
Appeal Decision

Site visit made on 9 August 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 11 August 2017

Appeal Ref: APP/D0840/D/17/3172648

12 Thornberry Terrace, Access to Lescudjak Terrace and Thornberry Terrace, Penzance TR18 3AH

- 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 & Mrs Matthews against the decision of Cornwall Council.
 - The application Ref PA16/10512, dated 8 November 2016, was refused by notice dated 3 January 2017.
 - The development proposed is the erection of a balcony.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. This appeal follows unsuccessful proposals for similar development.¹ I have, however, determined the proposal before me on its particular merits.
3. Were I to allow the appeal, the Council propose a condition requiring obscure glazed privacy panels a minimum of 1.8 metres high to be installed.² However these panels are not part of the scheme before me, and I therefore cannot legitimately alter the proposal in this regard.³

Main issues

4. The main issues are whether or not the development proposed would preserve or enhance the character or appearance of the Penzance Conservation Area, and the effects of the development proposed on the living conditions of the occupants of nearby properties.

Reasons

5. 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 enhancing the character or appearance of Conservation Areas. Policy 24 'Historic environment' of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted November 2016, the 'Local Plan') essentially reiterates this approach.

¹ Ref PA14/10156, PA15/10911 and PA16/04805.

² Section 11.d. of the appeal questionnaire.

³ With regard to the Planning Practice Guidance, Reference ID: 21a-012-20140306.

6. The National Planning Policy Framework (the 'Framework') sets out that great weight should be given to the conservation of designated heritage assets. It further establishes that any harm that would result from development proposed should be balanced against the public benefits that would arise.
7. No 12 Thornberry Terrace is an end-of-terrace property within the Penzance Conservation Area ('PCA'). It is of a modest Cornish vernacular with traditional stone walls, stone lintels, natural slate roof, and a largely symmetrical principal elevation. No 12 is therefore characteristic of many properties nearby including those along nearby Lescudjack Road, and Leskinnick Terrace.
8. There is some variety in the scale, design and detailing of properties nearby. It appears that this results principally from the historic construction of properties in small batches to differing specifications, and in order to respond to the changing topography. Some have also been altered over time, principally through the replacement of original boundary features and windows.
9. Nevertheless there are clear commonalities in properties nearby, and those within the PCA more generally. Elevations facing streets are typically strongly symmetrical. Properties have a high solid to void ratio (in respect of walls to windows or door openings). External materials are almost universally stone and natural slate. The area therefore possesses a clear ordered historic integrity, which is reflected in, and reinforced by, the present appearance of No 12.
10. The proposal is to create a balcony leading via French doors from a first floor bedroom of No 12. This would have an asymmetric form reflecting the confines of the plot and its common boundary with No 13 Thornberry Terrace. The appellants' Design and Access Statement specifies that the balcony will be constructed in 'galvanised steel supports with a timber joist/ plywood decking that will be finished with a grey fibreglass, the balcony will be surrounded with metal and toughened glass balustrading 1100mm high...'.
11. I acknowledge that the existing projecting bay window at first floor level of No 12 is not an original feature and as such its replacement with French doors would have a neutral effect. Whilst I accept that there are a number of balconies present in the wider area, that there are few, if any, apparent in the vicinity of the appeal site associated with the modest vernacular type of housing that No 12 represents.
12. In this context the balcony proposed would disrupt the existing traditional symmetry of the property by virtue of its significant scale relative to the original property and its asymmetric form. The materials used would be of lightweight, modern and engineered form, which would be in stark contrast to the prevailing characteristics of properties within the PCA.
13. Moreover the eastern elevation of the dwelling proposed is relatively prominent in the street scene. The topography rises from Chyandour Cliff, part of the principal coastal route through Penzance, towards the appeal site such that No 12 occupies a commanding position. No 13 is sunken in the topography, being set down significantly from the street such that its form would afford little screening of the balcony proposed. Whilst there is a tree and some vegetation in land nearby, the screening of the balcony proposed afforded as a

consequence would be partial. There is no certainty that these features would be retained as such, being within separate ownership.

14. For the above reasons I find that the development proposed would not preserve or enhance the character or appearance of the PCA in conflict with policy 24 of the Local Plan and relevant elements of the Framework. Given that there is some variety in the design of nearby properties, and as the proposal would affect a modest element of the PCA as a whole, I find that the harm arising can fairly be described as less than substantial.⁴
15. Nevertheless the Framework sets out that 'great weight' should be given to the conservation of designated heritage assets which must be balanced against the public benefits of the development proposed. Whilst I accept that the balcony proposed would be beneficial to the occupants of No 12 and the views that they are able to enjoy, these are private rather than public benefits. As such they do not outweigh the public harm that would result.

Living conditions

16. Policy 12 'Design' of the Local Plan requires that development protects individuals from overlooking and unreasonable loss of privacy, overbearing impacts, and unreasonable noise and disturbance. Similarly bullet point 4 of paragraph 17 of the Framework sets out that planning should always seek to secure a good standard of amenity for all occupants of land and buildings.
17. The balcony proposed would be set hard up against the common boundary with No 13 Thornberry Terrace. As established above No 13 is sunken in the topography. No 13 and its outside space is furthermore significantly enclosed by the traditional boundary wall which runs alongside Thornberry Terrace, and by the existing presence of No 12 itself.
18. I observed that it is possible to overlook the outside space associated with No 13 through the projecting bay window of No 12, and through windows in the rear elevations of several properties fronting Coastguard Crescent. Therefore whilst the proposal would have some effect in reducing the degree of privacy from which the occupants of No 13 currently benefit and in creating an increased sense of enclosure, this would not in my view be unacceptable given the existing context here. Moreover the eye of balcony users would naturally be drawn to the distant coastline, as opposed to obliquely downwards towards neighbouring properties.
19. I accept that the proposal would lead to a degree of reduction in the privacy from which the occupants of several properties fronting Coastguard Crescent presently benefit, in particular from within their gardens. However privacy here is already qualified: there is a relatively high level of inter-visibility between these gardens and windows in other properties fronting Coastguard Crescent, from pedestrians vantage points along Thornberry Terrace, and as a result of existing views through the projecting bay window of No 12.
20. Moreover a qualified degree of privacy is a characteristic feature of the area. Many properties are arranged in significantly closer proximity to one another

⁴ With reference to paragraph 134 of the Framework.

than the distance between the balcony proposed and the gardens of nearby properties; this is particularly the case in respect of the limited separation distances between the rear elevations of properties facing Thornberry Terrace and those of Lannoweth Road.

21. Again whilst I accept that the proposal would result in some reduction of privacy to the occupants of properties fronting Coastguard Crescent compared with the current situation, including as the balcony would have a more open aspect and is likely to be more intensively used than the existing project bay, the effect in this respect would not in my view be unreasonable.
22. It is inevitable that the use of the balcony will result in some level of additional noise and disturbance compared to the present situation, through both the likely intensity of use that would arise and as noise would not be dampened by the glazing current present. However the area is a close-knit urban environment close to the principal coastal route through Penzance, Penzance train station, and a number of relatively intensive uses nearby including several hotels. Against this baseline I am not of the view that the proposal would lead to undue noise and disturbance. In any event, the Council has separate powers to address noise amounting to a statutory nuisance.⁵
23. For the above reasons I therefore conclude that the proposal would not have an unacceptable effect on the living conditions of the occupants of nearby properties, and consequently that no conflict arise with the relevant provisions of policy 12 of the Local Plan or with bullet point 4 of paragraph 17 of the Framework. Nevertheless that the proposal would not be unacceptable in this regard is effectively neutral in my determination of the case and does not outweigh or alter my conclusion in respect of the first main issue.

Conclusion

24. For the above reasons, and having taking all other matters raised into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. Notwithstanding the benefits of the proposal to the appellants, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

⁵ Pursuant to Section 79 of the Environmental Protection Act 1990 as amended.