



Appeal Decision

Site visit made on 6 August 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeal Ref: APP/D0840/W/19/3228504

2 The Quay, Portscatho TR2 5HF

- 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 and Mrs Sims against the decision of Cornwall Council.
 - The application Ref PA18/05368, dated 6 June 2018, was refused by notice dated 21 December 2018.
 - The development proposed is proposed change of use of ground floor from retail to residential use, and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised in February 2019. However, as the Framework's policies that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the Portscatho Conservation Area (CA) and the Cornwall Area of Outstanding Natural Beauty (AONB); and
 - Whether the proposed development would result in the loss of protected commercial/business space, with particular regard to the effect on the vitality of Portscatho.

Reasons

Character and appearance

4. The appeal site is located within the Portscatho CA and the South Coast Central section of the Cornwall AONB. With upper-floor timber cladding and a flat-roof, the existing building is not of any particular architectural merit and reads as a later addition to the more traditionally designed buildings in the surrounding area, many of which appear as archetypal coastal cottages. Although I observed some variety in nearby buildings on my site visit, including balconies, relatively large window openings and flat-roofs such as at No 1 The Quay, built form in the vicinity of the site is generally sensitive to the settlement's

traditional character and few buildings have an especially modern or particularly bold appearance. The site's corner and waterfront situation with expansive coastal views and its proximity to the highway, slipway, harbour, beach and public footpaths means that it is in a prominent location and is highly visible from the surrounding area. Despite this and the existing building and its external stairs not reflecting the predominant character and appearance of surrounding built form, the building appears as a relatively modest, balanced and unobtrusive feature due to its limited scale and simple appearance. This limits its effect on the surrounding area, designated heritage assets and the landscape and scenic beauty of the AONB, and means that it is not experienced as a particularly detrimental feature that detracts from and negatively affects its surroundings. As identified in the appellants' Design, Access and Planning Statement, it has clearly been an integrated part of the village street scene and has contributed to the character of this area of Portscatho for many years.

5. The significance of the CA derives from, amongst other aspects, Portscatho's characteristics as a traditional fishing village and its architectural qualities, with much of its more historic built form consisting of traditional stone walled and rendered buildings with low eaves, grey slate roofs and vertical window openings. As identified in the Council's Roseland Character Guide, such built form retains a tradition of design and materials that are significant to the village character. The Roseland & Mevagissey to St Austell Bay part of the South Coast Central section of the AONB contains, amongst other aspects, tranquil farmed landscape, various small settlements and renowned coastline, with many coastal settlements in sheltered bays rooted in the fishing industry. In terms of the condition of this part of the AONB, the submitted extract of the AONB Management Plan sets out that, amongst other aspects, '[t]he design and scale of some modern development...is intrusive.'
6. Involving a change of use of the ground floor to bring the whole building into a residential use, the development would include internal and external works to the existing building. Amongst other aspects, external works would include some restoration at ground-floor level, replacing the doors and uPVC windows, replacing the external staircase with a store, a small increase in roof height, revising and enlarging upper-floor window openings and installing timber louvres, erecting a cantilevered balcony, and recladding the first-floor and roof with a combination of timber, rolled lead and slate.
7. The building's footprint would not change and the height increase would not be particularly noticeable. Although the appellants also describe the external works as renovation and the resulting changes as minimal, the development would nonetheless significantly alter the external appearance and design of the building. The combination of timber cladding and the introduction of louvres, metal doors and rolled lead would create a structure with a bold, explicitly modern appearance that would appear as a discordant and insensitive feature, out of character with its surroundings. The first-floor would also appear to have a larger, more dominating presence over the ground-floor and slipway. The effect of this, combined with the additional width derived from the projecting balcony, would be to increase the apparent scale and mass of the upper-floor and draw attention to it. The building would therefore lose its relatively modest and discreet form and, combined with the first-floor external materials which are not common in the locality, would instead appear from the surrounding area as a top-heavy and significantly more prominent, dominating and intrusive feature.

8. Accordingly, the proposed development would create an incongruous feature that would harm the character and appearance of the surrounding area. This harm would not constitute an improvement compared to the existing situation. Consequently, the development would detract from the significance of the CA and neither preserve nor enhance its character or appearance, and would have a detrimental effect on the landscape and scenic beauty of the AONB.
9. In coming to this view, I have taken account of the external appearance of the existing building, including its condition and external materials including the horizontal timber cladding and its uncontrolled colour, the proposed replacement of the external stairs with a store, the retained letterbox, and the light colour of the proposed materials and their quality. I have also considered the variety of materials, designs, appearance and fenestration of buildings in the vicinity of the site, including those identified in the appellants' document identifying materials along the waterfront in Portscatho, and that features such as louvres have been used on seaside buildings elsewhere in Cornwall. However, neither these matters nor the theoretical scenario of a larger replacement building on the site indicate that the appeal proposal would not harm the character and appearance of the surrounding area. Accordingly, they do not lead me to a different conclusion.
10. As the harm I have identified would be relatively localised, it would – in the words of the Framework – constitute “less than substantial harm” to the significance of the CA as a whole. However, this still constitutes harm, and in such circumstances, the less than substantial harm should be weighed against the public benefits.
11. The development would provide some public benefits including improving the housing stock in the area, bringing the ground-floor of the building back into use, and removal of the external staircase which provides some views into adjoining properties and is not a common feature in the surrounding area. However, based on the development and its use, the extent of these benefits would be modest and do not therefore outweigh the great weight given to the conservation of designated heritage assets.
12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area in the exercise of planning powers. AONBs have the highest status of protection in relation to landscape and scenic beauty, and great weight is to be afforded to conserving these aspects. I am also mindful of the duty under section 85 of the Countryside and Rights of Way Act 2000 for regard to be had to the purpose of conserving and enhancing the natural beauty of the AONB.
13. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area, with particular regard to the Portscatho CA and the Cornwall AONB. I therefore find that it conflicts with Policies 1, 12, 23 and 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) and Policies LA1, LA2, CV1, CV3 and GP2 of the Roseland Neighbourhood Development Plan, Our Plan for the Period 2015 – 2030 (NDP). Amongst other aspects, these seek to promote sustainable development of a high quality design which: use appropriate materials; reflect, respond, integrate and contribute to the local surroundings and character; and protect

and conserve the significance of designated heritage assets, Cornwall's natural and historic character, and the special qualities of landscape assets including the AONB.

14. The site is near to various listed buildings, particularly the Boatman's Shelter and The Luggier. The harm I have identified above indicates that the development could affect the setting of these listed buildings. However, the Council has not alleged that the development would harm listed buildings or their settings, and given that I am dismissing the appeal on the basis of the main issue that I have set out above, it has not been necessary for me to consider this matter in greater detail.

Commercial space

15. The ground floor of the appeal site is currently unoccupied but previously accommodated a Post Office. The Post Office relocated elsewhere within Portscatho in 2015, and is now in The Square, a short walk away. Although the site is surrounded by residential properties and is separated from other commercial premises, it is visible from the surrounding area and it seems to me that its location, in a prominent part of the relatively small settlement, is likely to be reasonably well frequented given its waterfront position.
16. CLP Policy 5 sets out that, amongst other aspects, proposals that would result in the loss of business space must: demonstrate there is no market demand through active and continued marketing for at least a period of 9 months; or result in the provision of better quality employment space allowing for mixed use; or be necessary to meet a clear need for community facilities; or be unsuitable to continue as business use due to environmental considerations.
17. It is not contended that the proposed development would result in the provision of better quality employment space allowing for mixed use nor that it is necessary to meet a clear need for community facilities. However, it has been put to me that that the proposal would not result in the loss of business space as the previous service has been re-provided elsewhere, that there is no demand for use of the ground-floor as a commercial unit, and that it is unsuited for a continued business use due to environmental considerations.
18. Although the Post Office has relocated, changing the permitted use of the ground floor to residential would evidently result in the loss of space for business and commercial activity. In relation to market demand, the submitted background details regarding the sale of the property are limited and do not contain substantive evidence which demonstrates that there is no market demand through the active and continued marketing over the necessary period as required by policy. In terms of environmental conditions, I acknowledge that the unit is relatively small, that access includes a sloping slipway and stepped entrance, and that the submitted structural report recommends significant works to ensure structural integrity.
19. However, it seems to me that the slipway's gradient is not so great so as to present a significant impediment to accessing the unit or make it particularly unsafe. I also observed on my site visit that the slipway, which is not in the appellants' ownership, does not appear to be in a particularly poor condition. There seems to me to be no reason why the entrance to the unit could not be revised to improve access for disabled persons and wheelchair users, and I have little substantive evidence which indicates that it would not be possible for

