



Appeal Decision

Site visit made on 3 October 2022

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 27th October 2022

Appeal Ref: APP/D0840/D/22/3296226

Corner Barn, Lower Boscaswell, Pendeen TR19 7ER

- 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 J McGowan against the decision of Cornwall Council.
 - The application Ref PA21/11378, dated 15 November 2021, was refused by notice dated 21 January 2022.
 - The development proposed is the installation of two timber Juliette balcony doors with 1100mm glazed privacy screen.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effects of the proposal on the character and appearance of the area, and to the living conditions of the occupants of neighbouring properties in respect of privacy.

Reasons

Character and appearance

3. Corner Barn, a two storey property, stands at the edge of Lower Boscaswell. It faces a narrow carriageway which, a short distance to the west in the direction of the coast, reduces to two tracks either side of the Fogou. The northern track, path No. 114/193/1, turns around weathered granite walls demarcating irregular fields heading towards Pendeen to join the coastal path thereabouts. There is a single modest building here, Seaward Barn, the other side of the carriageway. Corner Barn and its surroundings fall within the Cornwall Area of Outstanding Natural Beauty ('AONB') and the Penwith Heritage Coast.
4. Otherwise the landscape in a broad arc westwards of Corner Barn is characterised both by intimacy, in changing levels and a beguiling overlay of land organisation and reorganisation etched in stone, and openness, in expansive vistas of a harsh, rugged and windswept coastline. Whilst the plots of Corner Barn and its neighbours No. 17 to the east, and No. 19 to the north east are enclosed by staunch low stone walls, in the foregoing context, and given the paucity of substantial trees or vegetation, the north-eastern elevation of Corner Barn is readily apparent in its surroundings.
5. The appellant has submitted a photograph which I am told is from 1989 and shows only a smaller dilapidated barn then in existence. There is, however, no

surrounding context shown on that photograph (which is also of poor resolution). It may of course be that not all, or any, structural elements of Corner Barn are historic in terms of their original location or function. Pointing, windows, glazing, drainpipes, and fencing all appear to be relatively recent.

6. Corner Barn is also referenced factually, rather than ascribed any particular value, in the 'Cornwall Industrial Settlements Initiative, Pendeen and Lower Boscawell (St. Just Area)' (April 2002, 'CISI'). The Boscawell Conservation Area ('BCA') has evolved somewhat over time. Various buildings, originally serving some agricultural or other working function, have been converted to residential use. On occasion that has involved overtly domestic features, such as the Juliet balcony at Mission House close by. Certain modern materials have replaced older ones, and some properties have been altered to make best advantage of coastal views.
7. However, any lack of historic integrity in the construction of Corner Barn should not be over-emphasised. Its materials may have been re-used from former structures elsewhere. That appears highly likely; facing stone is local and worked in a similar manner to historic properties. The CISI also suggests a mixed history, Corner Barn is referenced as 'pre-1841/ late C20'. Moreover and regardless of the foregoing, Corner Barn is modest in scale, simple in form, and understated in design. Windows are relatively small and recessed in thick walls. In those respects Corner Barn appears clearly traditional and essentially consistent with an historic typology.
8. Those characteristics are in turn integral to the character, appearance and significance of the BCA, which retains a strong historic integrity intertwined with landscape character. Modern interventions referenced above have had little effect on historic coherence, and any which are incongruous do not justify further diluting significance. As reflected in the CISI, Lower Boscawell grew up as the nucleus of mining in the St. Just area. Substantial workings at Geevor Tin Mine,¹ around Trewellard North Cliff, and scattered throughout the landscape of the Cornwall and West Devon Mining Landscape World Heritage Site here ('WHS') physically attest to that history. The Cornwall Farmstead Assessment Framework (October 2016, the 'CFAF') references the many 'small-scale miner-farmer linear smallholdings around St. Just' as characteristic of this coastal granite upland. That is the case at Lower Boscawell.
9. In brief, buildings within the BCA grew up in conjunction with mining heritage, principally around the early nineteenth century. Properties are small, reflecting their construction for functional rather than aesthetic purposes. They honestly reflect the practicalities of building with hard to work local stone. Materials and small window openings represent a practical response to a harsh environment. In the arrangement of properties, enclosing boundary walls, and the demarcation of fields with stone, the environment here has been created over many years principally to provide for shelter against the elements.
10. Mission House is something of an exception, although the CISI indicates that it was also originally some form of agricultural building or workshop building before being repurposed for worship. The appellant's appeal statement indicates that there was, at some stage, a balustrade around the first floor

¹ Schedule Monument List entry No. 1021361

westwards-facing window at Seaward Barn. That was absent at the time of my site visit, and there is no substantive evidence before me in respect of it (or in respect of Mission House). In any event balconies, of whatever form, are atypical here. It may be the case that larger first floor openings existed in agricultural buildings to enable storage in a loft, although that is supposition, and there is little evidence of such a local typology (including in the CFAF).

