



Appeal Decision

Site visit made on 8 October 2024

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

Appeal Ref: APP/D0840/W/24/3347449

Land at Trelowarth, Cleavelands, Bude EX23 8AB

- 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 S Hansen against the decision of Cornwall Council.
 - The application Ref PA22/07517, is dated 16 August 2022.
 - The development proposed is phased development of three dwellings, together with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for phased development of three dwellings, together with associated works at land at Trelowarth, Cleavelands, Bude EX23 8AB in accordance with the terms of application Ref PA22/07517, dated 16 August 2022, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the historic environment, with reference to the Scheduled Monument 'Moated site 415m west of Binhamy Farm' (hereafter the Monument).

Reasons

3. The site comprises the lower section of a large, long garden associated with the detached dwelling Trelowarth to the north. Across and partially within the east site boundary is the Monument. Scheduled Monuments are designated heritage assets of national importance and the highest significance.
4. The Monument's significance primarily arises from its likely role as the high-status mansion 'Bynhamy' or 'Binamy Castle' thought to have been constructed in the 14th Century for one Ralph de Blanchminster. The reference to a licence to crenellate suggests that its moat and associated defensive walls would have been visible as a local landmark. I understand that the Monument is perhaps the best example of the few such moated sites within Cornwall.
5. In the post-medieval period the Monument was used as orchard. It is now on the Heritage at Risk Register, owing to its degradation through the overgrowth and trees which have for a long time covered it. There are few remaining structures, with modest walling, the moat, an entrance to the north, and areas of upcast material comprising the large extent of extant above ground fabric.
6. In terms of significance derived from its setting, this extensive greenery robs the asset of clear visual legibility. The surrounding area has been heavily developed and is now within Bude. The Monument is best appreciated from a

- designated area of public open space to its south and east. At the entrance, to the north, a collection of housing is currently under construction close by.
7. The Monument would have likely stood within an area of associated farmland, and so the appeal site, given its verdant appearance, lends itself to this narrative. However, the garden is in places highly overgrown and treed, and bears little resemblance to managed farmland. The area of upcast material effectively provides the appeal site's garden boundary and is visible, albeit, as an enclosed private garden, public access of the appeal site is highly limited. The site therefore makes a small, positive contribution to the significance of the Monument directly and also the significance that it draws from its setting.
 8. The current use of the site, including the part within the area of the designated Monument, is unfettered residential garden. This raises the prospect of degradation of the asset through recreational use. At my visit I observed that a small, old garden shed appears to have been partially excavated into the boundary groundworks, and a rope swing also suggested the potential for activity to fan out from the garden into the grounds of the Monument itself.
 9. The proposal would bring built form closer to the Monument and further reduce its scant open setting. However, the housing would be focused on the west side of the site, and a buffer established on the east side which could be kept free from use, a matter which could be secured by a condition. This would remove the risk of harm arising from the currently unfettered residential garden space.
 10. Furthermore, if landscaping within the buffer were kept to a minimum, and any enclosure of the buffer was lightweight, such as post and rail fencing, the three dwellings and the new access and drive from Treleven Road would open up the Monument's visual setting to a greater breadth of the public. This would include residents and visitors to the houses, therefore better revealing the asset's significance to a modest extent. When these various pros and cons are weighed together, it is my overall judgment that the effect of the development would be neutral, and that the significance of the Monument would not be harmed.
 11. The Council is also concerned about the potential for archaeological disturbance and the adequacy of the investigative work carried out. However, much of the area not surveyed comprises the dense trees and vegetation. It is logical that removal of this greenery to facilitate a fuller survey itself has the potential to disturb the ground. On this basis, and given that much of the area that would actually be physically developed has been surveyed, I am comfortable that archaeology can adequately be protected and recorded through conditions securing a Written Scheme of Archaeological Investigation.
 12. Accordingly, I conclude that the proposal would have an acceptable effect on the historic environment, with reference to the Monument. It would accord with the heritage objectives of Policies 2, 12 and 24 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (adopted 2016), Policy 23 of the Bude Stratton Neighbourhood Development Plan (made 2017), Policy C1.7 of the Climate Emergency Development Plan Document (adopted 2023) and the National Planning Policy Framework.

Other Matters

13. The site is within a Critical Drainage Area and there is local knowledge of flooding in the area at times of heavy rainfall. However, the Council is satisfied

that the technical drainage evidence submitted in support of the appeal is sufficient to conclude that, in principle, adequate surface water drainage can be achieved within the site. I have no reason to disagree.

14. Concerns have also been raised about highway safety. Whilst for residents the current cul-de-sac arrangement at Treleven Road is optimal in terms of safety, it is unlikely that the construction of three dwellings would lead the highway environment to be manifestly unsafe. This is an area with an overriding place function, so one should expect highway users to drive with that in mind. The present arrangement will be effectively replicated to the east, albeit the current turning area will still exist as a space for children's play. There is no clear evidence that the scheme would reduce the level of street parking within Treleven Road so as to have a severe effect on the highway network.

Conditions

15. The Council has suggested several conditions, some of which I have amended for the sake of clarity and precision. In addition to the standard time condition, a condition is necessary in the interest of certainty to establish the approved plans. To maintain the design quality of the area, a condition is required to secure the external finish materials of the houses. However, this need not be provided prior to the commencement of the development. Similarly, the Written Scheme of Archaeological Investigation will require the Council's agreement before development commences and the scheme will need to be adhered to during the work. A condition will further secure the protection and recording of any historic or archaeological features uncovered.
16. As the site would be accessed through a residential area, a Construction Method Statement will need to be agreed with the Council prior to construction beginning. Given the drainage situation in the area, details of the surface water drainage strategy are necessary to be secured and retained going forward. A condition is necessary to retain and protect the trees of public amenity value within and adjacent to the site. In the interest of the Monument, it is necessary for conditions to restrict the residential use of the proposed buffer, and landscaping within the buffer and across the site more generally.

Conclusion

17. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2020-28.P1.G, SH.1.a LP, 2020-28.P2.E, 2020-28.P3.E, 2020-28.P4.E.
- 3) Prior to their installation, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 4) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) the erection and maintenance of security hoarding;
 - (v) measures to control the emission of dust and dirt during construction;
 - (vi) a scheme for recycling/disposing of waste;
 - (vii) hours of working.
- 5) No development shall take place until a Written Scheme of Archaeological Investigation shall have been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions, and:
 1. The programme and methodology of site investigation and recording,
 2. The programme for post investigation assessment,
 3. The provision for analysis of the site investigation and recording,
 4. The provision to be made for publication and dissemination of the analysis and records of the site investigation,
 5. The provision to be made for archive deposition of the analysis and records of the site investigation,
 6. The nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 6) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 5.
- 7) Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the Local Planning Authority within 5 working days of being revealed. Works shall be immediately halted in the area/part of the building affected until the provision shall have been made for the retention and/or recording in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.

- 8) Prior to the installation of a system for the disposal of surface water, details of this system shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the details agreed prior to the first occupation of any of the dwellings. The details shall include a programme for maintaining the system. The system shall be retained and maintained thereafter in accordance with the approved details.
- 9) Tree protection measures and tree works (to include facilitative felling and pruning) shall be implemented in strict accord with the Wildwood Trees Arboricultural report July 2021.

Unless otherwise specified within the above document:

- 1) Tree protection fencing (in accord with BS 5837:2012) shall be installed prior to the commencement of any works associated with the development and shall be maintained intact, and retained in situ until the completion of the development.
- 2) A pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural consultant and the main contractor's site manager/foreman to discuss details of the working procedures and to confirm the precise position of the approved tree protection measures.
- 3) No works associated with the development including storage, access, cement mixing, bonfires, excavations or other level changes shall occur within the protected areas.

The following British Standards should inform the delivery of tree protection measures:

- BS: 3998 Tree work – Recommendations
- BS: 5837 Trees in relation to design, demolition and construction – Recommendations

- 10) Notwithstanding the details within the approved plans, prior to the commencement of development details of a means of enclosure to demark the buffer identified on plan Ref 2020-29.P1.1 shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the dwellings hereby approved, the means of enclosure shall be fully constructed, and thereafter retained. The buffer shall not be used for purposes ancillary to or incidental to the enjoyment of Trelowarth or the dwellings hereby approved.
- 11) No development shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include details of the landscaping to the buffer, include indications of all existing trees and hedgerows on the site, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.