the property to be made compliant with equality legislation and building regulations where necessary and relevant. Furthermore, the structural report does not indicate that the property could not be upgraded and made structurally sound, and I have little substantive evidence which indicates that the required works would be so prohibitive so as to prevent a viable commercial use on the ground floor. From reviewing the submitted plans and my site visit observations, it seems to me that the unit is also relatively well laid out, includes storage and is not evidently unfit for retail or commercial purposes. Accordingly, the evidence before me does not indicate that the site is unsuitable to continue in a business use due to environmental considerations.

20. The harbour master has written in support of the proposed change to a solely residential use, raising safety concerns about conflict between customers of the ground-floor unit and slipway operations, increasing use of the slipway, and citing a recent incident outside the property where the emergency services were called to a boat that had overturned during launching. I place significant weight on matters of public safety. However, I have little substantive evidence that indicates that a commercial use on the ground floor could not be operated in such a manner that safety issues and significant conflict with slipway operations could not be avoided.
21. Accordingly, I conclude that the proposed development would result in the loss of protected commercial space, and I have little substantive evidence that the reduction in available business space would not be to the detriment of the vitality of Portscatho. I therefore find that it conflicts with CLP Policy 5 and NDP Policy GP1 which, amongst other aspects, requires that development meets the economic and social needs of the local community.
22. Although not specifically requiring enhancement of retail provision in villages, CLP Policy 4 seeks to maintain the retail hierarchy by supporting centres to provide for the needs of their community. Amongst other aspects, it sets out that loss of community facilities and village shops will only be acceptable where there is: no need for the facility or service; it is not viable; or the service can be re-provided in locations that are similarly accessible by walking, cycling or public transport. Focusing on services and facilities rather than on actual premises, NDP Policy SF1 sets out that proposals that result in the loss of services and facilities will only be supported where they are to be replaced with services and facilities of an equal or higher quality, economic viability and value to the community on the same site or another equally suitable or more suitable site within the parish.
23. Remaining in Portscatho, the Post Office has relocated a short walk from the site and it seems to me that it is similarly accessible by various means. The evidence before me also indicates that it now has, amongst other aspects, longer opening hours and improved access. For these reasons, I therefore find that there is no particular conflict with CLP Policy 4 and NDP Policy SF1.

Other matters

24. I note the appellants' undertook pre-application discussions with the Council and made amendments to the proposal during determination of the planning application which resolved the concerns of the Council's planning officer and historic environment planning team, and that the AONB Officer did not comment on the amended details. However, these matters are not

determinative as to the acceptability of the appeal proposal. I have therefore considered the proposal on its merits, based on the evidence before me.

25. The proposal would provide improved living accommodation within a generally residential area which has good access to the services and facilities in Portscatho. It would bring back the building into permanent use, involve works undertaken to modern standards and building regulations and utilise high quality, low-maintenance materials with insulating qualities. I recognise that the planning application was supported by some residents, including the harbour master. It has also been put to me that the removal of the external staircase would improve the living conditions of residents to the west of the site through reduced noise, disturbance and overlooking, and that there would be limited potential for overlooking from the balcony. Be that as it may, these matters do not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan.
26. A number of neighbours have raised other concerns in relation to the proposed development, such as regarding its effect on the living conditions of other neighbours on the street and access issues. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Conclusion

27. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR