



Appeal Decision

Site Visit made on 28 July 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/D0840/W/21/3273454

Minerva Guest House, 2-3 The Crescent, Newquay, TR7 1DT

- 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 & Mrs Owen Griffith against the decision of Cornwall Council.
 - The application Ref PA20/10152, dated 18 November 2020, was refused by notice dated 18 March 2021.
 - The development proposed is to remove existing pitched roof structure and form a new third floor level to provide 7 letting rooms and two balconies.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.
3. During the course of the appeal, the Appellants have submitted an amended plan which alters the scale, bulk, and appearance of the appeal scheme. However, in considering the amended plan submitted within the appeal, I have had regard for the principles laid out in the case of *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37], and in respect of whether the amended plan materially alters the proposal before me. I conclude in this case that the amended proposal is so changed, that to grant permission would deprive those who should have been consulted on the changed proposal, of the opportunity of such consultation. Consequently, the amended plan will not be considered, and the appeal will be decided based on the proposal which was refused by the Council.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area and the host building; and,
 - The effect of the proposed development on the living conditions of nearby residents with regards to outlook, loss of privacy and loss of light.

Reasons

Character and Appearance

5. The appeal site comprises a hotel located within the built-up area of Newquay. The appeal building is located on the western side of The Crescent, forming part of a terrace of substantially scaled buildings. To the east of the appeal building is the open public area at Killacourt park. To the west of the appeal building there is a narrow lane which provides access to the rear of the buildings which front onto The Crescent.
6. The appeal scheme seeks to remove a modestly sized roof structure and part of the pitched roof to the front and ridge line of the appeal building and form a new third floor level which would provide an additional seven rooms for the hotel. The new additional third floor level would have a flat roof form which would extend to the full width of the front of the building. The proposed extension and balconies would be set back from the front of the appeal building, with the scheme proposing to retain the front slope of the pitched roof on the front elevation at the hotel.
7. The third floor extension would significantly increase the overall height of the building and would appear as a somewhat box like structure with a high degree of glazing to the front, that would not reflect or respect the established character or appearance of the host building. As I observed on my site visit, the rear of the buildings which front onto The Crescent have been significantly extended and altered, such that I find that the appeal proposal would not have a harmful effect on the character or appearance of the rear of the host building.
8. Whilst the proposed extension would not be prominent in views from The Crescent immediately to the front of the hotel, the structure would be visible from the public open space east of the site. In this regard, in terms of design and bulk the additional third floor structure would appear somewhat at odds with the character and appearance of the host building and would be harmful in this respect. However, in respect of the form and design of the flat roof extension, the harm to the character and appearance of the surrounding area would be limited given that the area immediately surrounding the appeal site already exhibits a number of flat roof extensions and designs.
9. Notwithstanding the above, the character and appearance of the terrace of buildings which front onto The Crescent is, in part, defined by the stepped down progression in height of buildings as the road slopes downhill from south to north. The appeal proposal would significantly alter the existing rhythm of stepped down progression in height of buildings fronting onto The Crescent, and which would give the terrace of buildings an unbalanced appearance. Moreover, by reason of the additional overall height of the appeal building, the proposal would conflict with the provisions of Policy G2c. of the NNP which requires that development respects the height of neighbouring properties which should seek to maintain any tiered effect up and down hills at existing roof heights.
10. In summary of the above, the proposed third floor extension would, by reason of its form, bulk, and overall height, be harmful to the character and appearance of the surrounding area and to the host building. Whilst the design and form of the extension would reflect that as exhibited by some other

buildings within Newquay, the proposal would not respect the important step down in overall heights of buildings which front onto The Crescent and which are prominent in views from Killacourt park. The proposal would therefore conflict with the provisions and aims of Policy 12 of the Local Plan which, amongst other matters, requires that development be of an appropriate scale, height and mass which responds to the townscape setting.

11. For the same reasons, the proposal would conflict with Policies D1a. and E5b. of the NNP which seeks to ensure that development, including extensions to existing commercial buildings, takes into account the existing elements of the townscape that give the place local character. As noted above, the proposal would not respect the established stepped down in height progression and would thereby also conflict with Policy G2c. of the NNP. The appeal scheme also conflicts with those parts of the Framework which concern high quality design.

