



Appeal Decision

Site visit made on 8 November 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023

Appeal Ref: APP/D0840/W/22/3297454

Weir Cottage, Restronguet Weir, Mylor Bridge, Cornwall TR11 5SS

- 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 Sir & Lady David & Susan Dain against the decision of Cornwall Council.
 - The application Ref PA19/07267, dated 15 August 2019, was refused by notice dated 26 October 2021.
 - The development proposed is new boathouse.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 23 June 2022, after the appeal was submitted, the Mylor Parish Neighbourhood Development Plan 2020-2030 (MPNDP) was supported at its referendum and consequently become part of the development plan. In addition, the new Cornwall AONB Management Plan 2022-2027 was published after this appeal was lodged. Both of the main parties had the opportunity to comment on these changes in circumstances during the appeal and were not therefore prejudiced by me taking them into account in my decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - biodiversity; and,
 - the character and appearance of the area, with reference to the Cornwall Area of Outstanding Natural Beauty (the AONB) and the setting of Beach Cottage as a non-designated heritage asset (NHA).

Reasons

Biodiversity

4. Policy 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (the CLP) concerns Cornwall's biodiversity, amongst other things. It states that adverse impacts on Biodiversity Action Plan (BAP) habitats must be avoided wherever possible, unless the need for and benefits of a development clearly outweigh the loss. Where adverse impacts are unavoidable, they must be adequately and proportionately mitigated. If full mitigation cannot be provided, compensation will be required as a last resort. Policy L3 (a) of the MPNDP adds that development must not compromise the vulnerable habitats for flora and fauna adjacent to the creeks and inlets of the Fal Ria.

5. The site comprises part of the foreshore of the River Fal where the Carrick Roads connect by a passage to Restronguet Creek. The latest biodiversity evidence submitted with the appeal identifies the foreshore as intertidal mud/sand BAP habitat and I have no reason to disagree. The boathouse would be supported by 10 pillars leading to an unavoidable loss of around 1-2m of this BAP habitat per post. The remaining habitat below the boathouse and slipway would logically also degrade as a result of shading.
6. The pillars could be textured to provide ledges and crevices and would thus act as a substrate for recolonisation by intertidal species. Veritpools could also provide a degree of mitigation. However, by the admission of the appellants' own ecological evidence, these measures would only go some way to mitigating the habitat loss; avoiding a net loss of habitat would be contingent on off-site compensation. No particular off-site compensation is before me. It is suggested that such could be secured by a condition, but there is inadequate information before me as to where or what form any compensation may take. I therefore find that the development would have an adverse effect on this BAP habitat.
7. The need for the development and its benefits chiefly revolve around substituting the current access arrangement, where the appellants tow their vessel from elsewhere to the adjacent beach to the south. However, any benefits to highway safety and any reduction in congestion and pollution would be modest and would not outweigh the loss of BAP habitat that would occur. Nor would any small recreational benefits to future user's mental and physical wellbeing, or economic benefits accrued during the construction phase.
8. The appellants have referred to the ecological implications of a scheme that the Council granted for a boathouse nearby at Greatwood. The development site in question does not appear to have been set within similar habitat though, instead comprising amenity grassland, bare ground and ornamental shrub.
9. Consequently, I conclude that the proposal would have an unacceptable effect on biodiversity, in conflict with the relevant objectives of Policy 23 of the CLP, Policies L3 and W1 of the MPNDP, the Cornwall AONB Management Plan 2022-2027 and the National Planning Policy Framework (the Framework).

Character and appearance

10. The site is within the AONB. The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. S85 of the Countryside and Rights of Way Act 2000 further places a duty upon me to have regard to the purpose of AONBs, which is to conserve and enhance the area's natural beauty.
11. The drowned valley landscape of the River Fal is an important part of the AONB. The site fronts a relatively natural and undeveloped stretch of it, with large swathes of dense woodland above the foreshore offering significant scenic beauty. However, limited instances of quays and boathouses with slips are also present, such as that at Beach Cottage, a dwelling set upon an historic quay directly to the south, which combines with Weir Cottage to present a relative concentration of development. The Cornwall and Isles of Scilly Landscape Character Assessment (2008) accepts that built, water related infrastructure is an integral part of this area's character but can also exert pressure upon it.

12. The proposed boathouse would be a modest, functional structure, clad in natural materials. Given its small size and lack of space for internal amenities, its practical use would likely be restricted to little more than storage and access to and from the water. Restricting its use in this way could be further reinforced by a condition. From across the water and the adjacent Public Right of Way, the development would appear well related to the larger Beach Cottage and would visually defer to it, slotting in to a logical gap between Beach Cottage and Weir Cottage.
13. Given that the occupants of Weir Cottage already access the water and will more than likely continue to do so, I do not consider that the scheme would cause any notable loss of tranquillity. Concern has been raised about setting a possible precedent. However, Weir Cottage is one of the few properties along this part of the Carrick Roads, and I am led to believe the only substantial one without its own boathouse currently. Each case must be assessed on its own merits in any case. As such, the landscape and scenic beauty of the AONB would be unharmed.
14. I have no reason to question the Council's identification of Beach Cottage, complete with the quay, its flagpole, boathouse and slip, as an important NHA, given the evidenced Victorian origin of the dwelling and the likely even greater age of the quay itself. However, the significance that the NHA gains from its setting relates principally to its position at the water's edge. This would not be prejudiced by the addition of a further, small-scale and visually subservient, clearly water related development at its side in my opinion.
15. Accordingly, I conclude that the proposal would have an acceptable effect on the character and appearance of the area, with reference to the AONB and the setting of Beach Cottage as a NHA. In these respects, it would accord with the objectives of Policies 1, 2, 12, 21, 23 and 24 of the CLP, the Cornwall AONB Management Plan 2022-2027 and the Framework.

Other Matters

16. The site is within the Falmouth Bay to St Austell Bay Special Protection Area (the SPA) and is also directly adjacent to the Fal and Helford Special Area of Conservation (the SAC). I note that the rare wintering birds which comprise the qualifying features of the SPA do not use intertidal mudflat/sandflat habitat at low tide and are thus separated from typical instances of recreational disturbance and the likely implications of constructing the boathouse and slipway. Had I been minded to allow the appeal, likely significant effects on the integrity of the SPA could have been screened out in the first instance.
17. The SAC is vulnerable to recreational pressure, but I am mindful that the appellants already launch their craft from nearby. In my view, the proposal would effectively substitute the current means of access to the water with a different one of comparable intensity. The harm to the integrity of the SAC as a consequence of possible fallout from the construction phase cannot be ruled out in the first instance, but could potentially be addressed by the submitted construction management plan, or a more detailed iteration of such. As I am dismissing the appeal for other reasons, I have not gone on to consider this particular matter further within the ambit of an Appropriate Assessment.
18. Weir Cottage is a Grade II listed building, the site is within its setting, and I have a duty to pay special attention to the desirability of preserving its setting.

The significance of Weir Cottage's setting derives from its relationship with the water. Serving it with a small, clearly ancillary, water related building at the riverside would conform with, not harm, this aspect of its significance.

Planning Balance and Conclusion

19. The harm to biodiversity draws the proposed development into conflict with the development plan when read as a whole. The other considerations before me, including the benefits of the scheme, do not indicate that I should make a decision other than in accordance with the development plan.
20. For the reasons outlined above, and taking all other matters raised into account, I therefore conclude that the appeal should be dismissed.

Matthew Jones
INSPECTOR