11. For three reasons, the creation of two Juliet balconies within the north-eastern elevation of Corner Barn would undermine historic integrity. Firstly it would result in two relatively large glazed openings being created. That would be clearly at odds with the prevailing modest nature of windows here. Secondly, Juliet balconies are designed for enjoyment, to open up views. They are inherently viewed as serving that function, antithetical to the enclosed, rugged and defensive character of the environment here. Thirdly Corner Barn is at the edge of the BCA, with the open and windswept surroundings providing little by way of intervening screening. Viewed from the nearby path the proposal would appear as a clearly domestic and modern, anachronistic, intervention. In my view the scheme would, in that context, jar with the otherwise broadly coherent character of buildings and the landscape.
12. I therefore conclude that the proposal would fail to preserve the character of appearance of the BCA in conflict with the clear expectations of statute,² and provisions of policy 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted November 2016, 'LPSP'). The latter, in summary, seeks to ensure that development sustains the cultural distinctiveness and significance of Cornwall's historic environment. I have noted above how Corner Barn and the BCA are intertwined with the landscape, AONB, Heritage Coast and WHS.
13. Only a small part of the BCS would, however, be affected. I have also set out above how the BCS has evolved over time, including to become increasingly 'domestic'. The harm that would result may therefore fairly be characterised as less than substantial with reference to paragraph 199 of the National Planning Policy Framework ('NPPF'). NPPF paragraph 202 guides that where less than substantial harm would result, that should be weighed against public benefits (a balance to which I subsequently turn).

Living conditions

14. I acknowledge, relative to a close-knit historic arrangement of properties, 17 benefits from a comparatively generous plot. That remains the case notwithstanding a recent extension. The eye here is naturally drawn to the expansive landscape, whether within or outside of a building. An opaque glass balustrade of 1.1m would serve to screen certain views. Given the organic nature of the built environment, the presence of tracks, and the open windswept character of the landscape, the prevailing level of privacy here is qualified. Those factors would, I accept, moderate the extent to which the proposal would affect the level of privacy at 17.
15. However, the plot of 17 may also be said to be relatively modest in absolute terms. It is smaller than that associated with many properties nearby (particularly those to the south of the Fogou and others along Carn Ros and Boscawell Road). It is also constrained in layout. 17 neighbours No. 18 to the

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

east. Directly to the rear of 17 is a sliver of land beside a hedge demarcating the boundary with 19. The area between 17 and the carriageway is limited, enclosed by a wall, and in large part given over to a driveway. Therefore the most private element of the plot to 17 falls either near to Corner Barn or directly behind its north-easterly elevation. That is likely also the most typically used element of the plot given expansive coastal views available there along with its westwards orientation.

16. At present, given the modest size of windows at Corner Barn consistent with prevailing character, and their being recessed, there are only limited views of the garden at 17 achievable (and, it appeared, no meaningful visibility towards neighbouring windows at that property). In other words current arrangements preserve a fair degree of privacy. As referenced above Juliet balconies are designed for leisure, to be open, to allow views out and the sun in. A low opaque balustrade would not prevent overlooking if individuals were to stand or sit close by. Similarly that would not achieve anything in terms of a perception of being overlooked, for example by virtue of fleeting glances of movement or noise drawing attention. Even with all good intentions of gazing into the distance, anyone may occasionally glance around out of interest or when something catches the eye. Notwithstanding the somewhat jumbled arrangement of properties here, I was unable to identify comparable examples of similar interrelationships between first floor windows and neighbouring gardens as is proposed in the immediate vicinity.
17. In my view the quality of overlooking from a passer-by following a footpath some distance away is clearly different to that which would result from the proposal, and of lesser significance. Those making use of the path would perhaps glimpse fleetingly towards 17 and 19, but would not dwell doing so (and would tend to naturally focus on the landscape or the rugged footpath). Particularly during fine weather, when outside spaces are used most frequently, the proposed balcony doors may be left open for hours at a time. Thus the potential effect on privacy would be both closer at hand and for a greater duration. I have also reasoned above that balconies are not characteristic here; the Juliet balcony at Mission House faces laterally down the carriageway where privacy is highly limited. Similarly even were there a balcony at Seaward Barn, that would look towards the coast rather than towards the plot of a neighbouring property.
18. Notwithstanding certain moderating factors, I therefore conclude that the proposal would unacceptably reduce the level of privacy from which the occupants of 17 currently benefit (to an extent uncharacteristic of the area). The proposal would therefore conflict with criterion a. of policy 12 of the LPSP and criterion f. of NPPF paragraph 130. Those provisions respectively seek to ensure individuals are protected from 'overlooking and unreasonable loss of privacy' and that a 'high standard of amenity' is achieved.

Other matters

19. I accept, in particular given the constraints of the plot of Corner Barn, that the proposal would be of benefit to occupants by improving outlook. With reference to NPPF paragraph 202 that may be considered a slight public benefit also in terms of improving living conditions and thereby aiding the optimum viable use of Corner Barn. I acknowledge that the proposal is more modest than a

previous scheme. The appellant also avers that windows could be created without the need for specific planning permission (under the provisions of Schedule 2, Part 1, Class A to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

20. Nevertheless NPPF paragraph 200 is clear that any harm to the significance of a designated heritage asset, including that which is less than substantial, should require 'clear and convincing justification'. In that context also, individuals often accept quirks or constraints of historic buildings as the corollary of living in a property with a rich history, character and context. The benefits of the scheme are therefore, in large part, related to preference rather than intrinsically required. Simply because a scheme is altered compared to a previous iteration is not compelling justification. The provision of balconies is not, however, permitted development, and there is no information before me substantiating that relevant permitted development rights remain intact.³ Consequently the public benefits of the scheme do not provide clear and convincing justification to outweigh the harm that would result, and no other material considerations justify allowing the appeal.

Conclusion

21. For the above reasons, having taken account of the development plan as a whole,⁴ along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

³ Whether in association with the overlapping protections here, or related to previous development (for example via a certificate of lawful development). The Council notes that permitted development rights were withdrawn pursuant to planning permission Ref. W1/91/P/0603.

⁴ Noting that the St. Just Neighbourhood Plan was approved at referendum on 13 January 2022.