Living Conditions

12. In addition to the above, Policy E5b. of the NNP also provides that extensions to existing commercial development will only be supported where the proposal does not have a detrimental impact on the amenity of neighbouring properties. Policy 12 of the Local Plan includes similar aims, seeking to ensure that development protects individuals and property from overbearing impacts, overlooking and unreasonable loss of privacy.
13. In respect of the effect of the proposal on living conditions, the Council have put it to me that several buildings and their residents would be adversely affected in terms of overbearing impacts, loss of light and loss of privacy. I shall consider each of the issues raised in turn below.
14. In terms of loss of outlook and loss of light, the Council have put it to me that the proposal would adversely affect occupants of buildings to the north and west of the appeal site, with further concerns raised in relation to a west facing window at the rear of the appeal building.
15. In respect of the neighbouring building at 4 The Crescent, the third floor extension would, by reason of the increase in mass and bulk, be likely to cause some limited loss of light and would result in some very limited loss of outlook when compared to the existing position. However, given the existing relationship between the rear of these buildings and the relative position of windows facing south at the rear of the neighbouring property, I find that the appeal scheme would not unacceptably affect the living conditions of occupants of that building with regards to loss of light or loss of outlook. Similarly, I also find that given the existing height and mass of the appeal building, there would not be any significant loss of outlook or loss of light for the west facing window at the rear of the appeal building.
16. In terms of the impact of the proposal on the property located to the west of the appeal building, balconies on that property already have a very restricted outlook, being constrained by the narrow nature of the lane which separates that property from the appeal building and by reason of other nearby substantially scaled buildings which surround that property. The third floor addition would be set back a small distance from the west elevation of the appeal building and in light of these factors, I find that the appeal scheme would not have a harmful effect in terms of loss of outlook or light for occupants of the property located west of the appeal building.

17. Further to the above, the Council have raised concerns regarding overlooking and loss of privacy. Amongst other concerns which are considered below, the Council have put it to me that the proposed third floor extension would overlook into the north facing windows of the neighbouring property at 43 Bank Street. In this respect, and notwithstanding that I observed on my site visit that some of the north facing windows of the neighbouring property at 43 Bank Street had been internally boarded up, by reason of the angle between the relative windows, I find that there would not be unacceptable overlooking or loss of privacy.
18. Nonetheless, the Council also maintains that the proposed extension would result in overlooking and loss of privacy for occupants of the building located west of the appeal site. As noted above, the residential units at that building have balconies facing the rear of the appeal building. Notwithstanding the above conclusion regarding loss of outlook for occupants of this neighbouring building, the proposal would include west facing windows at the proposed new third floor level extension.
19. These windows would serve bedrooms at the appeal building and whilst being set back from the west elevation, occupants of those bedrooms at the appeal building would be able to look out over and into the balcony areas of the neighbouring building. In my view this would result in overlooking and an unacceptable loss of privacy for occupants of those residential units. Whilst I note that the Appellants have suggested that a condition which required the use of obscured glazing would overcome this issue, I find that to avoid unacceptable loss of privacy, windows would also need to be fixed shut. In this instance, it would not be appropriate to impose such a condition given that it appears that one of the west facing windows is the only opening that would be provided to guests using that bedroom.
20. In summary of the above, I find that the proposal would result in unacceptable levels of overlooking and loss of privacy for occupants of the neighbouring building to the west of the appeal site. In this respect, the appeal scheme would conflict with Policy 12 of the Local Plan and would be contrary to Policy E5b. of the NNP. For the same reasons, the proposal would fail to accord with paragraph 130 of the Framework which, amongst other matters, seeks to ensure that all developments provide a high standard of amenity for existing and future users.

Other Matters

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
22. The appeal proposal would provide seven additional bedrooms for the guest house and would thereby provide economic benefits both in terms of additional employment opportunities during construction of the extension, but also in terms of the future spend of guests within local businesses. Given the scale of the proposal I attach moderate weight to these benefits in support of the appeal.
23. Weighed against these benefits, the appeal proposal would conflict with the development plan and the Framework when taken as a whole. The harm resulting from the conflict with the development plan weighs significantly

against the proposal. Consequently, the harm that would result from the proposal as identified in the main issues above would collectively outweigh the benefits of the appeal scheme.

Conclusion

24. I acknowledge that no objections to the appeal proposal have been received from local residents. However, for the reasons given above the proposed development would conflict with the development plan and the Framework when taken as a whole. There are no material considerations that have been put before me and which would lead me to reach a determination other than in accordance with the development plan.
25. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR