



Appeal Decision

Site visit made on 6 June 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/D0840/D/22/3310599

The Garden House, The Parade, Mousehole, Cornwall TR19 6PP

- 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 & Mrs K Allerfeldt against the decision of Cornwall Council.
 - The application Ref PA22/06623, dated 19 July 2022, was refused by notice dated 15 September 2022.
 - The development proposed is enlargement of existing opening to allow off road vehicle parking.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr & Mrs K Allerfeldt against Cornwall Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area, having regard to surrounding heritage assets, and if harm would be caused, whether that would be outweighed by any public benefit;
 - The effect of the proposal on highway safety; and
 - The effect of the proposal upon trees.

Reasons

Character and appearance / heritage assets

4. The appeal site is a period dwelling (noted by the Council to be a non-designated heritage asset), associated garden area and detached garage/store building (the garage) located within the Mousehole Conservation Area (CA) and the Cornwall Area of Outstanding Natural Beauty. The appeal site is also in proximity to other heritage assets including the Grade II listed 1 and 2 Carn Topna.
5. From my observations I consider the special qualities, and thus significance, of the CA derive from both traditional period buildings, and the pattern of development. This illustrates the growth of a historic fishing village from its tightly-grained urban form created by narrow winding streets, leading to a less

dense pattern of development as built form rises with the surrounding topography away from the harbour.

6. The appeal site is situated near the harbour within the historic centre of Mousehole. A narrow unclassified highway borders the south east of the appeal site forming a pedestrian route to car parks and the seafront area. The immediately surrounding street pattern, high boundary walls, and narrow highways provide a significant contribution to the tightly grained urban form and character of the immediate area.
7. The boundary wall varies in height, with the eastern side being of substantially greater height than that to the south. Notwithstanding, the southern side is still of considerable importance to maintaining the sense of enclosure and character of the narrow highway. Furthermore, although there is disagreement between the parties as to the age of the boundary wall, and from my observations it may well have been constructed in several phases, this does not diminish the contribution of the wall in its entirety to the appearance and character of the CA.
8. The existing pedestrian access, while noticeable due to the timber gate, and height of walls to either side, does not significantly disrupt the overall sense of enclosure created by the wall due to its narrow width.
9. The proposal would result in the area of timber gate being significantly larger, and although the proposed gate would be of a same height as the wall, a visual break in the enclosure created by the wall would be apparent due to the loss of masonry. Additionally, this would be significantly increased at times when the gate would be open. This erosion in the sense of enclosure would result in harm to the character and appearance of the CA.
10. However, the proposal also seeks removal of the garage located outside of the garden area of the host property, and to the south of the boundary wall. This building is modest in size and appearance, although a combination of metal garage door and shallow mono-pitch roof provide little contribution to the character or appearance of the area.
11. This building is also located adjacent the gable of the Grade II listed 2 Carn Topna. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, 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.
12. From my observations, I find the significance of the listed building is derived from the age of the property and its association with the surrounding group of buildings and harbour area. Although the garage appears somewhat incongruous given its appearance, the modest size and its discreet position to the north east of the listed building limits the harm to the significance of the heritage assets. Therefore, while the removal of the garage would result in positive benefits to the setting of the listed building and character and appearance of the CA, these benefits would be limited.
13. Consequently, I find that the proposal, while providing some benefit due to the removal of the garage, would, when considering the proposal as a whole, result in harm to the CA from the widened access and resultant erosion of the

character of the area. Under the terms of the National Planning Policy Framework (Framework), this harm would be 'less than substantial'. Such harm should be weighed against the public benefits of the proposal.

14. 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.
15. The appellant has stated that the public benefits arising from the proposal relate to the provision of an Electric Vehicle (EV) charging point, thus helping to facilitate the transition to a low carbon future. Although the EV charging point would be for private use by the appellant, I acknowledge some wider public benefits may result from the use of an electric car charging point in respect of reduced carbon emissions.
16. However, any public benefits derived from the provision of a single off-street car parking space and associated EV charging point would be limited given the scale of the proposed development. Therefore, taking these matters into account the public benefits of the proposal would not be sufficient to outweigh the less than substantial harm that would be caused to the significance of the CA.
17. To conclude on this main issue, the proposal would be harmful to the character and appearance of the area, and would fail to preserve the character or appearance of the CA. It would therefore conflict with policies 1, 2, 12 and 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP) which in combination seek to, amongst other things, ensure that high quality design maintains the special character and appearance of conservation areas. The proposal would also be contrary to the provisions of the Framework, and guidance found within the Cornwall Design Guide 2021 in relation to achieving well-designed places which are sympathetic to local character including the surrounding historic environment.

