



Appeal Decision

Site visit made on 9 August 2022

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1ST September 2022

Appeal Ref: APP/D0840/W/22/3294848

The Longstore, Charlestown Road, Charlestown, St Austell, PL25 3NJ

- 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 R Davies (Forestay Ltd) against the decision of Cornwall Council.
 - The application Ref. PA21/10601, dated 19 October 2021, was refused by notice dated 16 February 2022.
 - The development proposed is retrospective permission for the retention of an existing gabion wall to include new stone cladding and raised planter.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 8 October 2020 an appeal against an Enforcement Notice (EN) relating to an unauthorised car park with gabion basket support on the appeal site was dismissed. The EN was upheld requiring the removal of the unauthorised operational development and the restoration of the land to its former condition (ref. APP/D0840/C/18/3203080) (2020 Appeal). The Inspector concluded that the proposed development failed to preserve and maintain the character, appearance and distinctiveness of the Charlestown Conservation Area (CCA) and the Charlestown World Heritage Site (WHS) and that there were no other considerations that outweighed the harm to those heritage assets and the conflict with the development plan.
3. Whilst I refer to the 2020 Appeal decision where relevant below, that appeal established that use of the land, which includes the current appeal site, as a car park, was lawful. It also found that whilst a car park in this broad location was envisaged within planning permission PA15/02224 (for redevelopment of two light industrial sheds to provide shops, restaurant and office space – now known as The Longstore) there was nothing in that permission which could be construed as permitting the new car park with gabion wall that was subsequently constructed on the land.
4. Although the period for compliance with the EN was 9 months, the gabion wall and associated steel railings/lighting columns remain in place. Whilst pre-application discussions have taken place between the Appellant and the Council over a potential solution to the removal of the gabion wall, the Council were not supportive of the proposals put forward. This culminated in the submission of the application which is now the subject of this appeal. The existing and

proposed plans that support the appeal show the upper level car park as it currently exists, which I have assumed is to provide some context as the description of development, for which permission is sought, relates only to the retention of the gabion wall to include stone cladding and a raised planter.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the sites location within the CCA and WHS.

Reasons

6. The planning designations that apply to the appeal site have not changed since the 2020 Appeal. The site is located within the CCA and WHS and section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the character or appearance of those areas.
7. In relation to the National Planning Policy Framework (July 2021) (Framework), paragraph 189 states that there are a range of heritage assets from those of local value to those of the highest significance, such as WHS, which are internationally recognised to be of Outstanding Universal Value (OUV). It continues by stating that these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In considering the potential impact on the significance of designated heritage assets paragraph 199 states that great weight should be given to the asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
8. Policy 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016) (CLP) sets out a similar approach to heritage assets, consistent with that of the Framework. The policy also states that new development within the WHS should accord with the WHS Management Plan, and that proposals resulting in harm to the authenticity and integrity of the OUV should be wholly exceptional. A similar approach is set out in policies D1, D2 and HE2 of the now made St Austell Bay Neighbourhood Development Plan (SANP).
9. Within the Cornwall & West Devon Mining Landscape World Heritage Site Management Plan (MP), policy P3 seeks to ensure that new development protects, conserves and enhances the WHS; policy C2 states that new development will add to the quality and distinctiveness of the WHS by being of high quality design and respectful of setting; and policy C8 states that the conservation and continuing maintenance of the historic fabric of WHS will be undertaken to the highest standard to ensure authenticity and integrity. Further policy guidance is set out in the Cornwall & West Devon Mining Landscape World Heritage Site Supplementary Planning Document (May 2017), which, amongst other matters, identifies the seven 'Attributes' that define OUV, one of which is 'Mine transport', which includes features such as existing harbours and ports, with Charlestown regarded as being one of best examples of late 18th Century and early 19th Century harbour works in Britain.
10. Within the above context and as I observed on my site visit, the appeal site is located within a prominent position within the CCA and WHS. The existing gabion wall is visible from various public vantage points, including Charlestown

Road and on the opposite eastern side of the harbour, from Quay Road. Whilst the proposal involves cladding the existing gabion wall with stone to match that on The Longstore, in my view, this new cladding would not mitigate for the harm that was found in the 2020 Appeal, and the proposed development would remain an incongruous and discordant feature. Due to the size, siting, orientation and extent of the retaining wall, even with the proposed cladding, it would remain a substantial structure that would be visually dominant and overbearing within the CCA and WHS.

