
Appeal Decisions

Site visit made on 3 October 2022

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal A, Ref: APP/D0840/Y/22/3301107

The Lodge, Bosvathick, Bosvathick Drive, Constantine, Falmouth TR11 5RZ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr & Mrs Tyrrell against Cornwall Council.
 - The application Ref PA22/03613 is dated 28 June 2021.
 - The works proposed are described on the application form as to 'provide small extension to allow provision of modern kitchen and bathroom...'
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Appeal B, Ref: APP/D0840/D/22/3291296

The Lodge, Bosvathick, Bosvathick Drive, Constantine, Falmouth TR11 5RZ

- 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 Tyrrell against the decision of Cornwall Council.
 - The application Ref PA21/06650, dated 28 June 2021, was refused by notice dated 25 November 2021.
 - The development proposed is described on the application form as to 'provide small extension to allow provision of modern kitchen and bathroom...'
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Decisions

1. Appeals A and B are allowed. Listed building consent and planning permission is thereby granted for an extension to allow provision of modern kitchen and bathroom at the Lodge, Bosvathick Drive, Constantine, Falmouth TR11 5RZ in accordance with the terms of applications Ref. PA22/03613 and PA21/06650, both dated 28 June 2021, subject to the conditions below.

Preliminary matters

2. There is a complex history to the administration of application Ref. PA22/03613 for listed building consent. It only became apparent at appeal that, whilst the Council refused planning permission in respect of application Ref. PA21/06650 via decision dated 25 November 2021, the LBC application had not been registered. The Council ultimately remedied that lacuna and apologised. They have set out at appeal that, had they been in a position to do so, they would have refused consent for the works proposed. I appreciate the appellants' frustration in that context. I address such procedural matters, however, in a separate decision dealing with the appellants' application for costs. My focus here is squarely on the merits of the works and development proposed.

3. Grade II listed Bosvathick Lodge (the 'listed building') falls within the beguiling ancient Carnmenellis landscape.¹ It is set next to separately listed granite gate piers with heraldic lions beside them.² The list entry for the latter indicates they may originate from elsewhere, being 'probably coeval with the 1719 remodelling of Trewardreva House'. Nonetheless they presently mark the entrance to the sinuous tree-lined avenue leading to grade II listed Bosvathick House.³ The list entry for the House indicates that it originated in the late seventeenth or early eighteenth century, with early-to-mid nineteenth century remodelling (and significant alterations also around 1895). In short order from the Lodge, the avenue to the House passes three scheduled wayside crosses, all ostensibly relocated from elsewhere at some point in history.⁴
4. I have therefore approached the appeals in the context of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the '1990 Act'). Policy 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted November 2016, 'LPSP') in summary, and amongst other things, sets out how proposals should seek to at least conserve designated heritage assets. Similarly the National Planning Policy Framework ('NPPF') guides that heritage assets, an irreplaceable resource, should be conserved in a manner appropriate to their significance.

Main issue

5. Against the context above, the main issue is whether the proposal would preserve the listed building, any features of special architectural or historic significance or historic interest which it possesses, and its surroundings.

Reasons

Special interest and significance

6. I am told that Bosvathick Lodge was historically constructed with a floor area of 61.02sqm.⁵ The Design & Access Statement (including Heritage Assessment, Impact and Justification, 'DAS') instead gives a figure of 81sqm. There is some ambiguity as to how those figures have been measured; the divergence likely resulting from discounting the material depth of walls. Regardless of the precise figure, unsurprisingly for an historic gatehouse, Bosvathick Lodge is very modest. It has a simple geometric form, being principally square with a small entrance lobby projecting south-westwards (in the opposite direction to the avenue to Bosvathick House).
7. Walls are of dressed local granite. Patches have evidently been successively repointed. On occasion the historic fabric to the property is difficult to discern internally. Some form of standalone wagon, converted to a kitchen, has been put in place to the rear of the entrance lobby. Access to it is in the location of what appears to be shown as a window to a bathroom on the existing plans.⁶ There is nothing to suggest, however, that the evolution of the Lodge represents anything other than practical and incremental responses to

¹ List entry No. 1328379, I am told within the Gweek to Constantine Area of Great Landscape Value.

