



# **IHBC SOUTHWEST BULLETIN WINTER 2022**

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**Alex Marsh  
Editor**

## 1. Heritage News

### **Environment Act 2021**

The Environment Act 2021 received Royal Assent on the 9th November 2021 to address environmental protection and the delivery of the Government's 25-year Environment Plan.

The Act will clean up the country's air, restore natural habitats, increase biodiversity, reduce waste and make better use of our resources. In it are Conservation Covenants that include historic sites and archaeology.

The Environment Bill contains a new statutory scheme to allow the creation of conservation covenants in England and Wales. Broadly, a conservation covenant is a private, voluntary agreement made between a landowner and a conservation body to secure conservation measures relating to the land which endure changes in ownership.

Such a scheme was recommended by the Law Commission in its report of June 2014. The Law Commission identified that the rules of English property law militated against the creation of conservation covenants. In particular, generally it is only possible to bind freehold land in the long-term including future owners if the covenant binding the land benefits neighbouring land (as opposed to the public good) and it comprises a negative obligation (ie a promise not to do something) as opposed to a positive obligation (ie a promise to do something).

Thus, if a conservation body does not have an interest in the "conservation land" or in some cases neighbouring land, it is difficult for it to secure durable conservation measures.

Whilst there are some statutory exceptions (the National Trust has some limited rights), or sometimes potentially costly and complicated legal workarounds such as sale and leaseback have been used, the net effect is that unlike in other jurisdictions there is no legal framework which generally allows private landowners to enter into long-term binding commitments with relevant bodies to promote conservation objectives.

To qualify as a conservation covenant provisions in an agreement must:

- relate to land where the landowner holds a freehold interest or a leasehold interest where the lease was granted for more than seven years (a “qualifying interest”);
- require the landowner to do or not to do something on the land or to allow the responsible body to do something on the land, or require the responsible body to do something on that land; and
- have a conservation purpose and be intended by the parties to be for the public good. **The definition of a conservation purpose is wide. It includes notions of protection, restoration and enhancement and it encompasses the natural and manmade environment, natural resources and archaeological, architectural and cultural matters.**

### **RTPI SW AWARDS FOR PLANNING EXCELLENCE 2021 - EXCELLENCE IN PLAN MAKING PRACTICE**

Highly Commended: **Torbay Heritage Strategy 2021-2026**

Torbay Heritage Strategy is the result of a significant review of heritage in the Bay. It was conducted in 2020 and involved extensive consultation and consideration of the changes in local and national plans and policies. The Strategy is rooted in the needs and aspirations of Torbay and its residents.

It provides a pathway for Torbay's fascinating and significant heritage: A chance to be more ambitious about how Torbay's heritage can be at the heart of the visitor economy, used - and re-used - by local communities, and renewed in a responsible and inclusive way.

The judges said that “This is an innovative example of the planning and heritage /culture professions working together to maintain and enhance the natural and built environment of a major settlement. The Judges were also pleased to receive evidence that the work was already feeding into the up-dating of the Local Plan, complementing the area's three Neighbourhood Plans, contributing to the up-dating of the Urban Design Guide and Conservation Area Appraisals and has raised the profile of heritage both locally in Torbay and externally with bodies such as Historic England.

## 2. Recent Appeals - Replacement uPVC Windows in Conservation Areas.

The replacement of Windows in the Conservation Areas and Permitted Development have featured in a couple of interesting Planning Appeal decisions recently in south Devon.

The first is a top floor flat within a three-storey building in the Teignmouth Town Centre Conservation Area. The proposal is to replace two windows in this elevation. The Conservation Area is characterised by development associated with the growth of Teignmouth as a fashionable seaside resort during the 19th and early 20th Centuries. The Inspector noted that the ground floor were mostly modern shop fronts and the upper floors remain largely unaltered, with the fenestration making a positive contribution to the character and appearance of the area.

The existing windows in the appeal property are sliding sash and constructed of painted timber. Slender glazing bars divide the windows into multiple panes. The proposed replacements uPVC windows were described.

*'Although the proposed replacement windows would have an identical glazing pattern, no information is provided on the width or profile of the glazing bars, or whether these elements would be attached to the outer face of the glass or sandwiched between the panes.*

*Each window would comprise a pair of top hung casements, one above the other. The wide overlapping frame on each opening element would look clumsy when the windows are in the closed position and alien when they are hinged open. The vertical sliding arrangement and visual depth arising from the overhang of the upper sash above the lower one, both characteristic features of traditional sash windows, would be notably absent.*

*Furthermore, the plastic frames would have a stark, engineered appearance and this would help draw attention to the windows as unsympathetic alterations within the Conservation Area.'*

The benefit of having a Conservation Area Character Appraisal was supported as the Inspector noted that,

*Teignmouth Town Centre Conservation Area Character Appraisal explains that modern replacement materials, including uPVC windows, are wholly incongruous, and their use in high numbers significantly harms the authenticity of the area's architectural and historic qualities'.*

The justification for the replacement windows was there current poor condition however it was noted that there was no substantive evidence to show that the timber joinery is beyond repair, or that the windows could not be replaced on a like-for-like basis.

It was acknowledged that timber windows require periodic painting but this was substantive reason to use uPVC and it was viewed that provided that they are properly maintained, timber windows do not significantly compromise living conditions within the flat.

A precedent case was considered by the Inspector; who was shown a number of properties with similar uPVC replacement windows. It was viewed that these replacement windows had a deleterious effect on the character and appearance of the Conservation Area and that to allow the proposal would only add to this erosion of the special character of the the Conservation Area

**Appeal Ref: APP/P1133/W/17/3187909**  
**Planning Application Teignbridge District Council 17/01543/FUL**

The second case related to a two storey Victorian property with prominent original large gable dormer onto Fore Street, Chudleigh, Devon, the main road through the village. The property had a side access between properties to the front door.

An Enforcement Notice against the unauthorised replacement of all windows on the front and side elevation with uPVC windows and the installation of timber window to match in design form and materials and glazing the original windows evidenced by photographs.

The first issue was whether the installation of the uPVC windows is permitted development under Article 3 Schedule 2 Part 1 Class A of the Town and Country Planning Act (General Permitted Development) (England) Order

2015 as amended (GPDO). Under Class 6 Planning Permission is granted for 'enlargement, improvement or other alteration of a dwellinghouse.'

This class of Permitted Development is subject to a number of conditions and the condition in dispute is paragraph A.3 a) which states that 'the materials used in any exterior work...must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.'

The Inspector considered that the issue was the comparison to be made between the materials used in the uPVC windows, are similar (i.e. like but not identical) to those used in the dwellinghouse as a whole, as it existed before installation of the uPVC windows. Based on the evidence the principal materials previously used in the external construction of the dwellinghouse were render and a dark coloured timber, being traditional materials contemporary to the period of the house.

The Inspector noted that the appeal referred to a 'wood grain' effect to the white uPVC window although this was not evident on site, rather the windows had a smooth texture and finish unlike the previous window materials to the dwelling house. The uPVC also used is an off-white colour, which contrasts with the darker colour of the previous timber windows.

The Inspector considered the supporting guidance 'Permitted Development Rights for Householders Technical Guidance' 2019 It references Condition under A.3 and states 'it may be appropriate to replace existing windows with new uPVC double glazed windows even if there are no such windows in the existing house ' However the guidance advises they should give a 'similar visual appearance to those in the the existing house.'

On this evidence the Inspector found that the materials used in the construction of the uPVC windows are not of similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Consequently, the installation of the uPVC windows does not accord with Condition A.3 (a).

The enforcement notice also allows an appeal under ground A that Planning Permission should be granted for what is alleged in the notice. The appeal

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property is an un-listed, historic building in the centre of the Chudleigh Conservation Area.

It was acknowledged that some of the previous windows at the appeal property were metal, recent additions and/or in need of repair. However, from the photographs it was considered that the varied previous fenestrations at the appeal property added visual interest to both the front and side elevations. The painted timber sash windows were also in keeping with this strong character feature of the Conservation Area.

The replacement uPVC windows were in a 'Georgian style', these windows are an inappropriate feature on this historic building by reason of the homogeneity of their design. The shared attic level fenestration design with the adjacent building has also been lost to the detriment of the group value of the adjacent unlisted buildings.

The Inspector concluded that the uPVC windows were unacceptably harmful to the character and appearance of the building and the Conservation Area.

**Appeal Ref: APP/P1133/C/19/3226057**



**Appeal Site 72 Fore Street Chudleigh**

### 3. Training Event & Project

#### RTPI South West Heritage

**13 September 2022, The Guildhall, Bath**

This one day seminar invites you to explore the importance of heritage assets and how we can protect and enhance heritage while delivering housing and meeting the Governments climate reduction aims. Furthermore, this seminar explores how can we use heritage to revitalise our high streets and businesses.

Details of this event will soon be listed on the RTPI website

#### UK HERITAGE PULSE



Join UK Heritage Pulse – a collaborative research project for the heritage sector We're working with the National Lottery Heritage Fund to build [a panel of heritage professionals](#) to share views and knowledge to inform strategy, recovery and the reinvention of the sector post-Covid-19.

We're inviting anyone that manages or supports any type of heritage in England to take part. The information you share through our quarterly UK Heritage Pulse surveys will:

- Contribute to making the case for continued investment in heritage
- Influence our work and ensure that what we do, and the decisions we make, are relevant and beneficial to all our sector partners and audiences
- Help us speak up for heritage and its vital importance for places, people and communities across the UK

In return, you will:

- receive updates with actionable insight that you can use in your organisation
- be invited to join in webinars to discuss the results around topics such as resilience during Covid-19 recovery, financial health, diversity and inclusion, and public engagement.



## 4. Obituary

Nick Cahill – historian, teacher and champion of the Cornwall's rich heritage

'It's so much darker when a light goes out than it would have been if it had never shone'

John Steinbeck

Our March 2020 Cornish Buildings Group meeting was like any other. Minutes were approved, agenda items were discussed, AOB put to bed and, at a typically late-hour, we all said our fond farewells, contented that we had done some good in the world. Yet, this proved to be a meeting that none of us will ever forget, for this was the last-time we shared an evening with our esteemed colleague and friend, Nick Cahill. That evening I sat next to Nick and, as always, witnessed first-hand a masterclass in how reason, insight and humour can be used to tackle problems, assess situations and offer solutions. Nick Cahill was born in Southampton, studied Modern History at Oxford and completed his post-graduate degree in English Local History at Leicester. Despite specialising in early medieval history his career path of choice was the historic environment, in particular the relationships between landscape, archaeology and buildings. In the 1980s and early-1990s he worked on the national Accelerated Listing Survey and produced vernacular building reports for the National Trust. He first moved to Cornwall in 1991 to work at Carrick District Council but soon moved to London where, in 1994, he met his wife Mary. Once back in Cornwall in 1998 he established himself as a much respected heritage and conservation professional.

In 2000 Nick and Mary founded the Cahill Partnership, a conservation-planning and historic building consultancy focussing on the archaeology, character, development and history of historic settlements and landscapes – his reports brilliantly evaluated significance against the challenges ahead. Perhaps, his greatest success was his participation in producing 41 *Cornwall Industrial Settlement Initiative (CISI)* reports which defined the history and importance of Camborne and Redruth, St Austell, St Just, St Day and Gwennap, Tamar Valley and Truro (all 2002); Caradon and Liskeard, North Cornwall and St Agnes (2004) and Hensbarrow (2005). For many this would prove an all-consuming task however, Nick still found time to work on the *Hayle Historic Assessment* (2000) for English Heritage and Cornwall Council; act as conservation supervisor for the *Cornwall and Scilly Urban Survey Historic characterisation for regeneration* (2002) project and found time to

co-author *Tintagel, Cornwall. Characterisation Assessment* (2003) and *Keigwins, Mousehole* (2007) for Victoria County History. Other co-authored published articles appeared in *Hampshire Studies* (1987) and *Cornish Archaeology* (2004, 2011).

Nick's career within the unitary authority ebbed-and-flowed, a consequence of several reorganisations. In 2010 he was Acting Historic Environment Advice and Policy Manager at Cornwall Council, a post responsible for the 22 conservation officers, grants officers and planning advice archaeologists. He was latterly Historic Environment Strategy Officer and Historic Environment Policy and Information Team Leader. Whatever his job title his advice relating to the impact of the proposed developments on the historic landscape, archaeological sites and listed buildings, was invaluable. Some of this work ended up in various co-authored reports such as the *Penzance Townscape Heritage Initiative* (2010).

'I've learned that you shouldn't go through life with a catcher's mitt on both hands; you need to be able to throw something back'.

Maya Angelou

There is no doubt that Nick was a great academic, having a magpie-mentality for gathering information and an instant recall when asked a question. Indeed, if I had a pound for every-time I have heard the phrase 'we should ask Nick' I would be a rich man. Yet, for many, his lasting legacy will be the impact he made on others.

A first-rate tour guide and lecturer, Nick regularly led walkabouts (in his trademark hat and scarf) and gave entertaining talks, unstintingly sharing his encyclopaedic knowledge and engaging wit with a wide range of attentive groups including Historic England, statutory authorities and national and local interest groups. His remarkable ability to put his audiences at ease with his accessible and easy personality, down-to-earth style and boundless enthusiasm, meant that organisers could rest assured that any event involving Nick would be a triumph. Moreover, there were few topics he could not talk learnedly about including Cornish landscapes, farmsteads and Nonconformist chapels or specific places including those he greatly valued including Lostwithiel ('the fairest of small cities'), Penzance, Porthmeor Studios and St Ives. Nick's talent for connecting people, explaining complex issues in plain English and building trust marked his generous nature both as an intellectual and as a human being.

Nick's inspirational character made him the ideal chairman material for the Cornish Buildings Group, unfortunately his position as chair (2009-10) was short-lived by an understandable conflict of interest with his day-job. He loyally served on the CBG council for some 15 years during which time we benefitted enormously from his wisdom and insight. Not surprisingly, other groups and committees pulled on his time, the long-list of groups now bereft of one of their main consultants include the 20<sup>th</sup> Century Society (SW), the Institute of Historic Building Conservation, Cornwall Buildings Preservation Trust, Cornwall Design Review Panel, Cornwall Area of Outstanding Natural Beauty, the Truro Diocese Advisory Committee and Truro Cathedral Fabric Advisory Committee, of which Nick served as vice-chair.

For me personally Nick was a great inspiration and mentor. We shared similar backgrounds, both proud Sotonians, a topic that initiated a thousand conversations. We both moved to Cornwall in the late-1990s seeking fresh challenges and immediately became firm friends as we encountered each other at various meetings. Over the years we challenged each other on the finer points of Cornish architecture, slayed the odd sacred cow or two, and networked with the same circle of colleagues and friends. Like many, I owe Nick a lot. He gave me confidence, support and guidance. He was keen to put my name forward for things he wasn't so keen to do himself and, of course, was always the first to tell me when I was going wrong. Needless to say, I benefitted greatly from his modest, understated, genius and learnt so much just by listening and watching him –I cherished our comradery.

...mediaeval historian manque, lapsed architectural historian, really appallingly bad local authority operative....

Nick Cahill (Twitter profile)

Nick's (little used) Twitter profile at first glance does him a great disservice however, it perfectly sums-up his modesty and self-deprecatory sense of humour.

