



Appeal Decision

Site visit made on 28 February 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/D0840/W/22/3301667

Field north of 31 Lower Boscaswell, Pendeen TR19 7EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr Jon Manser against Cornwall Council.
 - The application Ref PA22/03352, is dated 5 April 2022.
 - The development proposed is construction of 4 dwellings.
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Decision

1. The appeal is dismissed and outline planning permission for the construction of 4 dwellings is refused.

Applications for costs

2. An application for costs was made by Mr Jon Manser against Cornwall Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application was submitted in outline with matters of access, layout and scale for consideration at this stage. Appearance and landscaping are reserved for subsequent consideration. I have assessed the proposal on this basis.
4. Both main parties have drawn comparisons with an appeal decision¹ (the adjacent appeal) on an adjacent site. However, the current appeal differs given the adjacent site is currently under construction, thereby resulting in potential differing effects on the surrounding natural, historic and built environment, as well as providing differing benefits from the current appeal proposal. As such, the current appeal proposal has its own circumstances, and I shall determine it on its own merits

Background and Main Issues

5. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has provided reasons that they would have refused planning permission for, had they retained jurisdiction to do so. The appellant has had the opportunity to respond to these in their final comments therefore, they would not be prejudiced by my taking these into account and forming the main issues. With these reasons for refusal in mind, I consider the main issues to be:

¹ APP/D0840/W/19/3243009

- The effect of the proposed development on the character and appearance of the area with particular regard to the Cornwall Area of Outstanding Natural Beauty (AONB); and
- The effect of the proposed development on the setting and significance of Heritage Assets.

Reasons

Character and appearance

6. The appeal site is an area of rough pasture located to the northern edge of Lower Boscawell. Lower Boscawell is a former mining settlement featuring a mixture of traditional period and modern housing development, with important visual links with the surrounding natural verdant and former mining cliff top landscape, contributing to its character. To the south west of the appeal site is a development of 6 dwellings (adjacent site) which was subject to the adjacent appeal and is in the early stages of construction, while a terrace of traditional period properties wrap around the north east of the site.
7. As the appeal proposal is located within the AONB, I have had regard to the purpose of conserving and enhancing the natural beauty of the area as set out in section 85 of the Countryside and Rights of Way Act 2000 (as amended). The Cornwall Local Plan Strategic Policies 2010-2030 (LP), the National Planning Policy Framework (Framework) and the Cornwall Area of Outstanding Beauty Management Plan 2022-2027 (MP) also seek to protect such designated landscapes, recognise the intrinsic character and beauty of the countryside, and attach great weight to conserving and enhancing the landscape character and scenic beauty of AONBs, which have the highest status of protection in relation to these issues.
8. The site is within the West Penwith section of the AONB. Despite the adjacent ongoing development, the site is still a component character of this part of the AONB, described within the MP as having a unique character shaped by granite geology and exposed to the Atlantic Ocean.
9. With particular regard to the landscape qualities of the AONB, although the site is prominent from the Public Right of Way 114/194/1 (The PROW), the site is seen in conjunction with a backdrop of the built form of Lower Boscawell.
10. However, views towards the surrounding landscape are clearly visible from within Lower Boscawell, where the appeal site makes an important contribution to the rural landscape and its connection with the built form of Lower Boscawell and the rural, coastal setting and established character of the village.
11. The appellant has demonstrated that from a number of significant viewpoints, the site, where visible, would be read in conjunction with existing built form. Furthermore, it is put to me that the adjacent site, once constructed would obscure public viewpoints from Carn Ros.
12. Construction has commenced on the adjacent site and I was able to observe the location and likely effect of the adjacent site on existing views towards the surrounding landscape from Carn Ros, and also the appeal site beyond. The adjacent site, once completed, would greatly restrict views from Carn Ros.

13. However, notwithstanding the appellant's computer model block views and sections, I noted that a glimpse view of the landscape and seascape beyond would still be clearly visible between the eastern side of future development at the adjacent site, and the end of the terrace in the distance from the eastern side of the access onto Carn Ros. While it may be the case that there are other glimpse views out to countryside between buildings and other fences and walls these glimpses reinforce the relationship with the surrounding landscape. The remaining view, while being narrow, would have added significance along with the remaining view to the west of the adjacent site. These views would provide a small break in what would otherwise be seen as continuous built form, allowing a glimpse view of the landscape and seascape beyond and retaining some connection with built form and coastal landscape.
14. Even if I were to find that the layout and scale were appropriate given the scale of surrounding built form as has been put to me and taking account of a proposed staggered arrangement and the step down ridge heights, the proposed development would obscure this remaining viewpoint from Carn Ros, and although a modest view, would harm the AONB's perceptible scenic beauty and the visual links with the surrounding landscape and therefore character of the area.
15. The appeal site is outside of the settlement boundary of Lower Boscaswell as detailed within the St Just and Pendeen Neighbourhood Plan (NP). However, my attention has been drawn to the Chief Planning Officer's Advice Note – Infill/Rounding Off (December 2017) (The CPOAN). The CPOAN does not form part of the statutory development plan and is to be regarded as informal guidance. However, it does provide some clarity on the locally adopted approach in relation to matters such as rounding off of settlements.
16. Even if I take the development at the adjacent site into consideration, and consider the proposed development to be 'rounding off', NP Policy AH6 supports open market housing subject to certain criteria including that they are sited in accordance with LP Policies 3.3 and 3.4. Importantly in this respect, LP Policy 3.4 requires that within the AONB or its setting, development will be supported where it is in accordance with the other policies of the LP and can demonstrate that it conserves and enhances the landscape character and natural beauty of the AONB.
17. Consequently, I conclude on this main issue that the proposed development would have a harmful effect on the character and appearance of the area, with particular regard to the AONB. It would therefore conflict with LP policies 2, 3, 12, 23 and NP policies AD1 and AH6. These policies seek to ensure, amongst other things, that development is of high-quality design which respects surrounding areas and enhances the quality of place and conserves and enhances the landscape character and natural beauty of the protected landscape. The proposal would also be contrary with the provisions of the Framework in relation to achieving well-designed places which are sympathetic to local character including the surrounding built environment and landscape setting, and conserving and enhancing landscape and scenic beauty.

