



Appeal Decision

Site visit made on 7 May 2025

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Ref: APP/D0840/W/24/3355493

Harbour House, Trefusis Road, Flushing, Falmouth, TR11 5TY

- 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 William Speed against the decision of Cornwall Council.
 - The application Ref is PA23/10308.
 - The development proposed is Installation of kitchen ventilation system and CCTV cameras (retrospective).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the application form the address of the property is listed as The Seven Stars Inn. However, the decision notice and subsequent documents use the new name for the premises – Harbour House. I have used this as it better reflects the current operational name of the site.
3. The application form states that the work was completed on 16 June 2023. The extraction equipment and CCTV were in place at the time of my site visit. The equipment erected differs to how it is shown on the plans, differences include the shape of the top section of the flue and the brackets. In terms of my first main issue my assessment is based on the drawings and the context I observed on site.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the Flushing Conservation Area; and
 - the effect of the appeal proposal on the living conditions of local residents, with particular regard to noise.

Reasons

Character and Appearance

5. The appeal site is located within the Flushing Conservation Area (CA). In my view the significance of the CA is largely formed by its position aside the water, the narrow streets and the traditional architecture with limited recent alterations contributing to the area's visual charm. The appeal property is situated within the core of the village close to the harbour. The buildings surrounding the site are closely arranged and are predominantly terraced houses fronting directly onto the

street. Few of the houses appear to have been altered from their original construction with features such as traditional style windows being retained. Whilst Harbour House has undergone alteration in the past, particularly around what is now its east elevation, it is an attractive, traditional property which, along with its neighbours, contributes to the significance of the CA.

6. The extraction equipment including flue is located on the east side elevation of the building near a gated entrance off Coventry Road. From Coventry Road when the gate is closed the upper section of the flue is visible from the street. When the gate is open, as it was at the time of my site visit, a greater extent of the extract equipment can be seen. The equipment is also highly visible to users of the courtyard associated with the business. It can also be seen from neighbouring gardens and upper floor windows. Given the intimacy of the immediate context, it is a highly prominent addition viewed from these areas.
7. The extraction system is substantial and covers a large section of the side elevation to which it is attached. It is industrial in form, with its size, appearance and materials making it appear at odds with the traditional building on which it is situated. Although it is accepted that the most harmful views of the equipment are at close range it has resulted in harm to the significance of the CA.
8. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area and Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. The harm to the significance of the CA is less than substantial which Paragraph 215 of the Framework indicates should be weighed against the public benefits of the proposal.
9. There are public benefits in the renovation of the property and the jobs associated with its use. It is also suggested that the equipment is essential to ensure the ongoing viability of the community facility. I have no reason to doubt that the previous equipment required replacement and accept that some form of extraction will be needed given the nature of the premises. I also note that some attempts have been made to locate the equipment in one of the less visible elevations of the building.
10. However, the evidence suggests that the size and complexity of the equipment is a direct consequence of the specific cooking methods the appellant employs, the need to ventilate charcoal grills for example. It is also evident that the location of the equipment is borne through the appellant's desire to relocate the kitchen within the premises. It has also been put to me that the previous public house was successful and well-frequented. Given such, and in the absence of any substantive viability evidence, I am not persuaded that the viability of the community facility hinges on the specific array installed, nor that a less visually harmful alternative could not be designed to provide adequate cooking facilities.
11. As a result, the public benefits do not in this instance outweigh the less than substantial harm to the CA.
12. For these reasons, I find that the proposed development has an unacceptable effect on the character and appearance of the Flushing Conservation Area. It conflicts with Policies 1, 2, 5, 12 and 24 of the Cornwall Local Plan Strategic

Policies 2010-2030 (CLP) insofar as they seek to ensure development conserves and where appropriate enhances the significance of designated heritage assets, and for development to respect and enhance quality of space, complement and reflect the character of the surrounding area. There is also conflict with Policy HE1 of the Mylor Parish Neighbourhood Development Plan which supports developments which sustain and enhance heritage assets including conservation areas. Additionally, the proposal conflicts with the historic environment protection and design policies of the Framework.

Living Conditions

13. Due to the close-knit arrangement of the buildings in the area the extraction equipment is located within close proximity to residential properties.
14. The noise assessment provided in support of the scheme is detailed, however, there are queries in respect of the data that has been collected and whether this is fully representative.
15. For example, no noise readings were taken from the area to the north of the site to the back of Kersey Road. Whilst lack of access has been given as a reason, an interested party has stated that no request for access was made. Whilst modelling has been used to record the effect of noise on these locations, given that the equipment is already in place it appears there was an opportunity for testing of actual noise levels to be carried out. Given the submissions of residents of Kersey Road as to the extent of noise pollution they experience, I am not satisfied that the effect on these receptors has been satisfactorily explored in the appellant's evidence.
16. The extraction equipment at the time the noise assessment was undertaken was set to level 3, although I understand it has higher settings. The appellant states that level 3 is the maximum that can be used for safety reasons. However, no information has been provided to explain why higher levels are unsafe and the evidence before me does not allow for such a scenario to be ruled out. The appellant has suggested that modifying the fan control to prevent any setting above level 3 can be investigated, but this does not give me certainty that such a restriction in the operation of the equipment could feasibly be achieved.
17. The potential for the equipment to operate at a higher intensity to that at which it was recorded within the appellant's evidence chimes with the reports of the equipment being highly and intrusively audible outside of the site. Taking these issues into account, I am not satisfied that the noise report accurately reflects the full potential of noise effects that can be generated by the development, and I am more inclined towards the submissions of the Council and interested parties in this respect.
18. The evidence before me therefore draws on the conclusion that the proposal has an unacceptable effect on the living conditions of neighbouring occupiers. It is therefore contrary to Policy 12 of the CLP which seeks to protect individuals and property from unreasonable noise and disturbance.

Other Matters

19. Policy 5 has been included within both reasons for refusal. Whilst this policy relates to Business and Tourism, it does not appear to contain criteria relevant to the assessment of the main issues at hand in this appeal.
20. Section 66(1) of the LBCA requires the decision maker, in considering whether to grant planning permission for development which affects the setting of a listed building, to have special regard to the desirability of preserving the setting. Due to the location of the extraction equipment on the side elevation of the building it would only be seen in views from the Grade II listed building at 29 Coventry Road, due to the distance involved the setting of the listed building would be preserved.
21. The site is located within the Cornwall National Landscape (previously Cornwall Area of Outstanding Natural Beauty). Under Section 245 (Protected Landscapes (of the Levelling-up and Regeneration Act 2023 (LURA) relevant authorities must 'seek to further' the statutory purposes of Protected Landscapes. The Council conclude that the extraction system due to its scale is not thought to harm the main statutory purposes of the designation, to conserve and enhance natural beauty. Notwithstanding my findings in respect of the CA and from my own observations on site and upon reviewing the evidence I agree with this conclusion.
22. The site is within the Zone of Influence for the Fal and Helford Special Area of Conservation. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my overall conclusion on the main issues, it is not necessary for me to consider this matter in any further detail.

Conclusion

23. The proposal conflicts with the development plan as a whole, and there are no material considerations which indicate my decision should be made other than in accordance with the development plan in this instance. For the reasons given above the appeal should be dismissed.

H Faulkner

INSPECTOR