Together we shared a misplaced sense of humour. Dry meetings would be brightened by exchanging sideways glances when some *double-entendre* or indiscretion was uttered. Honestly, what 'the great and the good' must have thought of us at times! It wasn't uncommon for the pair of us to be sniggering like a pair of primary school children who had first stumbled upon a rude word. Nick's mischievous nature was often on display at Cornish Buildings Group events when he would try and make me laugh, mid-

presentation, by shouting out some irrelevant, sometimes rude, comment or when he would suggest we divert *en-route* to the second-half of an event or outing to grab a cheeky pint and/or pasty.

Nick's premature death has deprived us all of an esteemed colleague and friend, a brilliant academic, true gentleman, enthusiastic teacher and skilled mentor. Cornwall has lost an enthusiastic champion of the built environment and contrary to his Twitter profile, a great medievalist, architectural historian and professional ambassador. More importantly, his family's loss is immeasurable.

We mourn his passing but celebrate his shining legacy.

PAUL HOLDEN (chairman 2010-18)

Nick's paper 'When I first took a plan of the ground...' John Wood the Younger in Cornwall: a universal Enlightenment vision adapted to Penwith particularities? will be published in the *Cornish Buildings Group Conference Proceedings (2021)*.

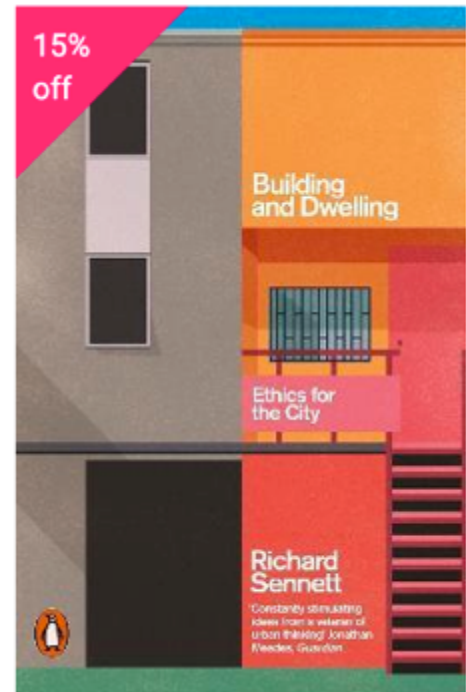
Nick's legendary presenting style can be seen on 'Fish, Tin & Light; Chronicles of St Ives' a film commissioned by Porthmeor Studios.

<http://stivestv.co.uk/all-st-ives-tv-videos/fish-tin-light-chronicles-st-ives/>

## 5. Books

**Building and Dwelling: Ethics for the City**  
**Paperback – 22 Feb. 2018**  
**by Richard Sennet**

In *Building and Dwelling*, Richard Sennett distils a lifetime's thinking and practical experience to explore the relationship between the good built environment and the good life. He argues for, and describes in rich detail, the idea of an open city, one in which people learn to manage complexity. He shows how the design of cities can enrich or diminish the everyday experience of those who dwell in them.



The book ranges widely - from London, Paris and Barcelona to Shanghai, Mumbai and Medellin in Colombia - and draws on classic thinkers such as Tocqueville, Heidegger, Max Weber, and Walter Benjamin. It also draws on Sennett's many decades as a practical planner himself, testing what works, what doesn't, and why. He shows what works ethically is often the most practical solution for cities' problems.

This is a humane and thrilling book, which allows us to think freshly about how we live in cities. The experience and wisdom of the author are visible on every page. His voice is distinctive and engaging. It should attract anyone interested in the physical circumstances of civilization

### **Bulletin Editors Comment**

This is the quarterly Bulletin for the IHBC SW Branch. It looks to highlight relevant news and best practice in the South West and things of interest from elsewhere.

I would welcome contributions from members in the South West as the best way to make this Bulletin relevant and worthwhile. I look forward to receive contributions on any topic, be it buildings, people or anything else members feel might be relevant and of interest. Please attach relevant photographs with contribution as these help make the Bulletin of visual interest and saves a lot of words!

Please note that Bulletin is made up from a variety of Contributor's and the Editor holds no responsibility for the viewpoints expressed or information provided.