Heritage Assets

18. Part of the appeal site adjacent Carn Ros is located within the Boscaswell Conservation Area (CA), while the site is also within Area 1 of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS). Furthermore, the

Council's Historic Environment Planning (Archaeology) Officer has stated the appeal site 'contains' a post-medieval crow, which is a non-designated heritage asset, although both the Council's appeal statement, and the appellant indicate that this feature is 'close' to the site.

19. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, to which I have attached considerable importance and weight.
20. Paragraph 189 of the Framework states that WHS are a designated heritage asset which are an irreplaceable resource, and which should be conserved in a manner appropriate to their significance. LP Policy 24 provides that development within the WHS will be restricted in accordance with the Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025 (WHSMP).
21. Paragraph 203 of the Framework advises that in weighing applications that directly affect a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Furthermore LP Policy 24 requires that any harm to the significance of a non-designated heritage asset must be justified, with proposals causing harm weighed against the substantial public, not private, benefits of the proposal, and whether it has been demonstrated that all reasonable efforts have been made to mitigate the extent of the harm to the significance of the asset.
22. The Inspector of the adjacent site appeal noted the significance of the CA is principally drawn from its cohesive, strong parallel lines of modest miner cottages as well as its exposed coastal setting, scattered mining artefacts and former miner's smallholdings directly linked to Lower Boscawell's mining heritage. Furthermore, given the mining heritage, Lower Boscawell and its attendant miner's smallholdings contribute directly to the Outstanding Universal Value² (OUV) of the WHS. I see no reason to disagree with this assessment.
23. The Cornish Mining World Heritage Site Office notes that the area was once in use as mineworkers' smallholdings, but the landscape has been altered due to removal of field boundaries. I observed that despite the historic removal of some field boundaries, the appeal site is still read as part of an open landscape and historic miner's small holding from both the PROW and from within Lower Boscawell. However, the development at the adjacent site will urbanise part of this wider historic landscape and reduce views into the site from within the village. While this will reduce the importance of the appeal site to both the OUV of the WHS and the character and setting of the CA, the appeal site would still contribute to both.
24. A brief Heritage Impact Assessment (HIA) accompanied the planning application, referring to a previous HIA submitted in relation to the adjacent site which I have had regard to. From my observations within the CA, the layout of the proposed development, and proposed stepped ridge heights, notwithstanding that matters of appearance are reserved, would broadly reflect

² As identified within the Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025.

the linear form of terrace housing elsewhere within the CA, including that of the adjacent site.

25. However, while noting that the proposed development would include a newly formed western boundary, I observed that by introducing a built urban form onto the appeal site, the proposed development would, cumulatively with the adjacent site, further incrementally undermine the legible historic landscape and also harm the transition between the historic built settlement pattern with the surrounding open landscape, particularly when viewed from the PROW. Consequently, I find the proposed development would compromise the remaining identified contribution of the appeal site to the OUV of the WHS and the setting of the CA.
26. The Framework advises at paragraph 194 that applicants should be required to describe the significance of any heritage assets affected by development and the potential impact of the proposal on the significance. As a minimum the relevant historic environment record should have been consulted and appropriate expertise used. There is potential for the crow, or at least the setting of, to be harmed as a result of the development but no such assessment is before me. Therefore, there is insufficient evidence for me to reach a conclusion on the effect of the proposal on the significance of the non-designated heritage asset, or indeed if this feature would contribute further to the OUV of the WHS.
27. In conclusion, there may be an effect on a non-designated heritage asset. In the absence of an assessment of the asset's significance, I am not in a position to consider the conflict between the asset's conservation and the proposal. Notwithstanding, the proposed development would in any case erode the legible historic landscape resulting in some minor harm to both the setting and therefore significance of the CA and WHS. As a result, there would be conflict with LP policy 24 which seeks, amongst other things, for development to conserve and enhance Cornwall's heritage assets. The proposed development would also be contrary with the provisions of the Framework in relation to conserving and enhancing the historic environment.
28. The harm which would be caused to the significance of the heritage assets would be less than substantial on both counts. In accordance with paragraph 202 of the Framework, it is appropriate to weigh the harm caused by the proposal against any public benefits that would arise from the development.

Planning & Heritage Balance

29. I acknowledge that the proposed development provides benefits in terms of the contribution of four family sized dwellings towards housing supply in a location in proximity to local services. The proposed development would also provide some employment opportunities during the construction phase and future residents would provide further economic benefits in terms of future spend within local businesses and social benefits in terms of the support for local services such as schools. Notwithstanding, given the modest quantum of development, I find that the benefits would be limited in scope and scale.
30. Taking all these matters into account the public benefits of the proposed development would not be sufficient to outweigh the harm that would be caused to the CA and the significance of the WHS as a designated heritage asset through harmful development.

31. In the overall planning balance, as well as the above benefits, I note the intended compliance with DDA requirements and the life-cycle aspirations of the development as well as the appellants desire for a high standard of design. Notwithstanding, the benefits of the proposed scheme would be limited in scope and scale. In my view, such matters either individually or in combination do not outweigh the identified harm and the associated development plan conflict described above, to which I attach significant weight.

Conclusion

32. For the reasons given above, I find that the proposed development would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR