



Appeal Decision

Site visit made on 15 October 2024

by Colin Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Appeal Ref: APP/D0840/W/24/3338742

Land to South of Seaward Barn, Lower Boscaswell, Pendeen TR19 7ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John McGowan against Cornwall Council.
 - The application Ref is PA23/08502.
 - The development proposed is construction of dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John McGowan against Cornwall Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the landscape, having regard to the World Heritage Site¹, Heritage Coast and National Landscape designations.
 - the effect of the proposal on heritage assets, including whether the development would preserve or enhance the character or appearance of the Boscaswell Conservation Area.
 - whether the site is a suitable location for the proposed development, having particular regard to planning policies which seek to control new housing in the countryside.
 - the effect of the proposal on the living conditions of the occupiers of Seaward Barn, having regard to privacy and outlook.
 - whether the proposal would comply with policies that seek to deliver low carbon development.

Reasons

Character and appearance of landscape

4. This part of the west Cornwall coastline is characterised by clusters of small settlements interspersed with open countryside. The mining history of the area

¹ Cornwall and West Devon Mining Landscape World Heritage Site.

is clearly evident, with disused engine houses, chimneys, industrial buildings and old mine workings being visible from the site and surroundings. Due to the cultural and historical significance of the former mining activity, the landscape is part of a designated World Heritage Site. This is also a highly scenic location, with old granite buildings, wild open spaces, cliffs and expansive views of the sea being among the other distinctive features of the landscape. In recognition of these qualities, the site and surroundings also benefit from National Landscape and Heritage Coast designations.

5. The appeal site is an open area of land enclosed by low, stone walls on the edge of Lower Boscawell. Although there is other development in close proximity (including Seaward Barn to the north) the site marks the start of a continuously open landscape that extends into the distance towards the coast. When approaching from the main built-up area to the east, there are panoramic views over the site towards the coast, where the remnants of old engine houses and chimneys can be seen against the backdrop of the sea. The track that runs past the site connects to the wider footpath network which gives access to this part of the coastline as well as towards the nearby fogou, a historic underground chamber.
6. The proposed dwelling would closely reflect the design style of other nearby properties in terms of its simple proportions and use of traditional materials. However, it would also increase the sense of urbanisation in a more sparsely developed part of Lower Boscawell that is distinguished by its openness. The new dwelling would be a noticeable incursion into the mainly open landscape that runs to the west of the existing built up area and would be seen by those accessing the coastal footpath network. When approaching the site from the east, the dwelling would obscure some distant views of the coastline and old engine houses, which are important components of the landscape character in this location. Despite being modest in scale, the development would represent incremental erosion of the protected landscape.
7. I note that part of the site is already used for car parking. However, this maintains an open aspect and so has a limited impact on the landscape. While historic mapping shows that there used to be additional buildings in the area, my assessment of the proposal is based on the current situation.
8. In reaching this decision, I am conscious of paragraph 182 of the Framework which indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes (formerly Areas of Outstanding Natural Beauty) which have the highest status of protection in relation to these issues. In my view, this site is particularly sensitive due to its visual exposure in a particularly scenic location.
9. I therefore conclude on this issue that the proposal would have a harmful effect on the character and appearance of the landscape. There would be conflict with Policies 3, 12 and 23 of the Local Plan . Amongst other things, these seek to maintain landscape quality and local distinctiveness.

Heritage

10. The site is within the Boscawell Conservation Area, the significance of which is mainly derived from the architectural merit of the traditionally designed buildings and their relationship to the wider mining landscape. In this case, the proposed dwelling would reflect the design of older-style buildings

characteristic of Lower Boscawell and would retain the historic stone wall enclosures which surround the site. However, it would introduce development in a part of the Conservation Area that is distinguished by its openness and therefore change the context in which the site and the enclosures are seen. As a result, the proposal would harm the Conservation Area. This harm would not be outweighed by any public benefits resulting from the small increase in local housing supply that the development would provide.

11. The proposal would also introduce further built development close to the fogou, a Scheduled Ancient Monument. In my view, the relative openness of the surrounding area contributes to the character of the fogou. The proposed dwelling would diminish this openness. Hence, I agree with the findings of the Heritage Impact Assessment that the development would have a moderate adverse visual impact on the setting of the fogou.
12. There are potential archaeological remains on the appeal site which the proposed dwelling is likely to disturb. However, even if I were to agree that the impact of this could be mitigated, it does not change my view that the proposal would harm the Conservation Area and setting of the fogou. Although I am aware of Appeal Decisions² for other sites where the visual impact on a heritage assets was not considered to be harmful, I am not convinced that the circumstances of those cases are comparable. As such, they do not establish a precedent for the current appeal.
13. I therefore conclude on this issue that the proposal would have a harmful effect on the character and appearance of the Conservation Area. It would also harm the setting of a Scheduled Ancient Monument. There would be conflict with Policy 24 of the Local Plan which seeks to protect the historic environment and gives great weight to this matter.

Location

14. The Local Plan does not define settlement limits for Lower Boscawell. However, Policy 3 indicates that housing development is permitted when it involves the *rounding off* of settlements. Although the policy does not define rounding off, paragraph 1.68 of the supporting text defines it as *development on land that is substantially enclosed but outside of 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 (such as a road). It should not visually extend building into the open countryside.*
15. In my view, the site can be described as being substantially enclosed by the road and also the existing boundary walls. However, for the reasons described in the first main issue of this appeal, the proposal would visually extend building into the open countryside. As such, it does not meet the definition of rounding off and does not comply with Policy 3.
16. The Neighbourhood Plan³ defines a settlement limit for Lower Boscawell which includes the appeal site. However, while Policy AH6 of the Neighbourhood Plan supports open market housing, it says that it needs to be sited in accordance with Policy 3 of the Local Plan. As the proposal does not comply with Policy 3, it follows that it does not comply with Policy AH6.

² Appeal Decisions: APP/P2114/W/22/3300189 & APP/P0119/W/21/3288019.

³ St Just-in-Penwith Parish Neighbourhood Plan 2021-2030

17. I therefore conclude on this issue that the site is not a suitable location for the proposed development.

Living conditions

18. The north east elevation of the proposed dwelling would face the front elevation Seaward Barn. However, as the north-east elevation of the new dwelling would only contain a small window serving a staircase landing, it would not facilitate harmful overlooking. While the north-west elevation would overlook the neighbouring garden, this would not be an unusual arrangement for an urban area where a degree of overlooking can be expected.
19. That said, the proposed dwelling would be very near the front elevation of Seaward Barn, which contains a number of south-facing windows. The new dwelling would be seen from these neighbouring windows at close quarters, reducing the outlook from inside Seaward Barn. Considering the small size of Seaward Barn and its pattern of fenestration, this would likely lead to a sense of enclosure from within parts of that property.
20. I therefore conclude on this issue that the proposal would have a harmful effect on the living conditions of the occupiers of Seaward Barn. There would be conflict with Policy 12 of the Local Plan which aims to avoid development that results in overbearing impacts.

Low carbon development

21. Policy SEC1 of the Climate DPD⁴ requires that in new residential development, the space heating demand should be less than 30kWh/m² per annum and the total energy consumption less than 40kWh/m² per annum. A revised Energy Statement has been provided which demonstrates that this requirement would be met. I therefore conclude on this issue that the proposal would comply with policies that seek to deliver low carbon development.

Conclusion

22. Although the development would be acceptable in terms of energy efficiency, it would not comply with the locational policies of the Local Plan and would have a harmful effect on the protected landscape, heritage assets and the living conditions of neighbouring occupiers. This harm would not be outweighed by the benefits of the proposal in terms of its contribution to local housing supply. As such, it does not represent sustainable development.
23. The appeal is therefore dismissed.

C Cresswell

INSPECTOR

⁴ Cornwall Council Climate Emergency Development Plan Document, February 2023.