



Appeal Decision

Site visit made on 8 May 2025

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2025

Appeal Ref: APP/D0840/W/24/3357907

Land west of 14 Victoria, Lostwithiel, PL22 0AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr G Rule against the decision of Cornwall Council.
 - The application Ref is PA24/01762.
 - The development proposed is erection of detached dwelling and the formation of a vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached dwelling and the formation of a vehicular access at land west of 14 Victoria, Lostwithiel, PL22 0AX, in accordance with the terms of the application Ref PA24/01762, and the plans submitted with it, subject to the conditions listed in the Annex to this decision.

Application for Costs

2. An application for costs was made by the Appellant against Cornwall Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have adopted the description of development from the application form.
4. On 12 December 2024 the Government published a revised version of the National Planning Policy Framework (NPPF). However, the policies that are relevant to this appeal have not changed and I have not, therefore, sought the parties comments on the revised NPPF.
5. Paragraph 1.13 of the Appellants Statement of Case (ASOC) states that the gap proposed in the existing stone boundary wall to secure the new access to the appeal site is 3.6 metres and not 4.2 metres as per the notation on the Proposed Site Plan (PSP). This notation related to an earlier application but was not removed even though the gap, in the appeal scheme, was reduced to 3.6 metres, a measurement that can be confirmed from the scaled PSP. The Appellant therefore requested that the refused PSP be substituted for the PSP included in Appendix 1 of the ASOC, on which the notation had been removed.
6. Paragraphs 16.1–16.2 of the ‘Procedural Guide: Planning Appeals – England’ (September 2024) state that it is important that what is considered by the Inspector is essentially the same as that considered by the Local Planning Authority, as well

as interested parties, at the application stage. Paragraph 16.3 refers to the 'tests' that will be considered when amended plans or design changes are proposed, 'tests' which since the *Wheatcroft Principles* have evolved through the judgement of *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*.

7. Essentially there is no material change to the proposal considered by the Council at the application stage. The proposed gap measured 3.6 metres on the refused PSP and it was only the notation on the plan that was incorrect. As I confirmed, this error was highlighted in the ASOC, on which both the Council and interested parties have both had an opportunity to comment on whether it would affect their objections to the development. I note that a number of interested parties reference this point but maintain their objections. Similarly, paragraphs 5.36 and 5.54 of the Council's Statement of Case (CSOC) also reference the gap as being 3.6 metres. I sought clarification of this in a written request to the Council who confirmed in an email dated 30 May 2025 that they were content with the substitution of the revised plan and confirmed that the measurement on the PSP was 3.6 metres.
8. In view of the above, I am satisfied that the substitution of the revised PSP would be appropriate and acceptable at this stage in that it would not cause any unlawful procedural unfairness to either the Council or to interested parties. I have, therefore, determined the appeal on the basis of the revised PSP in Appendix 1 of the ASOC. For clarity, this is drawing No.KB0434.3 Rev.E.

Main Issue

9. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the appeal sites location with a conservation area.

Reasons

10. The appeal site lies within the Lostwithiel Conservation Area (LCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the NPPF as well as in policies 2, 12, 21 and 24 of the Cornwall Local Plan Strategic Policies 2010 - 2030 (CLP) and policy EH2 (and not EN2 as in the reason for refusal) of the Lostwithiel Neighbourhood Plan 2015 – 2030 (NDP).
11. There is no Conservation Area Appraisal or Management Plan for the LCA. I have, therefore, based my assessment of the LCA on the submitted evidence and my own observations on site.
12. Paragraphs 1.46 to 1.49 of the NDP refer to the 'Lostwithiel Character Zones' to the LCA. There are nine Zones and in the absence of an Appraisal or Management Plan this section of the NDP highlights many of the features and buildings that contribute to LCA's special interest. The nine Zones are dealt with in turn and paragraph 146 states that they will be used by the Town Council when consulted on planning decisions and as a relevant consideration for the Local Planning Authority.
13. Character Zone 1 is the core of the Medieval Town and is believed to contain one of the finest collection of 17th and 18th Century urban buildings and streetscapes in

Cornwall. It includes St Bartholomew's Church and Churchyard which originates in part from the 12th Century with its dominant tower and spire a focal point for the town. To the north west is Character Zone 2, Queen Street, which is at a point in the grain of the town where the land changes from a gentle to a steep slope. It is characterised by large elegant period properties with a number of Landmark Buildings, albeit dominated by through traffic. Further to the north west is Character Zone 4 (CZ4), The Upper Town, which includes the appeal site.

14. CZ4 is noted for its steep streets that are mainly lined with what were formerly humble cottages and workshops, with remnants of cobble paving. It includes King Street, believed to be one of the finest set piece streetscapes in Cornwall. Locally Distinctive Features are highlighted as the cottages and cobble paving and there are a number of Landmark Buildings on Bodmin Hill and Duke Street. There is no reference to the lane, known as Victoria, which includes the appeal site and there are no Landmark Buildings or other Locally Distinctive Features on the lane.
15. The Character Zones emanate from the 'Lostwithiel: Historic Characterisation' (LHC) report published in November 2008. The LHC reaffirms that the historic core is based on the Medieval centre of the town, where there remains a high proportion of Medieval buildings that are well preserved. CZ4 is noted for its steep streets with the residential properties in and around Victoria appearing to date from the late Georgian to Victorian period. The LHC also refers to the grid like layout of the town, which remains, with its tight urban landscape of streets, lanes and alleys. There is again no specific mention of Victoria.
16. The above summary reflects my own observations on site and whilst the lane (Victoria) is not specifically mentioned, it is, as with other similar lanes, an integral part of the character of the area. Even so, these lanes are often regarded as being less important or significant due to the fact they are less visible or prominent within the Conservation Area. The LHC does, however, emphasise the role that boundary walls make to the significance of the structure of the town, with glimpses across gardens and the rear of properties of tall stone boundary walls marking out the plot boundaries of individual dwellings.
17. All of the above factors contribute, in my judgement, to the special interest and significance of the LCA as a whole.
18. The appeal proposal involves the erection of a detached dwelling and the formation of a vehicular access onto Victoria. The dwelling would be constructed on a vacant site in between 13 and 14 Victoria and on land that I understand previously formed part of a market garden to Avery House, located to the north east of the appeal site on Bodmin Hill. The new dwelling would be two storeys with a traditional simple cottage design to align with its neighbours, in particular 14 Victoria and reflect local character. The palette of materials would include white smooth sand cement render, natural stone, white timber windows and doors, natural slate roof and a solid oak porch. As the new building would be set back from Victoria, its garden would be sited, as with its neighbours, fronting the lane with areas of lawn and boundary planting shown leading to a driveway, turning area and parking for two cars with raised beds either side of the new access to Victoria.
19. The new access would be created by demolishing part of stone wall that fronts onto Victoria which is some 1.8 metres in height. Some 3.6 metres of the wall would be demolished to provide for the new access, with the remainder retained and repaired

where required. New walls of some 600mm I height would be formed around the raised beds constructed from the removed stonework. The Council do not raise any objection to the design of the new dwelling, which is a finding that I firmly concur with. The proposed dwelling would, in my view, result in a high quality addition to the LCA. The Council do raise an objection to the loss of 3.6 metres of the existing stone wall and contend that this would harm the distinctive qualities of the LCA.

20. As I observed on site, part of the existing wall to be removed appears to have been repaired using new block and brickwork and is, therefore, not original. Public views into the lane are also limited by a combination of its narrowness, the fact that it effectively has the appearance of a back lane and primarily leads to the properties on Victoria. In addition large sections of the original stone wall have been removed on other properties in the lane, largely to the south east of the appeal site. In some of these instance, the resulting gaps are wide leaving the frontages open with predominantly views of parking and hardstanding and they do not retain any sense of enclosure, which is part of character of the lane.
21. Within the above context, the impact from the loss of 3.6 metres of the stone wall to the appeal site would, in my judgement, be limited. A large part of the stone wall would be retained and repaired, where required. Whilst I accept there would be a change to the streetscene, the impact would be limited and the sense of enclosure on this part of the lane would largely remain as existing. There would also be no impact on any Landmark Buildings or Locally Distinctive Features, as identified in the LHC or NDP.
22. The loss of this existing fabric must also be viewed in the context of the high quality layout and design of the proposed dwelling with the reuse of the removed stone to form low walls to the planting beds and the fact that most of the turning and parking area would be largely screened behind the retained element of the wall. The backdrop to glimpsed views from the lane would be the simple high quality design of the new house with its pallet of materials to match those found locally.
23. Overall, the proposal represents, in my view, a much higher quality of design than that secured on other properties in the lane. Whilst I note that the CSOC seeks to defend these developments, that does not take away from the fact that they exist and form part of the context for the appeal site and the prevailing character of the lane and this part of the LCA. In addition, the CSOC suggests that some of the cases pre-date current policies, but as far as I can see most appear to have been granted permission after the designation of the LCA.
24. The CSOC also states that these examples relate to a different section of the lane. However, Victoria is a relatively short lane and the appeal site sits broadly within a central position, with the examples concentrated to its south east and thus forming part of the same streetscene. As is also well established, any harm to the LCA must be assessed in relation to its special interest as a whole.
25. For the reasons set out above, I find that the proposal to removed 3.6 metres of the existing stone wall would result in limited harm to the character and appearance of the LCA. In view of this and as is required, particularly by the NPPF, considerable importance and weight must be attached to the harm to this heritage asset. The appeal proposal would lead to less than substantial harm to the significance of this

heritage asset, with the level of harm being at the low level, which must be weighed against any public benefits of the development.

26. The provision of a new dwelling on the appeal site would be an important public benefit, and there would also be the added benefit of short term employment during construction. The new dwelling would assist the Government's objective of significantly boosting the supply of homes as set out in paragraph 61 of the NPPF. It would also secure the effective use of land within a highly sustainable location in line with paragraphs 124 and 125 of the NPPF. I attach significant weight to this benefit. The provision of a new dwelling would, in my judgement, be sufficient on its own to outweigh the low level of harm that I have identified to the significance of the heritage asset.
27. Accordingly, I find that the low level of harm to the heritage asset that arises from the proposal would be outweighed by the public benefit and as such, the appeal proposal would comply with policies 2, 12, 21 and 24 of the CLP, policy EH2 of the NDP and paragraphs 202, 210, 212 – 213 and 215 of the NPPF.

Other matters

28. Concerns have been raised by interested parties in relation to access, the lack of affordable housing, inaccuracies in the application documents and as the site is not allocated in the NDP. I note that these are not issues that the Council have raised in their objections to the appeal proposal and there is no substantive evidence before me to indicate that any of these issues would be likely to lead to material harm or conflict with development plan policies. Any inaccuracies in the application documents have either been addressed or do not affect my overall findings.
29. Turning to affordable housing, policy HH2 of the NDP states that this requirement only applies to schemes of 10+ dwellings. Whilst the appeal site is not allocated, policy HH2 also states that housing development within the defined development boundary of Lostwithiel will be supported where it complies with other plan policies and is of a high quality design. The appeal site is located within the defined development boundary, accords with other development plan policies and would secure a high quality design.
30. In terms of access and the narrowness of the existing lane, the Highway Authority (HA) have not raised any objection to the appeal proposal. As the local highway authority, I attach significant weight to their response. I note that the HA's position was reiterated when the application was reported to Planning Committee. Whilst I have noted the comments concerning visibility at the new access, it is clear that the HA were satisfied with this arrangement and did not require any visibility splays or a wider access. There is also no substantive evidence before me that would lead me to reach a different finding to that of the HA, and I also note from the CSOC that the HA's position has not changed even with the substitution of the PSP.

Conditions

31. The Council has suggested various conditions that I have considered against the advice in the NPPF and the Planning Practice Guidance (PPG) chapter on the use of planning conditions.
32. Conditions relating to compliance with the approved plans and requiring the submission and approval of a surface water disposal scheme, construction method

statement, a programme for archaeological work and bat/bird boxes, are necessary and reasonable in the interests of water quality and future occupiers amenity, to reduce potential impact on local amenities and traffic, to safeguard any buried heritage assets and to secure net gain in biodiversity.

33. I also consider that a condition requiring the submission and approval of details of the fittings and joinery is reasonable and necessary in order to secure a high quality development and to reflect its conservation area designation. Although not suggested by the Council, I have also added a condition, for similar reasons, that requires the development to be carried out in accordance with the materials shown on the approved plans.

Planning balance and conclusions

34. Following the publication of the NPPF the Council can no longer demonstrate a five year supply of housing land. Paragraph 11 d) of the NPPF is, therefore, engaged and requires planning permission to be granted unless the policies of the NPPF that protect areas/assets of particular importance provide strong reasons for refusing development or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
35. Whilst the appeal proposal does relate to a protected asset of importance, namely a heritage asset, as I have found above, the low level of harm to the asset that arises from the appeal proposal would be outweighed by the public benefit that the proposed development would secure, in particular the provision of a new dwelling in a sustainable location. There are, therefore, no strong reasons for refusing the development. The presumption in favour of sustainable development applies and planning permission should be granted.
36. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be allowed

G Roberts

INSPECTOR

Annex – Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: KB0434.1; KB0434.3 Rev.E; KB0434.4 Rev.B; KB0434.5 Rev.E; KB0434.6 Rev.C.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on the approved plans.
- 4) The development hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of surface water run-off has been completed in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The details shall

include a programme for maintaining the system if required. The system shall be retained and maintained thereafter in accordance with approved details.

- 5) No development shall commence, including any works of demolition, 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 for site operators 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 including decorative displays and facilities for public viewing, where appropriate
 - (v) Wheel washing facilities
 - (vi) Measures to control the emission of dust and dirt during construction
 - (vii) A scheme for recycling/disposing of waste resulting from demolition and construction works
 - (viii) Hours of working
 - (ix) Access arrangements for vehicles especially within the narrow lane.
- 6) A) No demolition/development shall take place/commence until a programme of archeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions, and:
 - (i) The programme and methodology of site investigation and recording
 - (ii) The programme for post investigation assessment
 - (iii) Provision to be made for analysis of the site investigation and recording
 - (iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - (v) Provision to be made for archive deposition of the analysis and records of the site investigation
 - (vi) Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under part A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

D) The archeological recording condition will normally only be discharged when all elements of the Written Scheme of Investigation including on site works, analysis, report, publication (where applicable) and archive work has been completed.
- 7) Prior to the commencement of any works associated with the permission hereby approved, details of the fittings and joinery shall be submitted to the Local Planning Authority and approved in writing. The development shall be undertaken in accordance with the approved details. The details required are:

- (i) A schedule of repair for the existing boundaries
 - (ii) Details for the slate and ridge tiles. The slates should be nail fixed and not clipped.
 - (iii) Details for the solar panels (flush panels recommended)
 - (iv) Joinery details for the timber windows and doors to include design, depth of recess, method of opening and profiles (it is recommended FFW2 be a pair of side hung casements as opposed to the single casement indicated and that the casements be flush finish)
 - (v) Details for the proposed chimney brick and brick for the window dressings
 - (vi) The use of slate sills
 - (vii) A pointed stone sample window panel for the new stone walls and the building frontage
 - (viii) Details for the proposed rainwater goods
- 8) Prior to the construction of the dwelling hereby permitted, a scheme for the incorporation of bat boxes and bird boxes and bee bricks at a minimum rate of one measure per dwelling shall be submitted to and approved in writing by the Local Planning authority. Such details shall include the location and specific details of the feature. The approved features shall be installed prior to the occupation of the dwelling and shall thereafter be retained and maintained as such.

End of Annex.