



Appeal Decisions

Inquiry opened on 14 June 2011 and was closed in writing on 5 July 2011
Site visit made on 17 June 2011

by Olivia Spencer BA BSc DipArch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 July 2011

Appeal Ref: APP/W1145/E/11/2144897

Richmond Dock, New Quay Street, Appledore, Devon EX39 1PJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Simon Maunder against the decision of Torridge District Council.
 - The application Ref 1/0384/2010/LBC, dated 8 March 2010, was refused by notice dated 13 July 2010.
 - The works proposed are new residential accommodation and community facility together with repair works to the existing listed dock walls, gates and surrounding area.
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Appeal Ref: APP/W1145/A/11/2144215

Richmond Dock, New Quay Street, Appledore, Devon EX39 1PJ

- 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 Mr Simon Maunder against the decision of Torridge District Council.
 - The application Ref 1/0383/2010/FULM, dated 8 March 2010, was refused by notice dated 13 July 2010.
 - The development proposed is new residential accommodation and community facility together with repair works to the existing listed dock walls, gates and surrounding area.
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Decisions

1. The appeals are dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Torridge District Council against Mr Simon Maunder. This application is the subject of a separate Decision.

Preliminary matters

3. Drawings 645/2/03A and 645/2/07A showing the proposed community building relocated approximately 3 metres from the boundary wall with Marine Parade were submitted following the Council's decision. The Environment Agency has confirmed that these amendments are sufficient to address the concerns raised with regard to the effect on flood protection measures and the Council has confirmed that they overcome the 4th reason for refusal. The changes shown

are minor and would have no significant impact on any interested party. I have therefore considered the appeal on this basis.

4. The appellant has submitted a section 106 unilateral undertaking to provide schemes for the renovation and maintenance of Richmond Dock and to make a contribution towards local education facilities.

Main Issue

5. The main issue is the effect of the proposed development on the special architectural and historic interest of Richmond Dock which is listed grade II*.

Reasons

6. The submitted Conservation Plan documents the substantial role Richmond Dock has played in the ship building history of the area. The site lies at the centre of Appledore where ship building on the foreshore may well have been carried out since medieval times. Certainly from the mid 18th century shipyards in Appledore had a regular and substantial output of new vessels. The dock, constructed in the middle of the 19th century and said at the time to be the largest dry dock in the Bristol Channel area, was in use for ship building and repair until the early 1980s. It is described in the Conservation Plan as 'a major monument to the thriving 19th century transatlantic trade between the English West Country and Northern Canada ... and closely associated with one of the highpoints of Appledore's prosperity in the 1860s when William Yeo was the principal local employer'.
7. This maritime history has shaped the character and appearance of the Conservation Areas that lie to each side of Richmond Dock and whilst large scale ship building moved to Bidna in 1970 Appledore retains a strong working relationship with the river and the sea. It is clear not just from the written historic evidence but also from the submissions of local residents, many of whom worked or whose families worked at the dock, that it has played a very major part in the economic and social history of Appledore. It lies both physically and culturally at the heart of the community. The working history of the dock thus has considerable significance nationally and locally.
8. The form and structure of the dock has value as a rare and interesting object but the dock is a tool, a machine for building and repairing ships. Its operation as a dry dock is thus fundamental to its significance. For this reason, and in view of its role in the working life of the community, I consider development that would prevent or seriously curtail the operation of the dock as a dry dock for the building and repair of boats would therefore amount to substantial harm to the significance of the listed structure. Policy HE9 of *Planning Policy Statement (PPS) 5: Planning for the Historic Environment* states that substantial harm to grade II* listed buildings should be wholly exceptional.
9. The proposed development would provide for restoration of the fabric of the dry dock and secure funding for its future maintenance through the provisions of the submitted section 106 unilateral undertaking. The dock is on the Buildings at Risk register and a mechanism for its repair and maintenance is undoubtedly a positive aspect of the proposal. However the development would include housing which at its closest would be only some 5 metres from the dock edge. Although complaints arising from intermittent use of the dry dock since regular use ceased in 1983 have in the most part related to late running of generators, working on boats in the dock would inevitably give rise

to noise, dust and fumes. Existing housing lies further from the dock mostly outside the dock yard wall and the need to protect the living conditions of occupiers of these dwellings would place some constraints on operations in the dock. In view of their close proximity, protection of the living conditions of future occupiers of the proposed housing in accordance with the objectives of Policies DVT11, DVT12 and DVT13 of the Torrridge District Local Plan (LP) 2004 would place very severe limits on the scale and nature of works that could be carried out.

10. Areas around the dock where materials, machinery and working could be accommodated would be limited to the proposed 'dock promenade', hard up against the new residential blocks, and to a narrow strip of land to the north of the dock and west of the proposed community building. Unlike the buildings that historically occupied the site which provided accommodation and facilities to support works in the dock, the proposed buildings would serve only to severely constrict the available ancillary working space. Although it would be possible to bring ships into the dock and carry out some works using these areas, the very limited space available would be a significant constraint.
11. Constraints would arise also from potential difficulties with commercial deliveries. It emerged during the course of the inquiry that these would have to be made via the residential access on New Quay Street and steps adjacent to the proposed blocks, through the visitor and community building area or by craning goods over the wall from Marine Parade. In these circumstances anything other than small infrequent deliveries would be likely to give rise to disturbance to future residents of the proposed flats, conflict with community activities and/or serious disruption to traffic in the narrow and busy Marine Parade. There is nothing on the application drawings to show working areas associated with use of the dock or that deliveries would be made from vehicles over the wall from Marine Parade. The lack of an objection from the Highway Authority at application stage does not therefore dissuade me from this view.
12. There is no dispute that the proposed development would place constraints on work carried out in the dock. For the reasons set out above I consider those constraints would be considerable. Further given the noise and disturbance generated by even small scale boat repairs, which Mr Pavitt for the appellant described as similar to those from a building site, it seems to me the residents of the proposed blocks would have little incentive to promote any working within the dock.
13. PPS 5 acknowledges the importance of finding a viable use to secure the future of the heritage asset and notes that the original use may no longer be possible. The optimum viable use is not however necessarily the most profitable one, but one that causes the least harm to the significance of the asset.
14. An assessment made of the dock by the owners of the Sharpness Shipyard has confirmed that large scale shipbuilding and maintenance works such as those carried out in the dock before 1970 is no longer possible given the current constraints of the site and the surrounding housing. However the harbour master Captain Hoad and other witnesses have described the recent increase in the use of small coastal vessels as road haulage costs have risen, the need for a local base and repair facilities for the Lundy Ferry and the considerable potential demands for local storage and maintenance facilities for leisure craft and for small ships including those that will be needed to serve the Atlantic Array Wind Farm. In particular Mr Glover's Severn Sea Shipping Company has

expressed an interest in the dry dock for maintenance of its Bideford based ships and Mr Watson of the Bristol Channel Ferry company gave evidence to the inquiry of his interest in the dock and yard for displacement and sea skimming craft. He stated that the lack of such facilities on the north Devon coast would place serious operating restrictions on planned new ferry routes.

15. Shot blasting is no longer generally used for hull cleaning and repair and maintenance works to ships of this scale would not necessarily be unduly noisy. Mr Pavitt confirmed that the dock was suitable for vessels of this size. Further, whilst clearing mud between the deep water cut and the gates had been necessary when the dock was used occasionally since 1983, flushing with water from the dock and regular opening and closing of hydraulic gates would enable the entrance to be largely self scouring. Disposal of contaminated material is an issue to be addressed no matter where dry dock facilities are located and is not therefore an issue specifically relevant to Richmond Dock.
16. The site has been marketed for commercial use but whilst the details submitted from the agents James Doble Commercial refer to the dry dock it is described as an open storage facility/yard. Richmond Dock is clearly well known locally and I note that the appellant informed the editor of Dry Dock magazine of the availability of the dock. However given the description of the yard in the advertising details and the condition of the site itself, which currently has no covered storage facilities or power, it is at best questionable whether as marketed it would appear attractive to businesses wishing to invest in and use the dry dock, particularly as a lease of only 3 years is offered. That notwithstanding this companies such as Mr Glover's and the Bristol Channel Ferry Company have expressed a strong interest in using the dock is convincing evidence of a potentially unmet and certainly poorly explored demand for commercial use of the dock and its yard.
17. Mr Pavitt stated that the dry dock at Penzance sometimes struggles to find work. I have seen no evidence to support this assertion and I am not fully aware of the nature and circumstances of that yard, nevertheless this does not mean that Richmond Dock serving a different area would have the same difficulties. Further I note from the evidence submitted by CASH (Celebrating Appledore's Shipping Heritage) and from Mr Heighton of National Historic Ships that charitable status and grant funding has been used successfully elsewhere to facilitate active working use of an historic dock where full commercial use has not proved viable. This is not an avenue that the appellant appears to have pursued. In respect of this and their poor marketing of the site the appellant has failed to meet the requirements of PPS 5 Policy HE9.3 and I cannot be confident therefore that an appropriate and viable use could not be found.

Conclusion on the main issue

18. The proposed development would place severe constraints on opportunities for ship building and repair in the dry dock. In the absence of convincing evidence to indicate that a viable working use cannot be found, the repair and on-going maintenance of the fabric of the dock alone is not sufficient to outweigh the substantial harm thereby caused to the heritage significance of the grade II* listed structure. I conclude the proposed development would thus fail to preserve the special historic interest of the listed dock contrary to LP Policy ENV2. In so doing it would fail also to preserve the setting of the adjacent Appledore and New Quay Street Conservation Areas, the maritime characters

of which are strongly linked visually and historically with the working of Richmond Dock. This proposal would conflict in this respect therefore with LP Policy ENV3 and Policy CO7 of the Devon Structure Plan 2004.

19. Whilst LP Policy BID17 does not require any specific use of the site the Inspector's Local Plan report makes clear that the policy avoids prescription in order to allow the primary aim of the policy; that of securing the preservation of the listed dock, to be the determining factor in consideration of development proposals for the site. Having concluded that the proposed development would fail to preserve the special interest of the listed dock I conclude also therefore that it would fail to meet the objective of LP Policy BID17.

Other considerations

20. Local residents have raised concerns with regard to the mass and height of the proposed residential blocks. Having considered them carefully in the context of surrounding buildings including the former glove factory and mindful of the scale of former buildings on the site I have come to the view that they would not appear jarring or out of place. In view of my conclusion on the main issue however a lack of harm in this respect provides no justification for the proposed scheme.
21. In coming to my decisions I have had regard to the Ministerial Statement *Planning for Growth* published in March this year which sets out the Government's objective for promoting sustainable growth and jobs. This has most recently been carried through to the consultation draft of the *National Planning Policy Framework*. The documents promote a generally positive approach to development. However, as a working dock the site has the potential to provide a number of jobs and valuable infrastructure to support the regeneration of the maritime economy and sustainable transport in the area. And once lost, heritage assets cannot be replaced. Their loss has a cultural, environmental, economic and social impact. This emerging policy thus provides little to weigh against the very substantial harm I have identified.

Section 106 unilateral undertaking

22. The education contribution is based on the number of children likely to occupy the proposed dwellings and the impact those children would have on the local primary school which currently has a shortfall of places. I am satisfied therefore that the contribution is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind. I have therefore taken this contribution into account in coming to my decision.

Conclusion

23. For the reasons given and having regard to all other matters raised I conclude that the appeals should be dismissed.

Olivia Spencer

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Burns of Counsel	Instructed by the Council's Legal Department
He called	
Mr L Andrews BA(Hons) MTP GDL GDLP	Planning Officer
Ms S Chappell BSc(Hons) DipTP MRTPI	Conservation Officer
Mr S Wells	Environmental Protection Officer

FOR THE APPELLANT:

Mr S Morgan of Counsel	Instructed by Mr S Sensecall Kemp and Kemp Property Consultants
He called	
Mr J Pavitt	John Pavitt Engineers Ltd
Mr S Sensecall BA(Hons) DipTP MRTPI	Partner Kemp and Kemp

INTERESTED PERSONS:

Mr C Watson	Technical Director BCF (Bristol Channel Ferry)
Capt. R Hoad	Harbour Master
Mr M Heighton	National Historic Ships
Mrs J Arnold	Local resident
Mr A Eastman	Local resident
Mr T Lowry MICS	Former Chairman of Freight by Water
Mr M North	Secretary of CASH and local resident
Mr R Ker	Chair of CASH and local resident
Mr C Marrow	Mariner and former ferry operator
Mr E Tomlinson MSc	Member of CASH and local resident
Mr T Mason	Local resident
Mr P Callaghan	Local resident
Mr N Arnold	Local resident
Mrs J Avery	Local resident
Mr D Avery	Local resident
Mr B Hughes	North Devon Maritime Museum
Mr J Bell	Local resident
Mr P Sparkes	Local resident
Mr K Jones	Local resident
Mr C Done	Local resident
Mr S Cole	Local resident
Mr N Carthew	Local resident
Cllr R Osborne	Northam Town Council
Mr D Carter	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Signed Statement of Common Ground
- 2 Bundle of correspondence submitted by the Council
- 3 Plan showing adjacent non-residential uses submitted by the Council
- 4 Bundle of statements submitted by CASH
- 5 Preamble to LP Policy ECD4
- 6 Letter from Mr Heighton to the Council dated 23.05.11
- 7 Statement submitted by Mr Eastman
- 8 Plan showing position of New Quay slip
- 9 Statement submitted by Mr North
- 10 Statement and appendices submitted by Mr Ker
- 11 Suggested conditions submitted by the Council
- 12 Statement summary submitted by Mrs Arnold
- 13 Appledore Area Design Statement submitted by CASH
- 14 Extract from Dry Dock magazine submitted by CASH
- 15 Draft section 106 unilateral undertaking submitted by the appellant
- 16 Appellant's email to Dry Dock magazine submitted by the appellant
- 17 Final version section 106 unilateral undertaking submitted by the appellant
- 18 English Heritage Press Release submitted by Mr Ker
- 19 Historic photograph of the slipway building submitted by Mr Arnold
- 20 Statement from Northam Town Council submitted by Cllr Osborne
- 21 Watercolour of the dock area c.1798 submitted by Mr Arnold
- 22 Statement submitted by Mr Carter
- 23 Statement submitted by Mr Mason
- 24 Signed section 106 unilateral undertaking submitted by the appellant
- 25 Suggested condition relating to use of the northern land submitted by the appellant
- 26 Statement submitted by Mr Arnold
- 27 Suggested archaeology condition submitted by the Council
- 28 Costs application by the Council
- 29 Appellant's response to the costs application submitted by email on 29 June 2011.

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