



Appeal Decision

Site visit made on 7 March 2022

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/D0840/W/21/3285933

Land to the rear of 1A Greenfield Terrace, Sunnyvale Road, Portreath, Cornwall, TR16 4LY.

- 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 and Mrs Tim and Annette Ball against the decision of Cornwall Council (the LPA).
 - The application ref. PA20/10946, dated 23/11/20, was refused by notice dated 23/8/21.
 - The development proposed is described as a bespoke, self-build family home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In September 2021, the LPA contacted the appellants' agent to advise of errors within the reason for refusal. The appellants' agent was informed that the proposal would not conflict with three of the development plan policies that had been cited within the reason for refusal.
3. The appeal site lies within the Cornwall and West Devon Mining Landscape World Heritage Site¹ (WHS).

Main Issue

4. The main issue is the likely effect upon the heritage interest (significance) of the WHS and the character and appearance of the local area.

Reasons

Planning Policy and Other Relevant Published Documents

5. The development plan includes the Cornwall Local Plan Strategic Policies 2010-2030 (LP) and the Cornwall Site Allocations Development Plan Document (DPD) adopted in 2019. My attention has been drawn to numerous policies. The most important ones to the determination of this appeal are: LP policies 12 (design), 21 (best use of land), 24 (historic environment) and; DPD policy 1 (windfall development).
6. I understand that the draft Portreath Neighbourhood Plan 2020-2030 (NP) is currently awaiting examination. At this stage, the NP can only be given limited weight. The most relevant policies to the determination of this appeal are 1 (location/scale of new housing), 4 (design), 5 (heritage assets) and 6 (WHS).

¹ The WHS extends to about 19,710 hectares and is spread over ten areas. The appeal site lies within sub area 5iii (Portreath Harbour) of Area 5 'Camborne and Redruth Mining District with Wheal Peevor and Portreath Harbour'.

7. Whilst not forming part of the development plan, my attention has also been drawn to the Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025 (MP). Amongst other things, the MP seeks to protect² the Outstanding Universal Value³ (OUV) of the WHS. The MP has been adopted by the Council and can be given moderate weight in this appeal.
8. In determining the appeal I have also had regard to the Cornwall and West Devon Mining Landscape World Heritage Site Supplementary Planning Document (SPD) that was adopted by the LPA in May 2017.

The Site and Surroundings

9. This 0.03 ha appeal site lies within the settlement area and historic heart of the village and former coastal mining port of Portreath. The site forms part of the long rear garden to the appellants' existing house. This dwelling is at the eastern end of a circa mid-19th century terrace of traditional, two storey mainly stone and slate roof houses. In all probability, these houses were built for those working at Portreath harbour and when there was considerable deep rock mining activity in this part of Cornwall.
10. The northern boundary of the appeal site abuts Sunnyvale Road⁴. In contrast to the traditional terraces to the south and within the heart of the village, this road contains dwellings of various ages, sizes and types at the foot of the steeply sloping valley side.
11. Over time, there have been many alterations to Greenfield Terrace. These include extensions to some of the houses, the sub-division of No.1 (and its rear garden) and various ancillary outbuildings/annexes within the rear gardens⁵. A large, three storey house with an indoor pool has also recently been built⁶ within part of the rear garden to No.1 and with access from Sunnyvale Road.
12. Notwithstanding the above alterations, Greenfield Terrace is still discernible as a row of traditional houses most probably associated with former mining activities that passed through the harbour at Portreath. The size and scale of some of the ancillary works/structures and the new dwelling in part of the former rear garden to No.1 has diluted from the layout of many of the plots in which these houses are set.
13. Nevertheless, the historic form of the long rear gardens to these dwellings and their association with Greenfield Terrace remains apparent⁷. Whilst the appeal site is only part of the original garden space to No.1, its long narrow shape and largely open qualities assists in affording an appreciation and understanding of the overall historic form of these rear garden spaces and their integral association with row of houses in Greenfield Terrace.
14. I concur with the views of the LPA and World Heritage Site Office that the appeal site is part of a garden plot which represents a historic/surviving

² Policy P3 requires new development to protect, conserve and enhance the WHS. Policy C2 requires high quality design and policy C9 requires the historic character and distinctiveness to be maintained.

³ The defined features or attributes of the WHS that make up its OUV include the mining settlements.

⁴ I understand that this is the former Portreath Tramroad which was used, amongst other things, to transport copper, tin ore and coal to/from the harbour.

⁵ My attention has also been drawn to a sizeable, detached garage, parking area and garden shed that has recently been approved in the rear garden of No.15 (ref. PA21/11912).

⁶ Outline permission was granted in 2107 (ref. PA17/03699). Full planning permission was granted in 2018 (ref. PA18/03938).

⁷ Including when seen from sections of Sunnyvale Road and the footpath which traverses the sloping valley side.

example of the morphology of a mining settlement/port that is an important component of the WHS. The appeal site is an integral part of the character of a mid-19th century terrace and makes a very small but positive contribution to the significance of the WHS. The largely green open qualities of the appeal site also make a pleasing contribution to the character and appearance of this part of Portreath.