Highway Safety

18. The appeal site is accessed via a narrow unclassified road which currently provides access to the garage as well as a neighbouring garage. I also observed a vehicle parked in front of the garage at the time of my site visit.
19. The Council, Highways Officer and interested parties have raised concerns relating to highway safety, due to the limited width and constrained visibility of the unclassified highway. The Council's Officer report raises these concerns in the context of an increased use of the lane, noting that the garage is not of an adequate size to allow parking, and the area where I observed a vehicle parked, being adopted highway.
20. The proposal would not result in a material increase in movements associated with the host dwelling. The narrow character and gradient of the unclassified road would result in any vehicles utilising the road travelling at slow speeds, and noting that the highway is already in use by vehicles and despite restricted visibility, I have not been provided of any evidence of previous accidents or other conflicts with pedestrians using the route.
21. Notwithstanding the parking on the highway I observed, although the garage is modest in size, the appellants state that the garage and lane are in use by the

appellants for parking. While no tracking information has been provided, the proposed paved parking space would appear to allow for a vehicle to be turned, and enter and egress in a forward gear. This would result in an improvement over any parking taking place in the existing garage, or indeed on the highway, which would require reversing on the highway. I have not been provided with any substantive evidence to come to a differing view on these matters.

22. Consequently, given the above, and the lack of a demonstrable increase in vehicular movements attracted to the appeal site, I conclude on this main issue that the proposal would not be detrimental to highway safety. The proposal therefore accords with LP Policy 27, which amongst other things, seeks to provide safe and suitable access to the site for all people and not cause a significantly adverse impact on the local or strategic road network. The proposal would also accord with the provisions of the Framework in relation to providing safe and suitable access and minimising the scope for conflicts between pedestrians, cyclists and vehicles.

Trees

23. As well as the appeal site being within the CA, an area Tree Preservation Order¹ is in place at the site to which I have had full regard. An Arboricultural Impact Assessment (AIA) drafted by 'Evolve Tree Consultancy' and dated 12th March 2021 was submitted with the planning application which assesses the potential impact of the proposal on existing trees. While I note that the conclusions within the AIA erroneously refer to a development of two dwellings, which is clearly not the proposal the subject of this appeal, the AIA appears reliable in all other aspects, with no substantive evidence put to me to cast doubt over the findings.
24. The Council's Forestry Officer has raised concerns that the proposal would result in damage to roots to a mature Acacia tree (T1) within the appeal site, which is the most prominent tree within the site from public viewpoints. The AIA notes that while T1 is the most significant specimen tree, it is declining with large parts of the canopy dead and is likely to die completely within a few years. This accords with my observation of the tree at the site visit.
25. The lack of longevity limits the on-going potential of T1 to provide a positive contribution to the visual amenity of the surrounding area. A further Holly tree (T3) is also visible from public viewpoints and is categorised as B1 within the AIA. In respect of this tree, the AIA concludes that this could be successfully retained along with an adjacent Rowan.
26. Consequently, while, as demonstrated within the AIA, the proposal would result in the loss of T1, given its health and limited life expectancy, its loss will not have a significant impact on future visual amenity of the area. Suitable and appropriate protective measures are set out in the AIA in relation to other trees, and as well as replacement tree planting, could be the subject of a condition if the appeal were successful in all other respects. Therefore, the proposal complies with LP Policy 23 which, amongst other things, seeks to protect and where possible enhance Cornwall's natural environment. The proposal would also accord with the provisions of the Framework in relation to ensuring that existing trees are retained wherever possible.

¹ P/1/10/TPO15 0)

Other Matters

27. The appellant contends that alterations to the boundary wall would be permitted development under the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Part 11 of Schedule 2 of the GPDO permits "Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure" (my underlining).
28. Development is not permitted by Part 11, Class C if the demolition is "relevant demolition" for the purposes of section 196D of the Town and Country Planning Act 1990 (The Act). This is defined as demolition of a building that is situated in a conservation area in England. The boundary wall would fall within the definition of a "building" in section 336 of the Act as this includes any structure or erection. While there are exceptions, this relates to any gate, fence, wall or other means of enclosure which is less than 1 metre high which abuts on a highway. This is not the case in this instance, and therefore this is not a fallback position which weighs in favour of the appeal.

Conclusion

29. For the reasons given above, I have found that the public benefits of the proposal would not be sufficient to outweigh the less than substantial harm that would be caused to the significance of the CA.
30. Although I have found no harm in relation to the second and third main issues, I find that the proposal would conflict with the development plan, read as a whole. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR