



Appeal Decision

Site visit made on 7 November 2023

by Neil Pope BA(HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2023

Appeal Ref: APP/K1128/W/22/3303945

Fort Charles, Cliff Road, Salcombe, Devon, TQ8 8JU.

- 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 Tom & Vicky Todd against the decision of South Hams District Council (the LPA).
 - The application ref.3888/21/FUL, dated 15/10/21, was refused by notice dated 28/1/22.
 - The development proposed is a replacement dwelling, extension and remodelling of summerhouse and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site lies within the South Devon Area of Outstanding Natural Beauty¹ (AONB). The site also forms part of the settings of the Grade II listed building² and Scheduled Monument (SM) known as Fort Charles (or Salcombe Castle³) and two non-designated heritage assets⁴. In addition, the appeal site forms part of an Area Tree Preservation Order and is adjacent to the Salcombe to Kingsbridge Estuary Site of Special Scientific Interest (SSSI).
3. Amended plans were submitted prior to the LPA's determination of the application. Amongst other things, these included revisions to the design of the proposed dwelling. These plans were taken into account by the LPA. I shall also take these amended plans into account in determining the appeal.
4. As part of the appeal, the appellants have submitted an alternative layout plan⁵. This is intended to overcome the LPA's concerns regarding the proposed arrangements for the parking and turning of vehicles within the site⁶. I note the appellants remark that the LPA's concerns in respect of vehicular parking and turning were not raised during the course of the planning application process. I am also familiar with published guidance⁷ which advises, amongst other things, that the appeal process should not be used to evolve a scheme.
5. In this instance and in the context of the proposal as a whole, the amended parking, turning arrangements and access works are minor in nature. It also

¹ The provisions of section 85 of the Countryside and Rights of Way Act 2000 are engaged.

² The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

³ Situated approximately 100 metres to the south east. Hereafter, I shall refer to this designated heritage asset as Salcombe Castle so as to distinguish it from the appellants existing dwelling (Fort Charles) which is not listed.

⁴ These comprise a former WWII military observation post within the gardens of the appellants' property and a circa 20th century former boathouse immediately adjacent to the western boundary of the appeal site.

⁵ Ref. GA-01 Rev B.

⁶ The amended plan also shows an enlarged site entrance.

⁷ Planning Inspectorate 'Procedural Guide: Planning appeals – England'.

appears that no interested parties were concerned by these elements of the proposals. Moreover, the LPA has had the opportunity of responding to this amendment as part of its Statement. Whilst mindful of the 'Wheatcroft principles'⁸, the amendments to the proposed parking, turning area and widened access do not substantially change the proposal⁹. These amendments would be very unlikely to result in any procedural unfairness. I shall therefore take them into account in determining the appeal.

6. An application for an award of costs was made by the appellants against the LPA. That application is the subject of a separate decision.

Main Issues

7. The three main issues are: firstly, the effect upon the character and appearance of the area, including the AONB; secondly, whether the proposal would preserve the setting of the Grade II listed Salcombe Castle, as well as the effect upon the settings of the SM and other nearby heritage assets¹⁰ and; thirdly, the likely effect upon highway safety along Cliff Road, having particular regard to the proposed car parking and turning arrangements within the site.

Reasons

Planning Policy and Other Relevant Documents

8. The development plan includes the Plymouth and South West Devon Joint Local Plan 2014-2034 (LP) and the Salcombe Neighbourhood Development Plan 2018 to 2034 (NP)¹¹. My attention has been drawn to numerous policies.
9. The development plan policies that are of most importance to the determination of this appeal are: LP policies DEV20 (quality of the built environment), DEV21 (historic environment), DEV23 (landscape character), DEV24 (Undeveloped Coast), DEV25 (nationally protected landscapes), DEV29.3 (car parking/highway safety) and; NP policies SALC Env1 (AONB), SALC Env5 (character and environmental quality), SALC Env6 (locally important views¹²) and SALC B1.1 (design).
10. In determining the appeal, I have also had regard to the provisions of the National Planning Policy Framework ('the Framework'). Amongst other things, this: seeks the creation of high quality, beautiful and sustainable buildings; affords great weight to conserving and enhancing landscape and scenic beauty in AONBs and; requires the conservation and enhancement of the historic environment. The Framework carries considerable weight.
11. Whilst not forming part of the development plan, my attention has also been drawn to the South Devon AONB Management Plan 2019-2024 (MP). Amongst other things, the MP identifies the special qualities¹³ of the AONB. The MP can be given moderate weight in the determination of this appeal.

⁸ Bernard Wheatcroft v Secretary of State for the Environment (1982).

⁹ I note that a cherry tree (T1), identified as a 'Category B' tree (as defined within BS 5837:2012) by the appellants' arboricultural advisor, would be removed in the updated arboricultural report of 13 May 2022.

¹⁰ The early 20th century former boathouse and the WWII military observation structure.

¹¹ The appeal site lies outside the adopted settlement boundary for Salcombe.

¹² The appeal site forms part of View 19 (Overbecks to North Sands) as shown in Figure 13B of the NP.

¹³ These include iconic wide, unspoilt and expansive panoramic views and a landscape with a wealth of historic features.

Character and Appearance

12. The house known as Fort Charles is a late 19th/early 20th century dwelling. It is set within a former quarry with some attractive trees¹⁴ growing alongside. This building and its grounds¹⁵, which are bisected by Cliff Road¹⁶, lie on the lower slopes of the steep south facing cliffs at North Sands and overlook Salcombe Castle¹⁷. Although this dwelling has been altered and enlarged over time, its two storey height, gabled natural slate roof, natural (local) stone walls¹⁸ and stone chimney stacks reflect some of the distinctive qualities of the South Hams. Whilst of no special architectural merit, the design is not unpleasant. To the north and east, there are some taller and more prominent houses.
13. The appeal site lies within an area of dramatic coastal scenery and a part of South Devon that is very popular with visitors. It can be seen from numerous parts of the public realm¹⁹. This includes sections of the Estuary²⁰ and the South West Coast Path (including 'locally important' View 19 in the NP), as well as from South Sands beach. There is also an attractive view of the estuary looking south across part of the grounds of Fort Charles from a section of Cliff Road alongside and from the public footpath to the west of the house.
14. Unlike most, if not all, of the neighbouring houses, the landscape and visual impact of the dwelling known as Fort Charles²¹ is limited by its position on the lower slopes of the cliff, the height of the building, its natural stone and slate walls and the trees growing within and around the site. As I saw during my visit, the appellants' existing dwelling is rather unassuming within this sensitive area. In comparison with its neighbours, this late 19th/early 20th century house is more respectful of the naturalistic qualities of this estuary/coastal landscape. I agree with the Town Council that this dwelling is nestled into the site.
15. The 'footprint' of the proposed replacement dwelling would be a similar size to the 'footprint' of the existing house. This new building would also occupy a very similar position, albeit further from some boundary walls. The proposed three storey house would have a mansard style hipped-shaped roof clad in natural slates with a roof terrace on the western side²². The south elevation would include numerous windows (aluminium framed) to take advantage of the stunning coastal views and solar radiation. It would also include a terrace at first floor level that would run the length of the building. The external walls of the new house would comprise stone cladding, render and a mix of white cream and sea glass coloured decorative clay tiles on the upper floor. Like some neighbouring houses, the proposed design would be rather ostentatious and would pay scant regard to the distinctive qualities of the area²³.

¹⁴ I agree with the BS categories assigned to these trees as contained within the appellants' arboricultural report dated 20 September 2021.

¹⁵ These include a summer house, boathouse containing the WWII military observation post, and a swim platform.

¹⁶ This section of the road forms part of the South West Coast Path.

¹⁷ This SM sits on a natural rock outcrop near the mouth of the Salcombe-Kingsbridge Estuary.

¹⁸ The rear (north/quarry wall facing) elevation of the house is rendered.

¹⁹ People seeing the site from these locations would, in the main, be present for recreational/leisure purposes and experiencing the landscape and visual qualities of the area. They would comprise 'high sensitivity' receptors.

²⁰ I note from the evidence that the site is clearly visible from the South Sands Ferry. From my own experience, the estuary is also well-used by people in yachts and leisure boats, especially during the summer months.

²¹ Including its small garden structures.

²² The remainder of the flat roof would contain photovoltaic panels.

²³ The appeal site lies within the 'River Valley Slopes and Combes' landscape character type (LCT), as identified within the South Hams and West Devon Landscape Character Assessment (2018). I note that the key characteristics of this LCT include steep undulating slopes overlooking estuaries and a strong local vernacular. The key landscape sensitivities include a distinct Devon Vernacular and the Landscape Guidelines include protecting / utilising traditional building styles and materials. This document carries moderate weight.

16. On behalf of the appellants, it has been calculated that when compared to the existing house, the replacement dwelling would be 2 metres higher, with a 26m² (10%) increase in the area of the south facing elevation and 19.6m² increase in the south facing glazing, of which, 3.1m² would be above the proposed lower ground floor level. Whilst these figures could be considered modest by some people, the height, mass and design of the new dwelling would, in the context of this sensitive part of the South Hams, have a marked impact upon the character and appearance of the area.
17. From numerous parts of the public realm to the south and south west of the site, including sections of the South West Coast Path and South Sands beach, the height and mass of the proposed building, as well as the decorative tiles, would appear conspicuous²⁴ on the lower slopes of the cliff on which the appeal site is located. Whilst seeing a new development does not in itself amount to a harmful impact, the proposed dwelling would not nestle into the site/side of the cliff but, instead, rise significantly further from the base of the former quarry. To high sensitivity receptors, this new house would appear as a very sizeable new building along this part of the estuary. It would accentuate²⁵ the impact of residential development on the side of the cliff, especially along the lower slopes, and detract from the quality of the views.
18. I recognise that from many parts of the public realm, including South Sands beach, the proposed replacement dwelling would form a small component of wide views of the landscape which includes other houses. Nevertheless, the impact would be adverse and in a landscape that is recognised as being nationally important, this harm weighs heavily against granting permission. The proposal, to a limited extent, would detract from one of the special qualities of the AONB.
19. Some other aspects of the proposed development would also be likely to result in adverse impacts upon the character and appearance of the area. Whilst, on their own, these are unlikely to be sufficient to justify withholding permission, the cumulative effect adds weight to the argument for dismissing the appeal.
20. In this regard, the proposed raising of a section of roadside wall along Cliff Road would be likely to interrupt or obstruct views of the estuary from this part of the street/South West Coast Path and a section of the public footpath to the north. This and the somewhat overbearing presence of the new house²⁶ when seen from the immediate roadside would, to a limited extent, diminish public enjoyment of the landscape.
21. The proposed enlargements of the summer house and swim platform would, to a very limited extent, increase the impact of built development and the perception of domestic activity on the lower slopes of the cliff. This would contrast somewhat awkwardly with the naturalistic qualities of the lower slopes of the cliff and be apparent from South Sands beach, as well as from some sections of the South West Coast Path. These elements of the proposals would be likely to further diminish public enjoyment of the landscape.

²⁴ Although the appellants Landscape and Visual Impact Assessment does not use this word in assessing the impact, I note that the magnitude of effects from South Sands beach and the road to Overbecks would be "Moderate" and the significance of effects "Moderate to Major". These would not be neutral or beneficial effects.

²⁵ Exacerbate the awkward contrast between the houses and the natural beauty of this coastal area.

²⁶ Although described by the appellants' Architect as an "outstanding and innovative design" I find myself leaning more towards the LPA's argument that the design is of "one monolithic block shape". Either way, there is nothing to demonstrate that the new building would be 'beautiful', as set out within the Framework.

22. The development would also be likely to entail the loss and/or harmful disturbance to some important trees growing within and around the site. I note from the appellants' tree reports that an arboricultural input was sought at an early stage in the design process and this allowed the design to be informed by the identified arboricultural constraints. This approach is consistent with BS 5837:2012. I also note from the appellants' arboricultural appraisal dated 20 September 2021, that although relatively small, cherry tree T1, is described as having good future potential and was considered worthy of retention in the context of any redesign of the property. Its intended removal, as part of the proposed amended parking/turning arrangements, sits awkwardly alongside this earlier observation. The loss of this 'moderate quality' tree would, to a very limited extent, detract from the amenity of the area.
23. In addition to the above, the proposed enlargement of the site entrance appears to encroach into the previously identified root protection area (RPA) for a Holm Oak tree (G2) growing alongside the site. Even if the entrance works could be undertaken without disturbing important tree roots, there are doubts in my mind, given the very close proximity of the new dwelling to the RPAs of the Sycamore, Bay and another Holm Oak tree (A6), as well as the mixed Palm trees²⁷ growing on the front lawn (A1), that these would all survive the rigours of the demolition and construction phases. Any loss or damage to the health of these attractive trees would detract from the character and appearance of the area. This would not be offset by the new tree and landscape planting, which would be likely to take many years to establish.
24. The extent of glazing proposed on the southern elevation of the new dwelling, as well as the roof terrace and south facing first floor terrace, would also be likely to result in greater light spill from within the site during the hours of darkness²⁸. This would further accentuate the impact of residential development within this sensitive landscape and, to a very limited extent, detract from the character and appearance of the area.
25. The proposed development would not contribute positively to the landscape or minimize the visual impact upon the AONB. It would detract from the scenic qualities of the AONB and have a detrimental effect upon the appearance of land identified within the LP as comprising Undeveloped Coast. The proposal would have an adverse effect upon the character and appearance of the area and would conflict with LP policies DEV20, DEV23, DEV24, DEV25, NP policies SALC Env1, SALC Env5, SALC Env6, SAL B1.1 and the thrust of the MP.

Settings of Heritage Assets

26. The significance (heritage interest) of the 16th century Grade II listed Salcombe Castle and SM is derived primarily from its historic interest as a Henrician coastal artillery fort and later Civil War fortification²⁹, as well as its architectural attributes, which include its 'D'-shaped plan, asymmetrical layout of buildings and surviving dressed slate rubble rectangular and round towers with gunports. I understand that the stone for the Castle was quarried from the appeal site.
27. Salcombe Castle has an extensive setting that includes the surrounding coastal scene. Over time, numerous changes have occurred within this setting. This

²⁷ These 'Category B' Palm trees screen the lower floor of the existing house in views from the south.

²⁸ Another key landscape sensitivity of the LCT is the experience of dark night skies.

²⁹ Rebuilt in 1643 as a Royalist fort.

includes some residential development. Nevertheless, the coastal scene, including the appeal site, forms part of the steeply sloping sides near the mouth of the Salcombe-Kingsbridge Estuary. This assists in affording an appreciation and understanding of the historic landscape setting and strategic importance of this designated heritage asset.

28. The significance of the early 20th century former boathouse is derived primarily from its historic interest as a reminder of inter-war leisure (boating) activity around North Sand Bay. Although much altered over time, this modest structure with its pitched roof, timber and stone walls is of some limited architectural interest. The appeal site makes a neutral contribution to the significance of this non-designated heritage asset.
29. The significance of the former WWII military observation post is derived primarily from its historical interest as a 20th century specialised anti-invasion defensive feature along this part of the South Devon coast, as well as architectural interest as a rectangular mass concrete structure. This building has also been altered over time. Unlike Salcombe Castle, this WWII installation is not experienced in the context of Fort Charles house itself and is far less conspicuous along the estuary. The appeal site (insofar as it relates to the grounds of the house and the lower slopes of the cliff) forms part of the coastal scene of this non-designated heritage asset and assists in affording an appreciation and understanding of its strategic importance.
30. I have found above, in respect of the first main issue, that amongst other things, the proposed development would accentuate the impact of residential development on the lower slopes of the cliff and would contrast awkwardly with the naturalistic qualities of this part of the estuary. This would not detract from the ability to appreciate the significance of the former WWII military observation post within the gardens of the appellants' property or the circa 20th century former boathouse to the east of the site. However, these impacts of the proposal would, in comparison to the existing house and garden structures, be more intrusive within the setting of Salcombe Castle. To a very limited extent, the proposed development would erode an appreciation of the historic landscape setting of this listed building/SM and its strategic importance.
31. In the context of the Framework, the proposal would result in less than substantial harm to the significance of Salcombe Castle. If there is a sliding scale within this category of harm the proposal would be firmly towards the lower end. Nevertheless, great weight should be given to an asset's conservation and the harm that I have identified to the heritage interest of this listed building and SM weighs heavily against granting permission.
32. I am required to weigh the less than substantial harm that I have found with any public benefits arising from the proposal. I note the 'claimed' public benefits that have been advanced by the appellants. The only ones to which I attach weight (very limited weight) are the economic benefits that would arise during the demolition and construction phases, the environmental benefit that would arise from lower emission rates/fabric energy efficiency³⁰ from the new dwelling and the proposed access works/turning space. When placed into the 'heritage balance', these benefits would be insufficient to outweigh the less than substantial harm that I have identified.

³⁰ In this regard, the proposal would accord with the provisions of LP policy DEV32.

33. I conclude on the second main issue that the proposal would fail to preserve the setting of the grade II listed Salcombe Castle and would conflict with the provisions of LP policy DEV21.

Highway Safety

34. The existing access and parking arrangements do not allow motor vehicles to easily turn within the site and exit onto the highway in a forward gear. Whilst there is nothing before me, such as road safety records, to indicate that the use of the existing access is unsafe or problematical, vehicles reversing onto the highway or reversing into the site would pose a hazard to other road users. I therefore appreciate the LPA's desire to reduce the risk of an accident along this section of Cliff Road.
35. The layout shown on the amended plan that was submitted as part of the appeal would enable vehicles to exit the highway in a forward gear. This would be likely to reduce the risk of an accident on the highway. Irrespective of the amended plan, this issue is capable of being addressed by way of a suitably worded planning condition in the event of permission being granted. Furthermore, as the proposal is for a replacement dwelling, other than for a temporary period during the demolition and construction phases, it would be very unlikely to result in any increase in vehicular traffic to and from the site.
36. I conclude on the third main issue that the proposal would not compromise highway safety interests along Cliff Road and would accord with the provisions of LP policy DEV29.3

Other Matters

37. The proposed dwelling would provide enhanced living accommodation for the appellants and their family and would accord with the relevant design provisions of LP policy DEV10.
38. I note the contents of the Structural Engineers report that was submitted as part of the appeal. Even if the appellants are correct in their argument that the existing dwelling has reached the end of its serviceable life³¹, it is very far from certain that the appeal scheme is the only viable or least harmful option.
39. Planning conditions could be attached to a grant of planning permission in order to secure a required biodiversity gain, as well as safeguarding nature conservation interests within the SSSI.

Overall Conclusion

40. My findings in respect of highway safety, enhanced living accommodation and biodiversity/nature conservation interests do not overcome or outweigh the harm that I have found to the character and appearance of the area and to the significance of the listed building. The proposal would conflict with the overall provisions of the development plan and the Framework. Having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector

³¹ In my experience, it is not unusual for some buildings of this age to require extensive repair works and from everything that I have seen and read, it is very far from certain that Fort Charles is unviable as a dwellinghouse.