The Likely Effect of the Proposal

15. The proposed three storey, three bedroom dwelling would be built towards the northern end of the appellants' garden and close to the edge of Sunnyvale Road. It would occupy virtually the full width of the plot and would be stepped downwards into the garden to reflect the gradient of the site.
16. The LPA has calculated that the tallest part of the proposed dwelling would be about 2.25 metres higher than the new house alongside and about 3.7m taller than 1A Greenfield Terrace. Variation in the roof line of the proposed dwelling and a void ground level, intended as car parking, would limit the visual mass of the proposed building. The use of timber cladding on some of the external walls, and the natural slate and cedar shingles on the roofs, would be recessive in nature and assist in trying to assimilate the building into the townscape.
17. This proposed house would accord with the aims of the Lifetime Homes standard and would entail the use of previously-developed land. It would be designed to a high standard and would add to the mix and styles of housing found within Sunnyvale Road. The appellant's architect has given thoughtful consideration to the design of this proposed building. The development would accord with aspects of LP policies 12, 21, draft NP policy 4, and would accord with DPD policy 1 and draft NP policy 1. This weighs in favour of an approval.
18. However, LP policies 12 and 21 also, in essence, require developments to safeguard the historic character/value of sites. Draft NP policy 4 also includes a requirement for proposals to recognise and support the distinctive character of Portreath. In addition, LP policy 24 includes a requirement for development to accord with the MP and avoid harming the authenticity and integrity of the WHS. There are similar requirements in draft NP policies 5 and 6.
19. The proposed dwelling would occupy a sizeable part of the existing rear garden to 1A Greenfield Terrace. This new development would split this garden space into two separate and distinctive parts and permanently sever (visually and functionally) much of the existing garden from the appellants terraced house. Unlike the ancillary outbuildings and annexes within neighbouring gardens, the proposal would both appear and operate as a separate independent unit and would no longer continue to be associated with Greenfield Terrace.
20. The development would erode the form and size of the existing garden space at 1A Greenfield Terrace. In so doing, it would diminish the contribution it makes to the character and distinctive qualities of this terrace, as well as to the morphology of this part of Portreath. The proposal would have an adverse effect upon the historic character of a constituent part of the WHS. When the WHS is considered as a whole, the development would, to a very limited extent, erode the integrity/OUV of the WHS. It would diminish the ability to appreciate and understand the significance of this very important designated heritage asset. There would be conflict with MP policies C2, C9 and P3.

21. In the context of the National Planning Policy Framework (the Framework), the proposal would result in less than substantial harm to the significance of the WHS. If there is a sliding scale of harm within this category the proposal would be towards the lower end. However, less than substantial harm to a WHS does not amount to a less than substantial planning objection. Great weight should be given to an asset's conservation and the more important the asset, the greater the weight should be. The WHS is of international importance and the above noted harm weighs heavily against granting permission.
22. The Framework also provides that less than substantial harm to a designated heritage asset should be weighed against the public benefits of a proposal. In this regard, the proposed development would increase the choice and supply of housing within this part of Cornwall and would accord with the thrust of the Government's objective for increasing self-build housing. The development would provide some very limited support to the construction industry, as well as local services. It would also increase Council Tax receipts. These public benefits are insufficient to outweigh the less than substantial harm to the WHS.
23. I am not unsympathetic to the appellants desire for them and their family to continue living in Portreath. I also note that the proposal has the support of the Parish Council. However, these are not public benefits to be weighed in the 'heritage' balance and the proposal would introduce a sizeable new building into the existing rear garden of 1A Greenfield Terrace. This would entail the loss of an area of pleasant garden space within this part of Portreath which, to a limited extent, would detract from the character and appearance of the area. This adds some limited weight to the argument for withholding permission.
24. Both main parties have provided a copy of a previous appeal decision⁸ on a different site and which I am familiar with. The issue in that appeal was very similar to the one in the appeal now before me. However, I have determined this appeal at Portreath on its own merits. No two sites or circumstances are exactly the same and, as with the dwelling which the LPA recently permitted in the rear garden of 1 Greenfield Terrace, my decision at Pool does not set a precedent that I am bound to follow in determining this appeal.
25. I conclude on the main issue that the proposal would have an adverse effect upon the significance of the WHS and the character and appearance of the local area. The development would conflict with LP policies 12, 21, 24, and draft NP policies 4, 5 and 6.

Other Matters

26. I understand that part of the site lies within Flood Zones 2 and 3 (medium and high probability of flooding). The proposed residential accommodation would be located/designed with the finished floor levels above the 1 in 100 year predicted fluvial flood event. The Environment Agency (EA) has advised that this would be acceptable, but has also informed the LPA that it should be content that a flood risk sequential test has been satisfied.
27. The LPA considered the advice of the EA, the appellants' Flood Risk Assessment and separate Flood Statement. I note the reference within the LPA's officer report to paragraph 162 of the Framework and the remark that "*Although I am not satisfied that sufficient evidence has been provided to clarify that the*

⁸ APP/D0840/W/20/3258683.

sequential test has been passed, there is no strategic flood risk assessment to provide a basis for the application of the sequential test.”

28. The Government attaches great importance to ensuring that inappropriate development is avoided in areas at risk of flooding by directing it away from areas at highest risk. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding.
29. I disagree with the LPA's interpretation of paragraph 162 of the Framework, which seems to imply that a strategic flood risk assessment (SFRA) must be available before undertaking the sequential test. My understanding is that where a SFRA exists it should be considered in undertaking the sequential test, but it is only one source of information for comparing flood risk. If a SFRA has to exist in order to 'trigger' the sequential test, many vulnerable developments could be permitted in areas at high risk of flooding and where other existing sources of information/data could reveal the availability of lower flood risk sites. That would frustrate the Government's flood risk objectives.
30. There are no findings before me in respect of a sequential test or evidence to demonstrate that no other site(s) which are at lower risk of flooding are unavailable in which to undertake the proposed development. My decision does not turn on this matter. However, if I had found differently in respect of the main issue above, I would have required more information in respect of the availability of alternative sites before being able to grant any permission.

Overall Conclusion

31. Given all of the above, I conclude that the appeal should not succeed.

Neil Pope

Inspector