11. The proposal would detract from the quality and distinctiveness of the WHS and the addition of the cladding would not secure, in my view, the high quality of design required to ensure and maintain the authenticity and integrity of the harbour and WHS. Whilst I accept that there are other walls and retaining structures elsewhere, those that I observed comprised smaller and more historic harbour features and are, therefore, not comparable to the appeal proposal with its associated steel railings/lighting columns and pay & display machines. The proposed development would continue, therefore, to have an overly modern appearance and would be on a scale that detracts from the quality of the built environment and the area's OUV.
12. I understand that the planting which currently exists on site would not be retained, with the submitted plans showing a new planter made from timber sleepers. Even so, both the existing and proposed planting appear, in my view, to be contrived and out of keeping with the wider landscape, specifically the natural mature screen of trees on the south western boundary that provide a positive backdrop to the harbour. Whilst I am also not convinced that the trees shown could fully establish within such confined planters, even with this new planting the proposed stone clad wall would still have a significant jarring visual presence within the CCA and WHS.
13. For the reasons set out above, I find that the appeal proposal would result in harm to the character and appearance of the CCA and WHS and as such it would not preserve or enhance the character, appearance and distinctiveness of the CCA and WHS. As is required, particularly by the Framework, considerable importance and weight must be attached to the harm to these heritage assets. The appeal proposal would, in my view, lead to less than substantial harm to the significance of the heritage assets, which must be weighed against the public benefits of the development.
14. The public benefits put forward relate primarily to the provision of car parking, with the Appellant contending that the removal of the gabion wall would lead to the loss of some 14 – 19 spaces. No plan has been provided to demonstrate this loss or whether these spaces would include only those on the main upper level of the car park (where the submitted plans show approximately 26 – 31 spaces (the latter figure in an informal layout)) or whether this would be in combination with the loss of the existing spaces at the bottom of the gabion wall, running west from the existing planting. Assuming all of the spaces were lost on the upper level, that would still leave approximately 12 – 17 spaces in an informal layout.
15. Even so, there is no substantive evidence before me to indicate that the loss of any existing parking spaces would exacerbate public parking problems within the area or lead to any highway safety issues. Whilst the Appellant indicates that the spaces are available to the public (on a pay & display basis), no

surveys have been provided to support that statement or to show that the car parking provides a public benefit by assisting in reducing pressure on the main public car park and/or on-street parking in Charlestown. In the submissions to the 2020 Appeal it was suggested that the parking spaces were mostly used by staff of The Longstore. Furthermore, on my site visit, which was at midday at the height of the summer season, only 9 of the 26 - 31 spaces on the upper level were being used and I witnessed no turnover of spaces or new arrivals. Some of the spaces within the south eastern corner of the car park were also taken up by a large sea container. Whilst I accept that no firm conclusions can be drawn from just one visit, there is no evidence before me to indicate whether this is reflective or not of the existing level of usage of the car park.

16. Reference has also been made to policies T1, T2 and T3 of the SANP. However, these policies are not relevant as they relate to parking to support new housing development, seasonal parking on the outskirts of Charlestown and on-street parking respectively. Similarly, there is no evidence before me to suggest that The Longstore development does not benefit from adequate parking. In this respect the Council have confirmed that the car parking included within planning permission PA15/02224 was considered appropriate to serve that development. As the approved plan for that scheme shows, this included a parking court of approximately 11-13 spaces as well as further parking to the west (of The Longstore).
17. Based on all the above factors neither this alleged car parking benefit or any other public benefits, delivering either economic or social or environmental objectives, would be sufficient to outweigh the harm I have identified to the significance of the heritage assets.
18. Accordingly, I find that the proposed development would be contrary to paragraphs 189 - 190, 195, 197 and 199 - 202 of the Framework, policies 1, 2, 12 and 24 of the CLP, policies P3, P6, C2 and C8 of the MP and policies D1, D2 and HE2 of the SANP.

Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all proposals for development to be determined in accordance with the development plan unless material considerations indicate otherwise. As I have found above, the appeal proposal would be in conflict with various policies of the CLP and SANP, as well as the corresponding policies of the Framework and there are no material considerations that justify making a decision other than in accordance with the development plan.
20. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR