



Appeal Decision

Site visit made on 28 July 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Appeal Ref: APP/D0840/W/22/3290776

NGR 203029 52115, Land off Mill Lane, Charlestown Road, Charlestown, Cornwall

- 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 Taylor against the decision of Cornwall Council.
 - The application Ref PA19/08174, dated 16 September 2019, was refused by notice dated 28 July 2021.
 - The development proposed is residential dwelling and associated site works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was refused for three reasons with the third reason relating to the impact on foraging and commuting bats. The Council have confirmed that information submitted in support of this appeal, together with suitable conditions in the event that the appeal is allowed, would enable them to withdraw reason for refusal three. From the information provided, I see no reason to disagree and have determined the appeal on that basis.
3. The Council do not refer to the Scheduled Ancient Monument (SAM) in their reasons for refusal. However, it is clear from the conclusion within the delegated officer report that the Council consider that there is an impact on the significance of the SAM which is not outweighed by the public benefits of the proposal. I have taken this to be the Council's consideration of the proposal against Paragraph 202 of the National Planning Policy Framework (the Framework). The appellant has also clearly addressed this issue within their submissions. Whilst there is no statutory duty in respect of the setting of a SAM, I am required by Paragraph 199 of the Framework to give great weight to the conservation of designated heritage assets with Paragraph 200 of the Framework setting out that SAM's are designated heritage assets of the highest significance. As both parties have had the opportunity to address this matter, I consider that the interests of the main parties are not prejudiced by my inclusion of this as one of the main issues set out below.
4. In the period between the Council determining the planning application and the appeal being submitted, the St Austell Bay Parish Neighbourhood Plan 2019-2030 (NP) was made. It therefore forms part of the development plan and as such, I have considered the main issues in this appeal against the most relevant policies contained therein. The Council and appellant have referred to

them in their appeal submissions so to do so would not prejudice the interests of the main parties.

5. On 17 August 2022 and during the determination of this appeal, the Council adopted the Charlestown Conservation Area Character Appraisal and Management Plan 2022 (CAAMP) which replaces the Charlestown Conservation Area Character Appraisal and Management Plan 2013. It also adopted the Climate Emergency Development Plan Document on 21 February 2023. The Council and the appellant were invited to comment on its relevance to the appeal proposal and I have taken their comments into account in the determination of this appeal.

Main Issues

6. The main issues in respect of this appeal are:

- Whether the location of the site is suitable for residential development with regard to the spatial strategy and the effect of the appeal proposal on the character and appearance of the area;
- The effect of the appeal proposal on the setting of designated heritage assets namely the Charlestown Conservation Area, the Cornwall and West Devon Mining Landscape World Heritage Site and the Longstone Grade II* Scheduled Ancient Monument; and
- If harm arises, whether this is outweighed by other material considerations including the public benefits of the proposal.

Reasons

Spatial Strategy

7. Together, Policies 1, 2 and 3 of the Cornwall Local Plan Strategic Policies 2010-2030 (the LP) set out the Council's spatial strategy for development. In particular, Policy 2 seeks a sustainable approach to accommodating growth underpinned by the need to protect the quality and natural beauty of the environment. Policy 3 seeks to secure the majority of housing at or well related to a number of named towns which includes nearby St Austell but does not include Charlestown. Policy 3 goes on to list a number of specified circumstances outside of these areas where housing may be permitted and this includes through allocation in a Neighbourhood Plan, rounding off of settlements, the reuse of previously developed land, infill and rural exception sites.
8. There is no dispute between the Council and the appellant that whilst the site cannot be considered to be isolated, it is located outside the settlement limits identified in the LP and NP and as such is in the open countryside. None of the exceptions set out in Policy 7 of the LP apply and therefore, in relation to this appeal, the matter in dispute between the appellant and the Council is whether the proposal constitutes 'rounding off' and thereby is an acceptable form of housing development in a countryside location under Policy 3 of the LP.
9. The appellant references Policy 1 of the Cornwall Site Allocations Development Plan Document adopted November 2019 (SADPD) which also permits housing development where it constitutes appropriate small scale rounding off.

10. The Council have produced a Chief Planning Officers Advice Note dated December 2017 (CPOAN) to provide clarity on the Council's intentions behind the relevant policies relating to infilling and rounding off. Whilst it does provide useful information for decision-making purposes, it is not an adopted document. However, the appellant has referred to it in their submissions. Accordingly, I give it moderate weight in the determination of this appeal.
11. Within the context of Policy 3 of the LP, rounding off is defined as being development on land that is substantially enclosed but outside the urban form of a settlement and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth and that it should not visually extend building into the open countryside.
12. The appeal site is accessed via an unmade lane and public footpath (the footpath) known as Mill Lane. The extent of existing development on Mill Lane is clearly defined by a substantial wall which surrounds the boundary of number 187 to the north east of the site. Beyond this, is an open field with established hedgerows and trees on two sides which wraps around the edges of properties on Mill Lane.
13. The appeal site is located in one part of the field. As such, it is not substantially enclosed on its south eastern boundary by a long standing or physical feature, where it adjoins the remainder of the field although I accept that the provision of a new Cornish hedge along this boundary and the planting of trees could act as a barrier to further growth.
14. Penrice Community College is located on land to the north west of the appeal site. However, the buildings are located some distance from the boundary at this point and the intervening land is open and grassed. As such, I am not persuaded that the site could be said to be surrounded on two sides by existing built development.
15. It was apparent from the maps and plans provided and from observations made on my site visit that development of the appeal site would visually and physically extend building into the open countryside. As such, the appeal proposal does not constitute the rounding off of a settlement. It fails to comply with Policy 3 of the LP and Policy 1 of the SADPD which permits residential development outside the main towns through proposals such as rounding off.
16. The appellant has referred to the appeal site being located within the St Austell and Charlestown settlement boundary in the Restormel Borough Local Plan 2001 (RLP). The RLP was the extant development plan at the time the previous Inspector¹ considered a proposal for a dwelling on the appeal site and found that the appeal site was within walking distance of shops and services and therefore in a sustainable location. However, this has been superseded by the adoption of the LP and NP and appellant acknowledges that none of the saved policies are applicable to the appeal proposal².
17. Underpinning the Councils spatial strategy in the adopted LP is the need to protect the quality and natural beauty of the environment. I therefore turn to consider the effect of the appeal proposal on the character and appearance of the area.

¹ Ref: APP/D0840/A/13/2208558

² See paragraph 4.5 of the appellants Appeal Statement

18. The appeal site is located in an elevated position and is visible from the South West Coast path as being one of only a handful of clearings in the otherwise wooded valley sides. The appeal site is located in the 'green buffer' identified in Policy GB1 of the NP as being important to protect the setting of Charlestown. For reasons I set out later in this decision in respect of designated heritage assets, the landscape setting of Charlestown is an important component of its distinctive character and therefore a valued landscape which Paragraph 174 of the Framework seeks to protect and enhance in a manner commensurate with its statutory status or identified quality in the development plan.
19. Whilst the design, siting and choice of materials in the appeal proposal would limit the visual impact of the proposal in distant views, the Landscape and Visual Impact Appraisal accepts that the appeal proposal would result in the introduction of a new building in the undeveloped setting between Charlestown and neighbouring, St Austell resulting in a 'slight adverse' landscape character impact and I agree.
20. Mill Lane has a very enclosed feel from its junction with Charlestown Road to the point where it reaches the appeal site. The substantial, established planting and strong boundary walls together with the scale and proportions of the buildings along its length, mean that distant views out from this part of Mill Lane are very limited.
21. There is a discernible change in the character of Mill Lane at the point it meets the appeal site. The enclosed, residential character gives way to open fields, with clear views from the length of the footpath which borders the site over the shallow wooded valley below to the sea. The footpath narrows at this point and continues past the site, exiting onto Porthpean Road.
22. The boundary of the appeal site with the footpath consists of a chain link fence. Whilst the fence is not in itself an attractive feature, it is recessive and allows users of the footpath to have clear views over the site to the wider landscape and coast beyond. There is some scrub which has established along this boundary but this does not inhibit those views or the sense of being in the countryside between the more built up areas of Charlestown Road and Porthpean Road. For this reason, users of the footpath would have a high sensitivity to change.
23. The appeal proposal includes the provision of stone walling at the entrance into the site and a Cornish hedge along the boundary with the footpath. The replacement of fencing with Cornish hedges is encouraged in the LCS³ and given that strong boundary walls are a feature of Mill Lane it would not be out of context. However, in this location, it would result in a considerable change to the character and appearance to this part of Mill Lane which has a strong rural feel.
24. The provision of a building, a solid boundary along the footpath, and the provision of planting above would impede the view currently enjoyed through the open mesh of the fence and detract from the undeveloped rural views currently enjoyed by users of the footpath. In addition, there would be a significant widening and opening up of the footpath to provide a formal viewing area and the proposals also include the resurfacing of the footpath. Whilst this

³ Cornwall and Isles of Scilly Landscape Character Study area CA40

would have some benefit to users it would give the footpath a very formal appearance, in stark contrast to its current natural character.

25. I therefore conclude that the proposal is at odds with the need in the spatial strategy to protect the quality and natural beauty of the environment. The proposal would have an adverse effect on the valued landscape setting of Charlestown and on the character and appearance of Mill Lane. As such it would be contrary to Policies 12, 21 and 23 of the LP insofar as they seek to sustain local distinctiveness and character, protect Cornwall's natural environment and increase building density where appropriate to the character of the area. In addition, the proposal would also be contrary to Policy GB1 of the NP which seeks to preserve the landscape setting of Charlestown.
26. Taken together with my conclusion that the site does not constitute rounding off in Policy 3 of the LP and Policy 1 of the SADPD or any of the exceptions in Policy 7 of the LP, I find that the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the development plan taken as a whole, which is a carefully drafted and considered statement of policy. Instead, the proposal would undermine the objectives of the strategy. This would be harmful given the public interest in having a genuinely plan led system that provides consistency and direction.

Designated Heritage Assets

27. The appeal site lies outside the boundary of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS) and the Charlestown Conservation Area (CA) but the boundary of both is contiguous with the boundary of the appeal site. As such, the appeal site is immediately adjacent to and within the setting of both the WHS and the CA. The appeal site is also located to the south and within the setting of the Longstone Grade II* listed Scheduled Ancient Monument (SAM).

The WHS and CA

28. WHSs are places of outstanding universal value, defined as of a cultural and/or natural significance that are so exceptional as to transcend national boundaries. They are defined as heritage assets in the Framework with Paragraph 189 of the Framework stating that WHS are of the highest significance and should be conserved in a manner appropriate to its significance.
29. 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 SOUV in the Management Plan⁴ highlights the reshaping of the landscape across West Devon and Cornwall in eighteenth and nineteenth centuries by an extended period of industrial expansion and innovation with surviving features being a visible reminder of the profound impact it had on industrialised mining around the world.
30. Charlestown is significant to the WHS as a planned late eighteenth and early nineteenth century industrial settlement. It culminates at the harbour which is one of the finest examples of late eighteenth century and early nineteenth century industrial harbour works in Britain and is also the best-preserved china-clay and copper-ore port of its period anywhere in the world.

⁴ The Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025

31. The Charlestown Conservation Area Character Appraisal and Management Plan 2022 (CAAMP) observes that its ownership by only two families between 1784-1986 means that Charlestown survives in a remarkably complete form with limited development having taken place after the mid nineteenth century giving the settlement an exceptional integrity and authenticity⁵.
32. The CAAMP also highlights that Charlestown's historic fabric abuts the surrounding fields in a manner which is an unusual phenomenon in Cornwall. It identifies that the landscape setting or 'green lungs' are of key importance in retaining its discreet identity from nearby settlements.
33. The significance of the CA insofar as it relates to this appeal is therefore gained from its well-preserved historic origins, lack of later additions to the periphery of the village and its landscape setting which gives Charlestown its own discreet identity. It therefore contributes to the significance of the WHS as an industrial settlement with exceptional integrity and authenticity. Policies P3 and C7 of the Management Plan seek to protect, conserve and enhance the WHS and its setting together with maintaining its authenticity and integrity.
34. The appeal proposal has been considered by the Cornwall Design Review Panel (DRP). The use of tools and processes for improving the design of development is encouraged in Paragraph 133 of the Framework. The DRP considered the design proposals on two separate occasions⁶ and to understand the conclusions of the panel, it is important to consider the reports together. In this respect, I note that the DRP provided detailed comments on the design proposal for the house, the landscaping and the public realm area. They were satisfied that the design approach and the design of the house in general terms were all appropriate. In this respect, I accept the considered views of the DRP with regards to the proposed scale, massing, design, form and use of materials for the appeal proposal.
35. However, I am not clear how some of the advice the DRP gave in their first response has been addressed within the second submission to the DRP. In particular, the DRP set out in their first response that the location of the site relative to the WHS and CA 'would probably caution against any development here at all.'
36. Development on the appeal site would encroach into one of the currently open areas which surround the settlement. It would extend built development into the landscape setting of the village, one which has continually defined the extent of Charlestown since the mid nineteenth century and which continues to protect the integrity and distinct identity of Charlestown. Notwithstanding the design alterations made, I am not clear from the DRP responses, how this has been addressed by the appeal proposal. There is no detailed assessment from the DRP with regards to the impact of the proposal on the significance of the heritage assets and no indication that they have given great weight to the conservation of the setting of the WHS and CA. For these reasons, this limits the weight I attach to the response in this respect.
37. From the information before me, I find that the erection of a new dwelling on the appeal site would erode the undeveloped landscape setting which

⁵ Also reflected in the Cornwall and West Devon Mining Landscape World Heritage Site Management Plan 2020-2025

⁶ 6 March 2019 and 2 September 2019

contributes towards Charlestown's integrity and authenticity thereby resulting in harm to the significance of the WHS and the CA. As such, the proposal is contrary to Policy 24 of the LP which seeks to maintain the special character and appearance of the CA and ensure that proposals which harm the authenticity and integrity of the WHS are wholly exceptional. The proposal is also contrary to Policy HE1 of the NP which seeks to preserve or enhance the historic character and appearance of the settlement.

The Longstone SAM

38. The Longstone is a Grade II* listed prehistoric monolith and Scheduled Ancient Monument (SAM) to the north of the appeal site. Standing approximately 3.6m high and having been erected in the late Neolithic to the Bronze Age, it is likely to have been for ritual or ceremonial purposes.
39. Over the years, development has encroached towards the SAM and it is now located within the grounds of Penrice Community College such that public views of it are limited. However, the land to the south (including the appeal site) remains undeveloped with views down the wooded valley overlooking the bay.
40. Paragraph 194 of the Framework requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. The submitted Heritage Statement and Heritage Impact Assessment (HSHIA) acknowledges that an important element of the SAMs setting is the naturalistic nature of the landscape to the south with the elevated site being purposefully chosen for its dominance in the landscape. From the information before me, I understand the significance of the SAM to be its origins, longevity, archaeological interest and its relationship with the wider landscape setting.
41. The appeal proposal would not involve any works to the stone itself or the land on which it is located. In this respect, its archaeological interest would be preserved. However, the appeal proposal would be sited on the undeveloped land to the south which sits between the SAM and the sea.
42. The DRP considered that the appeal proposal was 'much improved' and appears to address their earlier concerns that views from and of the SAM should be preserved. This was achieved in part by setting the dwelling down into the site such that views from the SAM towards the sea are preserved.
43. Notwithstanding this, the appeal submission fails to adequately address how the erection of a dwelling on the open and undeveloped appeal site to the south of and within the setting of the SAM, would preserve its significance particularly given that the naturalistic nature of the landscape to the south is an important element of the SAMs setting. In this respect, I do not agree with the conclusions of the HSHIA that the siting of the proposed dwelling along with the sloping topography of the appeal site will entirely preserve the setting of the monument. It would also extend the encroachment of built form around the stone as identified by the Inspector in the previous appeal⁷.
44. As such, the appeal proposal would fail to preserve the setting of the SAM resulting in a moderate level of harm to its setting and significance. The proposal is therefore contrary to Policy 24 of the LP which seeks to protect the significance of designated heritage assets and Policy HE1 of the NP which seeks

⁷ Ref: APP/D0840/A/13/2208558

to respect the setting of significant buildings or important landmarks within the landscape.

Heritage Planning Balance

45. I have found harm in respect of the setting of the SAM, WHS and CA. As the proposal relates to the erection of a single dwelling, I am satisfied that the harm in respect of all three designated heritage assets is moderate and as such is less than substantial. The SAM and the WHS are assets of the highest significance and although I am satisfied that the harm would be less than substantial, I must give the greatest of weight to these assets' conservation.
46. Policy 24 of the CLP and Paragraph 202 of the Framework require that I weigh the less than substantial harm against the public benefits of the proposal.
47. The appellants submissions include the provision of a public viewing and interpretation area within the appeal site to increase views and public understanding of the significance of the SAM, WHS and the CA and their significance to Charlestown. Policy 24 of the CLP and Paragraph 206 of the Framework seek to encourage opportunities to better reveal the significance of heritage assets. Policy HE2 of the NP also encourages schemes which provide interpretation of the WHS. On the face of it, this element of the proposal would do just that. However, I have set out my concerns above with regard to development occurring in the landscape setting of the heritage assets, and the harm that the creation of the viewing area would have on the rural character and appearance of the footpath. There is also a suggestion that the agreement of the college would be required in order to remove some trees to make the SAM more publicly visible and therefore some uncertainty over whether the stated benefit would materialise. Taken together, the weight which I give to the public benefit arising from the provision of the viewing and interpretation area is tempered and for this reason carries no more than moderate weight.
48. Paragraph 134 of the Framework requires that significant weight should be given to outstanding or innovative designs. Whilst the DRP clearly support the appeal proposal, there is no suggestion in their response that what is proposed is outstanding or innovative and therefore, Paragraph 134 carries little weight in my consideration of the appeal. The appellant also refers to Paragraph 208 of the Framework. This relates to enabling development to secure the future conservation of a heritage asset but that is not part of the proposal before me.
49. The proposal includes works to the footpath including resurfacing it. The appellant suggests that resurfacing of the public right of way which is muddy in winter will promote greater use in line with Policy 16 of the LP relating to health and wellbeing. However, no substantive evidence has been provided to indicate that that the condition of the footpath is a barrier to its use or that resurfacing it will increase its use, so I give this limited weight.
50. The proposals include the provision of a permissive footpath up to the extent of the appellants land ownership. This the appellant says, would assist in improving access and interpretation to the upper sluicing pond and leat and comply with Policies 16 and 25 of the LP relating to health and well-being and the enhancement of green infrastructure. The CAAMP states that the possibility of improving public access to these features should be explored so that their historic role and significance can be better understood and appreciated and Policy NE4 of the NP promotes the use of the pond area as a biodiverse

amenity space. In this respect, public access to the leat and pond would be a public benefit. Whilst the provision of a permissive footpath on land within the appellants ownership could be secured by an appropriately worded condition, I am not satisfied that this would secure public access to the ponds and leat. These are in separate ownership and I have nothing before me which indicates that the agreement of the landowner has been sought or could be secured. As such, I cannot be certain that public access to the ponds and leat would materialise and this tempers the weight I can attribute to this as a public benefit.

51. The proposals include comprehensive landscaping and planting proposals including the provision of woodland planting to support the Forest for Cornwall initiative, wildlife corridors and biodiversity enhancements. This would accord with Policy NE2 of the NP which provides support for initiatives to create wooded areas. Together I give these moderate weight.
52. The appeal site would be within walking distance of local shops and services and in this respect would meet objectives 7 and 8 in the CLP with regards to providing housing and opportunities for walking. I give this some weight in favour of the proposal.
53. The proposed dwelling would be energy efficient and low carbon thereby achieving compliance with Policy 14 of the LP. The proposal would also comply with Policy 13 of the LP in terms of development standards and I note the absence of harm in terms of flood risk. However, these would be neutral factors rather than ones weighing in favour of the proposal.
54. Taken together, the benefits of the proposal would be of moderate weight overall. The proposal would result in a moderate level of harm to the significance of the designated heritage assets. However, the harm must be considered in the context of the need to give great weight to the conservation of the setting of the CA and greater weight to conserving the significance of the SAM and WHS.
55. Thus, I find that the moderate harm that would arise from the proposal would not be outweighed by its moderate 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.

Conclusion

56. The proposed development would be contrary to the development plan as a whole and there are no other considerations or public benefits which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Alison Fish

INSPECTOR