



Appeal Decisions

Site visit made on 28 May 2025

by Tom Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2025

Appeal A Ref: APP/D0840/W/24/3356041

Chain Locker, Quay Street, Falmouth TR11 3HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (the '1990 Act') against a refusal to grant planning permission.
 - The appeal is made by St. Austell Brewery against the decision of Cornwall Council.
 - The application is ref. PA24/01546.
 - The development is described on the application form as 'festoon lighting & associated festoon posts, new additional planters to perimeter & associated planting to provide natural screening to boundary, 3no. new 4 x 4m parasols/ jumbrellas, 8no. new millboard tables & gabion stools' .
-

Appeal B Ref: APP/D0840/Y/24/3356042

Chain Locker, Quay Street, Falmouth TR11 3HH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA') against a refusal to grant listed building consent.
 - The appeal is made by St. Austell Brewery against the decision of Cornwall Council.
 - The application is ref. PA24/01547.
 - The works are described on the application form as 'festoon lighting & associated festoon posts, new additional planters to perimeter & associated planting to provide natural screening to boundary, 3no. new 4 x 4m parasols/ jumbrellas, 8no. new millboard tables & gabion stools' .
-

Decision

1. Appeal A is dismissed and I take no further action in respect of appeal B for the reasons below.

Preliminary matters

The nature of the scheme

2. Plans 01 and 02 illustrate a site of some 676 square metres encompassing the St. Austell Brewery operated Chain Locker and some outside space associated with it. As on plan PL-001B, the scheme relates only to the area to the south-east, or rear, of the pub. That is the external seating area at Custom House Quay ('the Quay'), rather than the area towards North Quay.¹ The seating area is rented from the Harbourmaster.
3. Plan PL-002 is mistitled the 'Existing Ground Floor Plan'. That instead shows the pre-existing nature of the seating area as once occupied by what are described in the evidence before me as picnic benches (slatted timber tables with attached

¹ I note that the Council granted permission and consent, including for a new external seating area to the north-east of the pub, in 2016 (ref. PA16/08204 and PA16/08205 respectively). Conditions to the former prevented the installation of 'permanent fixtures' within the approved external seating area there, as shown on drawing no. 2285.D.210(B), and the storage of temporary structures within that area outside of the premises' opening hours.

benches). Whilst there is no paper trail of any authorised use of the site, the Council have provided an image of it in that former state in May 2023.

4. The Council have also provided an image of the appeal site in May 2015 when it was previously used for parking. As Historic England put it in their comments of 19 August 2024, in recent years there has been a 'continuous creep' of seating, associated items, and signage hereabouts related to surrounding uses. There is also now outside seating at the Quay associated with the hostelryes of the Quayside Inn, the Stable, and the Front. The appellant's Heritage Assessment refers also to the 'accumulation of beer gardens' hereabouts.
5. The scheme before me is in place. For the most part, what is presently on site appears consistent with the scheme as shown on plan PL-001B and supporting documentation. There is, however, some divergence; refuse bins and a touring caravan also appeared to be on site at the time of my site visit. For clarity, I have based my assessment of the scheme on what is shown in associated plans and supporting documentation rather than that which is place.
6. For that reason also, although permission and consent are sought retrospectively, I have referred to the development and works described in the banner headings above as the scheme or proposal. As in any instance, if there is divergence between associated plans and the nature of a site, that is a separate matter for the main parties to address as necessary.

Development

7. Section 55(1) of the 1990 Act, of relevance to appeal A, initially defines development as the 'carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'. Neither the Council, nor Historic England expressly, object to the use of the site that the scheme would enable. The Council's position is instead that the scheme is of a markedly different nature to previously more temporary and lightweight picnic tables. The Council further contend that the former permeable arrangement was such 'that the character of the historic quay and the associated buildings could still be readily appreciated'.
8. Notwithstanding that the appeals are against the Council's decisions, Historic England's position is similar. Historic England explain that the previous seating arrangement 'gave the appearance of being entirely reversible and temporary in character'. Since its establishment, Custom House Quay would have been a location characterised by trade and bustle. The use that the scheme would enable, or continue to enable, is consistent with that historical character (the operational or physical elements of it indivisible from the function they serve).
9. Whilst neither main party argues that the scheme does not represent development in planning terms, it is nevertheless necessary to address that matter in the interests of fairness. In addition to planters and festoon lighting, as on plan no. PL-001B and illustrated in the visuals in the appellant's Design and Access Statement ('DAS'), the proposal is for 25 gabion tables and benches, 8 further tables each with 4 gabion stools, and 4 'jumbrellas' (4m square parasols each with a 1.2m by 1.2m base). All told, that is an installation of significant size.

10. In responding to Historic England's comments referred to above, the appellant's position is that the physical elements of the scheme could easily be removed in the space of hours if needed with no residual effects on the fabric of the quayside. That response further sets out that 'tables and chairs of any style are by their nature understood to be temporary and reversible installations'. For 3 principal reasons, however, that is an oversimplification.
11. Firstly, the scheme is intended to be permanent in duration. Secondly, whilst the Council observe that no elements of the scheme would be affixed to the ground, which here appears to be surfaced principally with asphalt, part of the appellant's rationale for the scheme is that it is designed with greater resilience to coastal weather than former picnic benches (on account of materials used including composite planks and corten steel planters, along with the mass of gabion tables, benches and stools). The scheme is therefore designed with permanence in mind. Thirdly permanence and reversible are different concepts. Something may be reversible, an adjective, but also permanent, a noun. It is therefore fair to assess the scheme as for operational development with the terms of Section 55(1) of the 1990 Act.

Works

12. Section 7 of the LBCA, of relevance to appeal B, sets out that listed building consent is needed for 'any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest.' With reference to the nature of the site and scheme described above, notably that the various elements of it would be placed on rather than fixed to the Quay, the appellant's Heritage Assessment sets out that 'no works are proposed that might have a material physical impact upon the grade II listed building'. I am told that the only physical relationship with the pub is connecting lighting to an existing external junction box.
13. The Council's decision notices in respect of applications ref. PA24/01546 and PA24/01547, related to appeals A and B respectively, state that in the Council's view the scheme 'erodes and harms the historic setting of the listed buildings/structures, failing to conserve or enhance the significance of the listed buildings/structures...'. Their focus is clearly in relation to setting. Nowhere in the evidence before me is there any indication that the scheme would entail the demolition, alteration or extension requiring listed building consent in the first instance with reference to LBCA section 7 (a point to which I return).

Statutory and policy context

14. Various statutory duties apply in my determination of this appeal. The appeal site is within, or relates to, a nest of interrelated heritage assets intertwined with their surrounding context. Custom House Quay walls, facing north-eastwards towards the Harbour and River Fal estuary, are grade II* listed, the list entry title being 'Custom House Quay, King Charles Quay, North Quay, Quay Walls and Steps'. Those are collectively referred to in the evidence before me as the Town Quays. They are, however, illustrated as linear features in the map reproduced beneath paragraph 2.5 of the Council's statement of case which neither extend into nor abut the appeal site.

15. The right-angled pier of Custom House Quay projecting beyond mean high water is indivisible from the listed walls themselves; it could not exist in their absence. In other locations listed maritime infrastructure extends to encompass more than walls themselves. Nonetheless in this instance that the appeal site is distinct from the listed walls is reinforced by the description in the list entry. That sets out how the walls comprise dry-stone rubble, vertically set killas, 'built on quarried ledges of bedrock on the landward side'.
16. LBCA Section 1(5) additionally sets out that the following shall be treated as part of a listed building: '(a) any object or structure fixed to the building, and (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948'. The Quay itself cannot reasonably be seen as a structure in the terms of Section 1(5)(a) as those provisions envisage the primacy of the relevant listed building in that respect; practically the Chain Locker and other nearby listed buildings sit on or by the Quay rather than *vice versa*.
17. In respect of LBCA Section 1(5)(b), as above the Harbourmaster rents space at the Quay to the pub. There is no indication that the site was ever owned in conjunction with the Chain Locker, or any other listed building. The concept of a curtilage applying to boundary walls is antithetical. Moreover the Quay historically originated and functioned as a municipal and communal space, rather than it, or the appeal site, falling within the control of nearby listed buildings.
18. Consequently, in the absence of any discernible works requiring listed building consent within the terms of LBCA section 7 as above, I take no further action in respect of appeal B. In the eventuality that any works requiring listed building consent have been, or were to be, undertaken in association with the scheme, they may amount to unauthorised alterations (governed instead by LBCA Sections 9 or 38, or both).
19. The Chain Locker, one of several properties forming the north-western flank of buildings enclosing the Quay from the Town, is grade II listed. That flank otherwise comprises what are described in the relevant list entries as 2 Quay Street and the Dolphin Hotel, both also grade II listed. As above the seating area to the Chain Locker is to the rear, the pub having a frontage to Quay Street (which cuts perpendicularly off Arwenack Street heading to North Quay). 2 Quay Street also has a frontage to Quay Street, the Dolphin Hotel occupying the corner plot of Quay Street and Arwenack Street (now a restaurant at ground floor level).
20. Moving along the south-western flank of the Quay, where properties front Arwenack Street with the Quay behind, no. 38 Arwenack Street is unlisted. Between no.38 and no.41, the grade II listed Quayside Inn, is a twitten. Beyond that is the grade II listed Harbour Masters Office and Shop, next to which is the grade II* listed Custom House (now operating as the Stables). By the Custom House are 2 further grade II listed buildings, a drinking fountain and an historic incinerator, the ironically named King's Pipe for destroying contraband, before vehicular access to the Quay.
21. Whilst the Working Boats Office forming part of the south-eastern side of the built form around the Quay is grade II listed, immediately beyond vehicular access here buildings are not listed. The Quay and much of its surroundings form part of the

extensive Falmouth Conservation Area ('FCA'), Arwenack Street being the principal historic thoroughfare through the Town.

22. Noting my reasoning in paragraph 18 above, I have approached appeal A in the context of sections 66(1) and 72(1) of the LBCA. More broadly, each planning proposal must be determined in accordance with the development plan unless material considerations indicate otherwise, as in section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.
23. The development plan here includes policies of the Local Plan Strategic Policies 2010-2030 (adopted in 2016, the 'LPSP') and of the Falmouth Neighbourhood Plan (successful at referendum on 19 August 2021, the 'FNP'). I have also taken account of all relevant material considerations in determining the appeal, including the National Planning Policy Framework (published 7 February 2025, the 'NPPF'), the Planning Practice Guidance ('PPG'), the Falmouth Conservation Area Appraisal (October 1998, the 'CAA'), the Cornwall and Scilly Urban Survey (published May 2005, the 'CSUS'), and the Cornwall Design Guide (adopted December 2021).

Main issue

24. The main issue is the effect of the scheme in respect of historic significance.

Reasons

Special interest and significance

25. Falmouth was granted a royal charter in 1661. Shortly thereafter the Town Quays were constructed, the list entry suggesting they date from around 1670 (albeit with some later remodelling). The Quays were established for functional purposes, namely providing shelter to enable the transit of boats, people and goods. Nonetheless the listed walls are evidently a skilfully executed feat of craftsmanship, likely drawing on contemporaneous Dutch engineering, that have stood the test of time. As in the CAA and CSUS, Falmouth's economy grew rapidly through the eighteenth and nineteenth centuries aligned with England's international maritime heyday. Whilst ship building was historically a significant component of the economy, likely of greater relevance to Custom House Quay would have been international trade.
26. The Chain Locker, formerly the Marine Hotel, appears to have emerged shortly after the establishment of the Quays. It is now much altered, notably internally, including on account of having incorporated other buildings over time; the list entry referring to a shipwrights in that respect, the appellant's Heritage Assessment to a former marine engineers' premises. By virtue of its form and detailing, the Chain Locker is nonetheless appreciably historic externally (albeit a somewhat practical and now hodgepodge building responding to the nature of its surroundings and successive eras of change). In all likelihood it emerged, and has ever since functioned, as an adjunct to trade passing through the quayside of one form or another.
27. Map regression in the Heritage Assessment shows that much of the built environment enclosing or surrounding the Quay as described above was established by 1841. Subsequent extensive Victorian development along Arwenack Street, mimicking the orientation of the Fal initially but spreading widely beyond the

previous extent of the Town, is shown in the first edition Ordnance Survey map of 1880. FNP map 9 shows successive waves of Falmouth's expansion spreading, as a rule, westwards away from the water's edge.

