submissions there are references to other listed buildings within the surrounding area and, in accordance with the duty described above, I have also considered the impact of the appeal scheme on the setting and significance of these listed buildings.
14. The Historic England listing description for the harbour piers and quays provides that the inner and outer harbours are formed of stone piers and quays, with the inner harbour piers being built between 1770 and 1773 and the outer harbour piers being constructed during the 1860s. As described above, the appeal scheme is not highly visible from within the surrounding area, including views from the harbour where the setting of this listed structure is dominated by the prominent substantially scaled dwellings which are located at Polkirt Heights and which draw the eye. In light of the above, I consider that the appeal scheme would have no material adverse impact on the setting or significance of the Mevagissey harbour piers and quays.
15. The submissions in this appeal also indicate that there are a number of listed buildings which are located north of the site, at a lower level and within Polkirt Hill. The Historic England listing description for 26 Polkirt Hill provides that this building is a late eighteenth century or early nineteenth century roughcast dwelling. The significance of the dwellings at numbers 27 to 35 (odd) Polkirt

Hill are both architectural and historical and derives in particular from their group value and the attention to architectural detail.

16. I observed on my visit that when travelling along Polkirt Hill, views of the appeal site are obscured by the terraces and dwellings which occupy space adjoining this highway. Given the above reason with regards to the visibility of the site from within the wider surrounding area and the nature of the appeal scheme, I find that the significance and setting of the identified listed buildings would be preserved. As noted above, whilst there may be glimpsed views of the shed structure from the rear of the dwellings located at a lower ground level to the north of the site, views of the site would be dominated by the substantial scaled row of dwellings which form Polkirt Heights and which overlook the core of the village and its historic fishing harbour.
17. For the above reasons, the scheme would satisfy the requirements of the special duties set out above in relation to the desirability of preserving or enhancing the character or appearance of the Conservation Area and in respect of the preservation of the listed buildings and structures or their settings. As there would not be less than substantial harm to the significance of these designated heritage assets, there is no need to weigh harm against any public benefits arising as required by Paragraph 202 of the National Planning Policy Framework (July 2021) (the Framework).
18. In terms of the effect of the appeal scheme on the AONB, paragraph 176 of the Framework provides that great weight must be given to the conservation and enhancement of the AONB's landscape and scenic beauty. This is reflected in Policy 23 of the Local Plan which seeks to ensure that local distinctiveness and the character and appearance of the area, including the scenic beauty of the AONB, is protected.
19. Policy CC1 of the Cornwall AONB Management Plan (the AONBMP) is cited within the Council's reason for refusal, and requires that decisions understand clearly the social, environmental and economic benefits of landscape and seascape. Having regard to the above and the requirements of paragraph 176 of the Framework, given its nature and siting relative to the wider landscape and by reason of the prominence of the existing dwellings which form Polkirt Heights which dominate the views of the surrounding landscape, I am satisfied that the appeal scheme would not harm the landscape and scenic beauty of the AONB.
20. In summary of the above, I find no harm to the significance or setting of the identified heritage assets or harm to the AONB. Consequently, the appeal scheme would not conflict with Policies 2, 12, 23 or 24 of the Local Plan and would accord with those paragraphs of the Framework which concern the conservation and enhancement of the historic and natural environments. Furthermore, the appeal scheme would accord with Policies D1, D5 and HC1 of the Mevagissey Parish Neighbourhood Development Plan which, amongst other things, seeks to ensure that development is sympathetic to the existing built environment and respect the character of their surroundings. Whilst the AONBMP does not form part of the development plan, I also find no conflict with Policy CC1 of the AONBMP.

## **Other Matters**

21. Interested parties raise additional concerns in respect of a planning obligation dated March 1997 which, the evidence before me indicates, relates to the original planning permission<sup>1</sup> for the residential development at Polkirt Heights. It has been put to me that the said planning obligation requires that trees and shrubs located within the appeal site be maintained and that, upon completion of the development, all the remaining land be excluded from further development and be maintained in perpetuity as open space.
22. In respect of these matters, upon my review of the submitted copy of the planning obligation described above, I do not find any reference or requirement with regards to maintaining trees or shrubs at the site. Furthermore, whilst the document does not expressly define the term "remaining land", the term must refer to land that was left remaining once the development had been completed. Both the dwelling and the garden space at the appeal site would have comprised the development and, consequently, the appeal site would not appear to fall within the meaning of the words "remaining land" as included in the submitted copy of the planning obligation.

## **Conditions**

23. As noted above, conditions that control landscaping and the colour of the lower deck area and shed are reasonable and necessary to protect the character and appearance of the surrounding area. Given that the development has been completed and accords with the plans submitted with the application, it is not necessary to apply any further conditions.

## **Conclusion**

24. For the reasons given above I conclude that the appeal should be allowed.

*Mr A Spencer-Peet*

INSPECTOR

---

<sup>1</sup> Local Planning Authority Reference: 89/01320