

Appeal Decision

Site visit made on 19 June 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 29th June 2017

Appeal Ref: APP/D0840/W/17/3167590

Bel Air, Rosehill, Marazion TR17 0HB

- 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 H Richards against the decision of Cornwall Council.
 - The application Ref PA16/04574, dated 12 May 2016, was refused by notice dated 19 August 2016.
 - The development proposed is described on the application form as 'demolition of existing garage and construction of self-contained annexe accommodation'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and construction of self-contained annexe accommodation at Bel Air, Rosehill, Marazion TR17 0HB in accordance with the terms of the application Ref PA16/04574, dated 12 May 2016, subject to the schedule of conditions to this decision.

Preliminary matters

2. Policies of the Penwith Local Plan adopted in 2004 (the 'former plan') were cited in the decision notice. These have been superseded by the Cornwall Local Plan Strategic Policies 2010-2030 adopted on 22 November 2016 (the 'Local Plan'). All parties have, however, had the opportunity of commenting on this changing policy context at appeal.

Main issues

3. The main issues in this case are whether or not the development proposed is tantamount to the creation of a new dwelling, and the effect of the proposal on the Marazion Conservation Area (the 'MCA').

Reasons

Whether or not a new dwelling

4. It is intended that the proposed building is used as an annexe to the property named Bel Air rather than as an independent dwelling.¹ In the abstract, conditions on grant of consent can ensure that annexes are ancillary.² However it is legitimate to consider whether or not a particular proposed annexe would in actuality represent an independent dwelling, for example on account of its

¹ Section 75(2) of the Town and Country Planning Act 1990 as amended sets out that 'where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used'.

² Appendix A of Circular 11/95: Use of conditions in planning permission contains such a model condition (No 47).

nature or location. If this were the case a condition restricting the use thereof may not be enforceable. Size is not the only factor in this judgement.³

5. The Local Plan contains no specific policies on residential annexes. In my view this does not, however, mean that policies are 'absent' in this respect; Local Plans cannot realistically set policies for all types of development. The appellant has drawn my attention to a document prepared by the Council in this context entitled Annex Guidance Note ('AGN').
6. Whilst not part of the development plan, the AGN explains the factors that the Council will take account of in reaching a decision as to whether a proposed annex would be tantamount to an independent dwelling. These factors represent logical considerations, and I understand that the AGN has been subject to some local consultation.
7. The Council's officer report sets out that the proposal would be within the same ownership as Bel Air, fall inside its residential curtilage with shared vehicular access, and that no demarcation of a separate plot is proposed. This brings the proposal into compliance with criteria b, c, and e, of the AGN.
8. The annexe would furthermore be in close proximity to Bel Air, as close or closer in parts, than the existing garage.⁴ This proximity means that the annexe would not readily lend itself to severance from Bel Air or to separate occupation given the close-interrelationship between the two.
9. The floorspace proposed would exceed that of the existing detached garage. Nonetheless it would be significantly smaller than Bel Air, notwithstanding the absence of precise figures in this regard. Thus in terms of floorspace, the annexe proposed would be subservient to Bel Air.
10. The maximum ridge height proposed would be broadly comparable with that of Bel Air. However the south-westerly elevation of the building proposed, i.e. that facing the direction in which most public vantage points are from, would be significantly narrower than Bel Air, and its overall bulk further reduced by this element being a gable end. On balance, the proposal would have a reasonable degree of subservience to the host dwelling and thereby comply with criterion f of the AGN.
11. For the above reasons, the physical characteristics of the proposal would result in the building proposed appearing as a residential annexe rather than separate unit. Therefore, and with regard to the reasoning above, in this instance a condition restricting the use of the annexe as part of the residential use of Bel Air would be suitable. This would thereby bring the proposal into compliance with criterion a of the AGN, i.e. the functional link between the annexe with Bel Air would be secured.⁵ I therefore conclude that the proposal would not be tantamount to the creation of a new dwelling.

Character and appearance

12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or

³ Decisions elsewhere cited by the appellant indicate that permission has been granted for annexes exceeding the 79 square metres floorspace proposed here, whilst all proposals must be treated on their individual merits.

⁴ As shown in particular on plans 365-02 and 365-05.

⁵ Notwithstanding that it is intended that the annexe has facilities necessary for day-to-day living such as a kitchen, bathroom and bedroom.

enhancing the character or appearance of Conservation Areas. This is essentially the same approach as in criterion d. of policy 2 'Spatial Strategy', policy 12 'Design' and policy 24 'Historic environment' of the Local Plan.

13. The National Planning Policy Framework (the 'Framework') recognises that not all elements of a Conservation Area will necessarily contribute to its significance. It also establishes that 'great weight' should be given to the conservation of designated heritage assets. The Planning Practice Guidance (the 'Guidance') provides further advice as to how development can be brought forward with appropriate regard to its context.⁶
14. Bel Air is at a westerly reach of the MCA. At an elevated hillside location with south-westerly views of Mount's Bay, it is adjacent to the Memorial Gardens, which is identified in the Marazion Conservation Area Appraisal dated March 2010 ('MCAA') as an area of important public space. To the east the plot of Bel Air abuts an open area demarcated by traditional field boundaries identified in the MCAA as part of an area of landscape value.
15. There are two relatively distinct areas of the MCA. The first is the close knit ribbon of properties along West End, North Street and towards Fore Street, the principal coastal route through Marazion. This area is referred to in the MCAA as 'the core settlement' which is 'densely developed along the street frontages'. Narrow historic carriageways and imposing historic buildings result in a characteristic sense of enclosure here. The topography rises from this historic ribbon to the hillsides of Marazion. However around the Memorial Gardens northwards along Rosehill, the pattern of development changes notably. Properties here are predominantly detached, set in spacious plots, and reflect the more recent expansion of the town.
16. Bel Air is part of this latter area. It is a property of plain mid-twentieth century appearance, as indeed is its neighbour Ocean's End. The neighbouring property, apparently named Dysons Wood, had been demolished at the time of my site visit, pursuant to planning permission Ref PA17/00872. The officer report associated with that permission described the former property as not 'worthy of protection and enhancement due to its age and quality of construction'. Dyson's Wood is set to be replaced with a new building, slightly taller than its predecessor, featuring render, cladding and modern glazing.
17. Properties along Rosehill are referenced in the MCAA: 'overlooking the cemetery are a number of mid-late twentieth century buildings marking the edge of the settlement. These are generally of bland design and relate little to the historic landscape...'. This in my view accurately describes Bel Air, Ocean's End and Dysons Wood also.
18. I acknowledge that Bel Air abuts the memorial garden, that the building proposed would be slightly closer thereto than the existing garage, and the height of the annexe would exceed that of the garage. However there is a substantial level change from the Memorial Gardens to the appeal site, such that views of the annexe proposed would be extremely limited from within the Memorial Gardens.
19. There are very few views of Bel Air from within the historic ribbon of Marazion on account of its enclosed nature described above. Where views are possible,

⁶ In particular Reference ID: 26-007-20140306.

and indeed where possible from the coastline, the development proposed would represent a minimal and distant change. Indeed I have identified in respect of the first main issue that the building proposed would on balance be visually subservient to Bel Air.

20. Whilst the proposal is for a building of modern design which does not reflect that of Bel Air, neither Bel Air nor the design of building that it represents, contribute meaningfully to the MCA and consequently there is no rationale for ensuring continuity. Indeed as neighbouring Dyson's Wood is being replaced by a modern building, and as other properties nearby are of contemporary design,⁷ there is nothing inherent in the appearance of the proposal to indicate that harm to the MCA would result.
21. I therefore conclude that the proposal would have no adverse effect on the Marazion Conservation Area. Consequently no conflict arises with relevant statute cited above, the relevant provisions of policies 2, 12 and 24 of the Local Plan, or with relevant elements of the Framework.

Conditions

22. I have imposed a condition requiring compliance with the relevant plans in the interests of certainty. I have also imposed a condition specifying that the use of the annexe must be ancillary to the residential use of Bel Air to ensure that the proposal does not give rise to an independent dwelling (and thereby entail different planning considerations to those addressed in this appeal).
23. To ensure that the proposal integrates appropriately with its surroundings it is also necessary to impose conditions requiring that agreed external materials are used and a landscaping scheme implemented. Whilst the former needs necessarily apply only to relevant building operations, the latter must be agreed before any development is undertaken in order to avoid any adverse effect to existing trees or plants present and hence to the character of the area. In imposing conditions I have had regard to relevant requirements,⁸ and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

Conclusion

24. For the above reasons, and having taken all other matters raised into account, the proposal complies with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be allowed subject to the conditions as set out below.

Thomas Bristow

INSPECTOR

⁷ As acknowledged in paragraph 5.6 of the Council's appeal statement.

⁸ Including paragraph 206 of the Framework, Guidance Reference ID: 21a-004-20140306 and Article 35(1)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: '365 – 02', '365 – 04', '365 – 05'.
- 3) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Bel Air.
- 4) No development hereby permitted other than demolition, site preparation and groundworks shall take place until details of the external materials to be used have been agreed in writing by the local planning authority (including doors, windows, lintels, sills, stonework and render). Development shall be carried out in accordance with the details thus agreed.
- 5) No works shall take place until a landscaping scheme has been agreed in writing by the local planning authority (which shall include details of all existing trees and hedgerows that may be affected by development and measures for their retention and protection, a full schedule of plants, trees, shrubs, and hedges proposed including their mix, size, distribution and density, and of maintenance and management arrangements).

The agreed retention and protection measures shall be implemented before the development hereby permitted is begun, and shall remain in place until operational development is completed.

The agreed landscaping scheme shall be implemented in the first planting season following the first occupation of the annexe as such or the completion of the operational development hereby permitted (whichever is the sooner). Any plants, trees or shrubs which die, become damaged, or are removed within a period of 5 years from the implementation of the landscaping scheme shall be replaced in the next planting season with others of a similar size and species as those originally planted.