28. As in paragraph 14 above, there is a nest of heritage assets hereabouts whose significance is intertwined given they all emerged and evolved related to the same historic forces. There are subsequent eras of development and alteration too, some which are anachronistic or do not reflect anything meaningful in terms of the history of the area. Nonetheless the existence of development which does not contribute positively towards historic integrity does not justify further harm.
29. Certain nearby listed buildings are workaday, notably the working boats office and King's Pipe. Others, the Custom House in particular, are conspicuous displays of authority and prosperity. I acknowledge that the Quayside was always more functional a space than Alwenack Street or Quay Street, as is reflected in the more formal treatment of buildings' facades to the latter streets. Nonetheless it is somewhat arbitrary to draw a distinction in that regard. Facades could not have emerged without transient commerce at the Town Quays. Moreover historic interest is not only embodied in refinement, but in how the built environment honestly reflects the past in the present.²
30. That reasoning appears on the one hand to be consistent with the appellant's position in response to Historic England's comments on the scheme, namely that there is a 'symbiotic and complementary visual and functional relationship between the quayside and the listed buildings on Arwenack Street...'. The appellant's position in that respect, however, sits awkwardly with paragraph 4.8 of the Heritage Statement which suggests that the appeal site makes no contribution to the significance of the Chain Locker.³ It clearly has a relationship to both.
31. Whilst the Quay is a relatively enclosed space within the FCA, aptly reflecting the centrality of it to the evolution of Falmouth, CAA paragraph 5.3.8 sets out that the waterfront area here is 'arguably the most important length of harbour and quay walls in Cornwall'. That paragraph continues that the enclosed area of water between North Quay and Custom House Quay is 'the only such space in Falmouth', and is therefore something of a focal point. That is notwithstanding that there are views from hereabouts across the surroundings described in CAA paragraph 5.3.11 as including 'Trefusis Point, the Roseland, the Docks and Pendennis Headland...'. In any event, visibility or prominence and significance are different concepts.
32. In that context, insofar as relevant to this appeal, special interest and significance here derives principally from the form of the built environment honestly reflecting the practicalities of facilitating historic maritime trade. That significance is in part discernible from the built environment itself, including the form, design and evolution of listed buildings. However it is only made whole by the inter-relationship between buildings, the spaces around them, and their surrounding context. Historically the appeal site would have played a significant role in facilitating the transitory trade now attested to in the physical form of its surroundings.

² CAA paragraph 5.3.12 setting out that 'the building at this part of the town present rear elevations that are of similar interest and importance as the elevations that front onto the town...'.
³ A position which may be premised on an assessment of the site with the scheme in place reading paragraph 4.8 of the Heritage Assessment as a whole.

33. Paragraph 4.5 of the appellant's Heritage Assessment suggests that there is some communal value to the pub in and of itself 'due to the fact that Falmouth residents, spanning multiple generations may consider it one of the towns oldest and most popular public houses...'. There is some logic in that given the origins and evolution of the Chain Locker. Nevertheless, in my view, that value cannot be distinguished as some form of freestanding significance in itself. In short, the pub could not have originated in the first instance were it not for historic forces.

The effect of the proposal

34. As noted in paragraphs 7, 8 and 13 of this decision, the use that the proposal would enable, or enable to continue, is neither in dispute nor unacceptable. As above, the Quay has always operated as a space for trade and to handle the comings and goings of people and goods. It has also always been somewhat informal or functional in character. To some extent, the scheme would be consistent with that function in the present.
35. I acknowledge that historically the Quay would have been a cluttered location at times, effectively a clearing house for incoming and outgoing shipments. As at paragraph 10 above, the appellant explains that the various items for which permission is sought could be readily cleared if needed. Notwithstanding the absence of a paper trail of any authorised use, the site was previously occupied by picnic tables and for car parking before that. The site furthermore represents a modest element of the setting of listed buildings here, more modest still as an element of the FCA.
36. In terms of design and materials, however, the scheme is unmistakably modern. Corten steel is used, as is composite board, both clearly contemporary materials (such that any resemblance to historic clutter is artifice). There is no indication that gabion stone is local; light in tone, rounded, and regular, it clearly diverges from the characteristics of local stone used in the listed walls. Vegetation, as at planters, is not in any way characteristic of the area.
37. More significantly, the scheme is designed to be more substantial or permanent than previous seating. Gabion walls elsewhere, from which tables and stools draw reference in terms of design, are inherently permanent. Although steel planters may bear some sort of superficial reference to cargo, or potentially clutter associated with fishing nets and lobster pots,⁴ they are equally designed to remain in place. That is setting aside that it is highly unlikely that any historic trade would have been of live plants.
38. As noted in paragraphs 25, 26 and 32 of this decision, the quality of transience here is a relatively important aspect of historic integrity. I note that the appellant sets out at paragraph 5.16 of their statement of case, that '... it is agreed that picnic benches are more reversible and temporary in character...'. Whilst I acknowledge that the site was previously used for parking, it is not a realistic prospect that the site would revert to that use were appeal A dismissed. That is on account of the creep or accumulation of seating here, noting the adverse implications of parking

⁴ Acknowledging that CSUS page 45 notes that 'the clearest loss of specific types of historic fabric in Falmouth is of structures associated with the waterfront's former status as the town's primary working area and of the dwellings of the large working population who lives in close proximity'.

highlighted at pages 79 and 80 of the CSUS, and as outside seating is clearly of benefit to the pub.

39. As shown in visualisations in DAS in particular, the scheme effectively turns away from nearby buildings with which the site has an intimate historic connection. The consequence is a somewhat enclosed layout where, including by virtue of festoon lighting and jumbrellas, the seating area is very much experienced within its own terms rather than interconnected with its surroundings. There is no apparent design-led process related to the particular nature of the surroundings which has resulting in the scheme before me.
40. For the above reasons, the proposal would therefore have a harmful impact on setting and the contribution it makes to overall significance. NPPF paragraph 56 sets out that consideration should be given to whether otherwise unacceptable development could be made acceptable through the use of conditions or obligations. Logically the duration for which any harm, whatever its magnitude, would persist would be limited were the scheme for a temporary duration secured via condition. However, as reasoned above, that is evidently not the intention here,⁵ and would not avoid all harm in any event.

Consideration

41. It is for the decision-taker, having established that harm would result, to gauge its extent or magnitude. Given the moderating factors set out in paragraphs 34 and 35 above, including setting the implications of the scheme relative to the former presence of picnic benches, it is fair to categorise the harm that would result as 'less than substantial' with reference to NPPF paragraph 212, and furthermore tending towards the lowest end of a spectrum within that categorisation. Logically the effect of the scheme in relation to the Chain Locker, listed walls and FCA would become more diffuse or limited in that order (approaching negligible in respect of the latter).
42. NPPF paragraph 215 sets out that where less than substantial harm would arise, that should be weighed against the public benefits of the proposal including, where appropriate, security optimum viable use. That is a balance to which I now turn, noting also that NPPF paragraph 213 sets out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

The planning balance

43. The PPG points out that ensuring heritage assets remain used and valued is 'likely to require sympathetic changes to be made from time to time'.⁶ It could be said that the scheme would, to some, represent a more comfortable seating arrangement than was previously the case. The various elements of the scheme before me would be more resistant to harsh weather than picnic benches, the waterside here being flood zone 3. Shoring up the viability or improving the offer of the Chain Locker, or any other enterprise, could fairly be considered public benefits. I am told that more than 7,000 pubs in England and Wales have closed over the past

⁵ Noting PPG Reference ID: 21a-012-20140306 guides that it would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application.

⁶ Reference ID: 18a-002-20190723.

decade; the Heritage Assessment setting out that the scheme does 'no more than necessary to enhance the viability of the beer garden'.

44. As reasoned above, however, the scheme does not represent a sympathetic change. Instead it detracts from significance, the historic nature of Falmouth being an attribute which draws trade here. There is no evidence before me indicating that adverse weather has previously caused damage to the seating area. If anything, as the scheme is designed to sit outside as opposed to more readily moveable picnic benches which could be stowed away, it is potentially liable to be more vulnerable to damage from adverse conditions.
45. Although the scheme has been in place for some time now, there is no indication as to its effect in terms of footfall or turnover relative to previously. There is no indication that the viability of the Chain Locker is under threat, or would be under threat regardless of the outcome of this appeal. Consequently, and even if the scheme were acceptable in all other respects, the public benefits of the scheme do not carry more than very limited weight, insufficient to provide clear and convincing justification relative to the harm that would result.
46. As such, I conclude in respect of appeal A that the scheme would conflict with the clear expectations of sections 66(1) and 72(1) of the LBCA and relevant provisions of LPSP policies 2, 12 and 24, of FNP policies DG3, DG6 and DG7, and of NPPF paragraphs 212, 213 and 215. In summary, and amongst other things, the foregoing provisions seek to ensure that all development integrates appropriate with its surroundings in relation to heritage.

Conclusion

47. For the above reasons, having taken account of the development plan as a whole along with all other relevant material considerations, I take no further action in respect of appeal B and conclude that appeal A should be dismissed.

Tom Bristow
INSPECTOR