



Appeal Decision

Site visit made on 24 January 2023

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal Ref: APP/D0840/W/22/3302132

The Lovering, Quay Road, Charlestown, St Austell, Cornwall PL25 3NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr P. Stephens of Stephens & Stephens Developers Limited against the decision of Cornwall Council.
 - The application Ref PA22/02261, dated 4 March 2022, sought approval of details pursuant to condition Nos 16 and 20 of a planning permission Ref PA19/07235, granted on 8 June 2020.
 - The application was refused by notice dated 3 May 2022.
 - The development proposed is the demolition and redevelopment of Clay Dry to provide 15 dwellings and associated works.
 - The details for which approval is sought are:
Condition 16 – details for the proposed treatment of the Linhay area including a Schedule of Works and a timetable; and
Condition 20 – details of external finishes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council say that the submitted drawings include a suite of design changes to the approved scheme. However, the application submitted sought to discharge the requirements of two conditions. This is not an avenue by which amendments to approved plans can be made. As such, I have proceeded to determine this appeal on the basis of whether the submitted information is acceptable to discharge the requirements of those two conditions. Any alterations to the approved scheme would need to be the subject of a separate application to the Council.
3. On 21 February 2023 and during the determination of this appeal, the Council adopted its Climate Emergency Development Plan Document. This document, together with the Cornwall Local Plan Strategic Policies 2010- 2030 comprise the development plan and I have had regard to it as such. Both parties were invited to comment on its relevance to the appeal proposal.
4. In addition, the Council adopted the Charlestown Conservation Area Character Appraisal and Management Plan 2022 on 17 August 2022 which replaces the Charlestown Conservation Area Character Appraisal and Management Plan 2013. The appellant was invited to comment on its relevance to the appeal proposal but no comments were received.

Background and Main Issue

5. The former Lovering clay dry was built in 1907-08. Following a fire, much of the site was demolished in the early 2000's with the exception of its landmark chimney stack which is now Grade II listed. The appeal site is located within the Cornwall and West Devon Mining Landscape World Heritage Site (WHS), the Charlestown Conservation Area (CA) and within the setting of the Grade II listed chimney stack (LB).
6. Planning permission has been granted for the redevelopment of the site to provide fifteen dwellings and I saw at my site visit that work was well advanced. This appeal relates to the Council's refusal to discharge two conditions relating to planning permission ref: PA19/07235.
7. The main issues in this appeal, having regard to the reasons for the imposition of the conditions, are whether the details submitted satisfy the requirements of Conditions 16 and 20 of planning permission PA19/07235 with regard to the effect on the significance of the WHS, the character and appearance of the CA and the setting of the LB.

Reasons

Heritage Assets and their Significance

8. Statements of Outstanding Universal Value (SOUV) set out what the World Heritage Committee considers to be the Outstanding Universal Value of the WHS. In this case, the SOUV¹ highlights the high authenticity of the WHS in terms of the form, design, materials, location and setting of surviving features relating to the development and innovation in industrialised mining in Cornwall and West Devon between 1700 and 1914. This development and innovation had a profound impact on the growth of industrialisation in the United Kingdom and around the world and shaped the local landscape and settlements. The Lovering clay dry was an innovation in clay extraction, whereby it was pumped directly from the pit, dried and then loaded, via a series pipes, tunnels, chutes and tramways, onto ships in Charlestown harbour for export. Therefore, insofar as it relates to this appeal, the WHS derives much of its significance from the authenticity and integrity of the surviving industrial structures in its settlements and the wider landscape.
9. Charlestown is a planned late eighteenth and early nineteenth century industrial settlement centred around the oldest and best surviving china clay port in the world. The CA² encompasses the built form of the settlement and its landscape setting. The harbour, as the main focal point, is largely constructed of granite. Buildings framing the harbour tend to be constructed of stone or colour washed rubble with natural slate roofs and terracotta ridge tiles. The use of a unifying palette of materials creates a strong sense of place and its ownership by only two families between 1784-1986 means it survives in a remarkably complete form. Therefore, insofar as it relates to this appeal, the CA derives its significance from its historic origins as well as the aesthetic value in the widespread use of local materials and its substantially unaltered form.
10. The Grade II listed chimney stack on the site is the most tangible feature of the appeal site in terms of its relationship to the china clay industry in

¹ The Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025

² With reference to the Charlestown Conservation Area Character Appraisal and Management Plan 2022

Charlestown. Its significance comes from its landmark status, the use of local materials and its innovative functional connection with the harbour. Given its clear historic links to the clay dry site, its setting contributes to its significance.

Condition 16 of planning permission PA19/07235

11. Condition 16 states: *'Details for the proposed treatment of the Linhay area, indicated on plan ref: SP 02 P1 shall be submitted to and approved in writing by the LPA following the proposed clearance, the details shall include a Schedule of works and a timetable. The development shall take place in strict accordance with the agreed details.'*
12. The appellants case in respect of Condition 16 is that the condition is unclear and unenforceable, setting out no consequences should the scheme not be approved. In respect of the latter, this is not a matter for this appeal. The appellant has not submitted an appeal against the condition. For an appeal made under section 78(1)(b), I must only consider whether the submitted details address the requirements of the condition and I have proceeded on this basis.
13. With regards to the requirements of the condition, drawing number SP 02 P1 is titled, 'site survey – retained features'. The drawing indicates retained walls outlined in yellow, walls to be removed outlined in green and an area 'to be advised following site clearance and further survey' within a dashed orange line. There is an area at the southern end of the linhay included within a dashed orange line and the annotation on the plan for this area states 'possible areas of further interest – to be confirmed following site clearance, excavation and resurvey'. The Heritage Impact Assessment³ indicates that this is the assumed location of the furnaces and the tunnel entrance leading to the harbour which are important in understanding the historic context of the site.
14. The response from the Council's HEO⁴ dated 16 October 2019 refers to the reference on the site survey drawing indicating a need to clear vegetation from the most southerly section of the linhay to 'inform the treatment of [the] fabric'.
15. When taken together, I am satisfied that Condition 16 refers solely to the area contained within the orange dashed line on drawing number SP 02 P1. However, I have nothing before me which indicates that the area in question has been cleared, excavated and resurveyed and as such, no schedule of works or a timetable for those works have been provided.
16. Therefore, I conclude that the information and detail required by Condition 16 has not been provided and as such the requirements of Condition 16 of planning permission PA19/07235 have not been met.

³ Carried out by South West Archaeology, Report Version 02 dated 9 July 2019 submitted as Appendix D to the appellants Statement of Case

⁴ Senior Development Officer (Historic Environment)

Condition 20 of planning permission PA19/07235

17. Condition 20 states: Prior to commencement materials and detailing of the following shall be submitted to and approved in writing by the LPA.
- *Profiled metal sheet cladding*
 - *Sample panels of proposed new stonework*
 - *Windows and doors*
 - *Glazed links and balcony guarding*
 - *Flues and external pipework*
 - *Rooflights*
 - *Roofing slate and slate hanging, type of fixing and method of coursing*
 - *Zinc and green roofs*
 - *Timber cladding*
 - *Material finishes for the car ports*
 - *Render finish*
 - *All hard and soft landscaping and boundary treatments including details for the relaying of the rails.*
 - *External lighting and signage.*
- The development shall be carried out in strict accordance with the approved details.*
18. As a twentieth century functional industrial development, the clay dry site would have been contrary to the historic settlement grain of Charlestown in terms of orientation, scale and massing and it utilised modern materials such as blockwork and asbestos roofs.
19. The appellant's case is that the appeal scheme is a modern redevelopment of an industrial site which was a distinct and diverse component of the CA. Its built character was contrary to the prevailing special qualities of Charlestown at the time it was developed and as such, the materials submitted under Condition 20, are deliberately different in order to reference this and the previous industrial use of the site. The appellant's appeal submission includes the Silverlake Design Report⁵ (the SDR) which states it is an 'objective review' of heritage matters relating to the proposal.
20. In this context I turn to my consideration of the details submitted under Condition 20.
21. From the information before me, it appears that some elements of the condition are not in dispute. The Council set out⁶ the main areas of dispute as being the stonework, windows and doors, rooflights, timber cladding, balcony guarding, roof slate and method of fixing and the 'pigmento red' standing seam zinc for the walls and roofs of plots 12 and 15. I will deal with each of these in turn with reference to the requirements of the condition.

Sample panels of proposed new stonework

22. Stonework in Charlestown tends to be killas slatestones and siltstones and granites with a predominantly sandy colouring and a light-coloured mortar. Local stone was used as a building material on the clay dry site and in the construction of the listed chimney stack. Where it has been retained, I observed that it was sandy in colour with a light-coloured mortar.

⁵ Version 4 dated 3 March 2022 titled, 'Statement with Regard to Heritage Matters'.

⁶ In paragraph 5.73 of the Councils Statement dated 20 December 2022

23. The appeal submission relates to the use of 'locally sourced local stone with square rake black mortar finish' on plots 1-5 inclusive and the use of 'Celtic Rustic Stone with square rake black mortar finish' on plots 6-8 and 12-15 inclusive. The consultation response from the Council's HEO dated 21 December 2021 indicates that Celtic Rustic Stone is more appropriate and therefore I have confined my consideration to the stone used for plots 1-5.
24. The appeal submission does not include details of what stone has been used in the construction of these plots. I observed at my site visit that the stone used differs from that on plots 6-8 and 12-15. In particular, the stone on plots 1-5 has a dark grey colouring. The SDR states that the silvery grey colouring of the stone is more consistent with the vernacular character of north Cornwall and not in keeping with the established character of Charlestown. It acknowledges that it may weather over time but this would be unlikely to result in a colouring which would be consistent with Charlestown. It goes on to conclude that it is a 'discordant aesthetic character'.
25. In addition, the mortar for all the stonework to the dwellings on plots 1-8 and 12-15 appears to have been specified on the basis that it matches with the dark colouring of the stone rather than referencing the site's location in Charlestown. The SDR concludes that black mortar does not accord with the special character of the CA and I agree.
26. Modern or different materials can be used successfully in a heritage setting particularly to articulate different phases of development in an honest form. The appellant refers to developments in Charlestown such as the 'Longstore' where modern materials have been used. However, I would expect to see the rationale for material choices within a robust design statement. To say that the scheme is a modern development on a site with a history of being different does not robustly justify the use of a discordant stone and mortar, particularly when both were clearly utilised historically on the site. Equally, I do not find that the stone for plots 1-5 and the mortar for plots 1-8 and 12-15 is legible as referencing the previous industrial character of the site. Utilising a stone which is prevalent in the CA need not result in 'pastiche' but would serve to reference the clear link that the site has with Charlestown and its harbour in particular. The stone and mortar used does not achieve this.
27. I accept that, other than the chimney stack, the site is not highly visible from elsewhere within the CA and the stone elevations are only seen within the confines of the site itself. However, the site is located within the CA and inextricably linked to the industrial heritage of Charlestown. The Heritage Impact Assessment⁷ submitted with planning application PA19/07235 for the redevelopment of the site to provide 15 dwellings refers to 'the value of [the sites] historical associations, its proximity to Charlestown and its position within the WHS' as being considerable.
28. For this reason, I conclude that the stone to plots 1-5 and the use of a black mortar to plots 1-8 and 12-15 is at odds with the prevailing character of Charlestown, the site and the Grade II listed chimney stack. The introduction of a discordant material and detail results in moderate harm to the integrity and authenticity of Charlestown and therefore to the significance of the WHS, the CA and the setting of the LB.

⁷ By South West Archaeology Ltd. Report no. 190808 Version 02 dated 9 July 2019

Windows and doors

29. The Charlestown Conservation Area Character Appraisal and Management Plan 2022 (CAA) refers to the 'high survival' of historic windows and doors and the diminution of character caused by the loss of original doors and windows. It also refers to the use of an Article 4(2) Direction to ensure that the historic and architectural merit of historic buildings is not adversely affected by the use of modern materials and inappropriate details.
30. However, with regards to the appeal proposal, there would be no loss of historic fabric through the use of a modern composite front door and powder coated aluminium frame windows in a new development. The dark colouring and lack of glazing bars to the windows means that they appear recessive and the robust functional character of the doors provides coherence with the industrial origins of the site.
31. For these reasons I consider that the doors and windows preserve the character and appearance of the CA, the significance of the WHS and the setting of the LB. The submitted details satisfy the requirements of Condition 20 insofar as it relates to *windows and doors*.

Rooflights

32. The CAA acknowledges that rooflights can be appropriate where they are well detailed and sensitively sited. I observed that, although not commonplace, there are a number of rooflights on buildings in the CA. The rooflights in the appeal submission are not located on a forward facing roof slope, and are largely screened by the presence of the adjacent roofs, with a limited impact on townscape views. The submitted details indicate that they are centre pivot conservation rooflights with a vertical glazing bar. Whilst they are not flush to the roof, they appear low profile. They do not result in the loss of historic fabric and for the reasons stated, preserve the character and appearance of the CA, the significance of the WHS and the setting of the LB. The submitted details satisfy the requirements of Condition 20 insofar as it relates to *rooflights*.

Timber cladding

33. The Council's Statement indicates that the use of timber cladding is not characteristic of the area. However, the approved drawings specified in the planning permission PA19/07235, indicate the use of timber cladding to some elevations of the proposed dwellings. The consultation response from the HEO dated 21 December 2021 indicates that the use of timber cladding in a dark grey/black would be appropriate and the submitted drawings indicate the use of burnt ash vertical timber cladding and I observed this on site. As such, I find that the timber cladding preserves the character and appearance of the CA, the significance of the WHS and the setting of the LB. The submitted details satisfy the requirements of Condition 20 insofar as it relates to *timber cladding*.

Glazed links and balcony guarding

34. I have nothing of substance before me setting out what the Council's concerns are in respect of the balcony guarding. The appeal submissions indicate the balcony guarding to be frameless, non-reflective, standard safety glazing 1.1m high. The simple form and non-reflective glass preserves the character and appearance of the CA, the significance of the WHS and the setting of the LB.

The submitted details satisfy the requirements of Condition 20 insofar as it relates to *balcony guarding*.

Roofing slate and slate hanging, type of fixing and method of coursing

35. With regards to the roofing slate and slate hanging, the plans and the appellants grounds of appeal refer to the use of natural slate and black ridges.
36. Slate is the dominant roof covering in Charlestown, with weathering over the years resulting in a variety of colours. The Council indicate that Argentinian Riverstone is both geologically and aesthetically similar to the prevalent natural slate in Charlestown and would therefore be appropriate for use in the development together with clay ridge tiles. The SDR assesses the proposal on the basis that Riverstone is the specified natural roofing slate for the proposed development.
37. However, the appellant does not dispute the Council's assertion that Brazilian Grey Green slates have been used in the development. The CAA advises that 'great care' is needed when specifying natural slate but acknowledges that imported slates may be suitable replacements on non-prominent buildings or new build. In this instance, the slate used has riven edges, a matt finish and a colouring not dissimilar to others around Charlestown. For these reasons, I do not find that its appearance is at odds with slate used elsewhere in Charlestown. Given that it is being used on a new roof, I am not persuaded that the natural slate which has been used would result in harm to the CA.
38. Terracotta ridge tiles are prevalent in Charlestown and the appellant does not dispute this. A dark ridge with the black profile metal sheet finish to the roof of plots 1 to 3 gives the appropriate industrial finish and is seen elsewhere in Charlestown. However, where a natural slate roof is proposed on plots 4 to 15, a black ridge tile is a discordant feature at odds with the prevailing character of Charlestown.
39. Equally, whilst the method of fixing the slates may not be highly visible, the use of clips rather than nails is contrary to the prevailing character of the CA. Retaining clips are not necessary on slate in an exposed location, as evidenced by the existing roofscape of Charlestown. The SDR acknowledges that fixing slate by clips rather than nails is contrary to the established character and appearance of the CA and incongruous.
40. The use of natural slate on the majority of the new houses is a clear reference to the prevailing roofscape of Charlestown. I do not share the appellants view that the use of black ridges and retaining clips give an honest presentation of a modern building. Where a traditional roof covering has been used, the authenticity and integrity of the CA is preserved by the detail being appropriate. Inappropriate detailing waters down the authenticity of the CA as a whole and in this instance, has not been robustly justified.
41. For this reason, I conclude that the black concrete ridge tiles and use of clips for the slate is at odds with the prevailing character of Charlestown. The introduction of a discordant detail results in moderate harm to the integrity and authenticity of Charlestown and therefore to the significance of the WHS, the CA and the setting of the LB.

Profiled metal sheet cladding and Zinc roofing

42. Zinc standing seam cladding in 'pigmento red' cladding is shown on the submitted drawings for use on the rear parts and roofs of plots 12 and 15. 'Quartz grey' standing seam zinc cladding is proposed on plots 13 and 14. The use of zinc cladding and roofing echoes the industrial heritage of the site. The Heritage Impact Assessment submitted with planning application PA19/07235 for the redevelopment of the site to provide 15 dwellings envisaged that 'a mix of materials and form would be employed, echoing an industrial feel.'⁸
43. However, whilst the appellant has referred to examples of metal sheeting used elsewhere in the CA, I have not been directed to any other examples of red cladding being used and nor is there evidence of its presence on the former structures that stood on the site. The dominant and prevailing roof colour in the CA is grey. The red cladding would introduce a colouring to the walls and roof of the development which has no reference to the sites location and inclusion within the CA. For these reasons, I do not share the appellants view that the use of red cladding adds to the quality of the development overall. The SDR concludes that the red cladding is at odds with the character of the CA and also the industrial structure which formally stood on the site and I share this view.
44. I accept that the ability of subsequent owners to paint the cladding is not prevented either by the Article 4(2) Direction or a condition on the planning permission removing Part 2 permitted development rights. However, I do not accept that there is a realistic prospect of the future occupiers of plots 12-15 all choosing to paint the cladding on the roof and walls of the property given the cost and exposed coastal location of Charlestown reducing its longevity. As such, I am not persuaded that the argument forwarded by the appellant would amount to a realistic fall-back position.
45. I conclude that the use of 'pigmento red' standing seam zinc as a cladding and roofing is at odds with the prevailing character and appearance of Charlestown. Given that it has been used on only two plots, this results in a low level of harm to the integrity and authenticity of Charlestown and the significance of the WHS, the CA and the setting of the LB.

Conclusion on materials

46. I have found that some of the materials would preserve the character and appearance of the CA, the significance of the WHS and the setting of the LB. However, I have also concluded that moderate harm results to the character and appearance of the CA, the significance of the WHS and the setting of the LB in respect of the stonework and mortar and in the use of black ridge tiles and clipped slates. I have also found a low level of harm arising from the use of 'pigmento red' cladding. Accordingly, the proposal would fail to preserve or enhance the character or appearance of the CA, the significance of the WHS and the setting of the LB. The proposal would be contrary to Policies 12 and 24 of the Cornwall Local Plan Strategic Policies 2010-2030, adopted November 2016 which seek to maintain and enhance Cornwall's distinctive historic character together with protecting and enhancing designated heritage assets and their significance.

⁸ Page 13 of the Heritage Impact Assessment by South West Archaeology Version 02 dated 9 July 2019

Heritage Balance and Conclusion

47. The harm to the character and appearance of the CA, the significance of the WHS and the setting of the LB would not be severe. Together, this harm would be 'less than substantial' within the meaning of the National Planning Policy Framework (the Framework).
48. Nonetheless, I am mindful that Paragraphs 199 and 200 of the Framework explain that great weight should be given to the conservation of designated heritage assets, irrespective of whether it amounts to less than substantial harm to its significance, and that any harm, requires clear and convincing justification.
49. The appellant⁹ refers to the development being 'deliberately different' to respect the location, use, era and materials associated with the site in the past. I accept that high quality design does not require slavish use of existing materials. However, I have found that some of the materials and detailing proposed do not reference the previous use of the site nor the prevailing character and appearance of Charlestown and as such, I have found that clear and convincing justification for their use in the appeal scheme has not been provided.
50. I have weighed the less than substantial harm against the public benefits of the scheme, which include securing its optimum viable use. However, there is nothing before me to suggest that the public benefits of the scheme could not be achieved with the use of more appropriate materials.
51. I therefore find that the harm that arises is not outweighed by the public benefits. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would not have clear and convincing justification and the Framework states that great weight should be given to a designated heritage asset's conservation. The proposals would therefore fail to satisfy the requirements of the Act¹⁰, Framework and the LP.
52. I have considered whether I can issue a split decision with regards to those details I have found to be acceptable under Condition 20. However, many of the details I have found to be acceptable are included on drawings which contain a number of revisions to the approved scheme which do not form part of the planning permission. If I were to refer to them as approved drawings in my decision, this would create uncertainty over the status of the drawings. Equally, in some instances, I cannot be precise about the details which I have found to be acceptable due to the lack of specific detail provided. For example, reference to 'natural slate' would not be sufficiently clear. Finally, the Council's Statement centres on those elements of the conditions which were found to be in dispute and as such, I cannot be sure whether the Council have seen and found all the other elements of Condition 20 to be satisfied.
53. Therefore, whilst I have concluded that some of the submitted details are acceptable, the appeal for the reasons stated above, must be dismissed.

Alison Fish

INSPECTOR

⁹ Grounds of Appeal para 6.18

¹⁰ Section 66(1) and 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990