² List entry No. 1158710.

³ List entry No. 1158697.

⁴ List entry No. 1006665.

⁵ Drawing No. 21/06/14.

⁶ Drawing No. 21/06/4.

maintenance.⁷ Nevertheless any discrepancies between the proposal and what presently exists, or in relation to what has been undertaken, is for the main parties to this appeal to resolve as necessary.

8. The Lodge has a pyramidal roof of variably-sized angular fishscale slates. The ridge is topped with short sections of ornamental clay ridge tiles either side of a central ashlar chimney stack. Windows facing orientations other than towards the avenue are understated. Those facing north-east are, however, tracery casements within rounded accentuated arches. The Lodge was therefore evidently designed more for aesthetics than for function. It represents polite architecture, and appears to have been designed to contribute to the aesthetic and experience of approaching Bosvathick House. That is potentially the case also of the wayside crosses referenced above. Views of the Lodge from the nearby road, other than immediately around the access to the House, are partial and fleeting (on account of screening variously from Cornish hedgerows, mature vegetation and surroundings trees).
9. The Lodge's creation roughly tallies with the late nineteenth century remodelling of the House itself, and of the conspicuous display of wealth characteristic of the late Victoria era. The DAS contains what I am told are the original sketches for the Lodge, drawn haphazardly on the back of an envelope post-marked 1884. In itself that reinforces that scant regard was given to the practicalities of using the internal space. Internally the property is divided into four equally-sized spaces around the chimney stack. On account of thick granite walls, those spaces are small. You must pass through one to reach another. That arrangement may have been conducive to living standards of those working on the wider estate at the turn of the nineteenth century (or for intermittent use). However that results in a highly constrained arrangement.
10. In that context, insofar as it relates to these appeals, I find that the special interest of the listed building rests primarily in its historic materials and architecture, in particular their legibility and appreciation in connection with the experience of travelling along the avenue to Bosvathick House. Those characteristics also attest to changing circumstances and preferences over time (the significance of a heritage asset may not lie solely in its original form but how it honestly reflects social and economic change).

The proposal

11. Simply the proposal is to add a new wing of 37.39sqm to the Lodge.⁸ It would incorporate an open plan space, kitchen and cloakroom. The proposed extension would project broadly westwards with a stepped form and veranda, drawing away from the avenue to Bosvathick House. It would have an open aspect to the south west. Access to the extension would be in the location of a former window referenced in paragraph 7. The creation of a doorway there is shown on the supporting plans.⁹ The only other internal alterations illustrated are the installation of a boiler flue, albeit that 'insulated stud walls' are also annotated in respect of the lobby, and there is reference to 'damp proofing of parts of the existing structure' in the DAS (setting aside how such interventions might tally structurally with historic methods of construction). Some tying in

⁷ Noting that some modernisation took place to introduce services and also following storm damage in 1990.

⁸ Drawing No. 21/06/14.

⁹ Drawing No. 21/06/8.

and cosmetic finishing would inevitably be needed, and there are slight changes to access and parking arrangements also proposed.¹⁰

12. A extension here permitted in 1990 was never implemented.¹¹ As such it is not a realistic proposition relative to which the scheme should be assessed. Nonetheless much of the evidence before me addresses the design of the proposal relative to the 1990 scheme (and it is of contextual relevance as set out subsequently). The proposal would diverge from the 1990 scheme in scale, form and design. I am told that the 1990 scheme was for a significantly larger extension of 64.54sqm. Despite the slight decline through the site broadly north-westwards, the 1990 scheme would have had a hipped roof mimicking the pitch of the Lodge that projected significantly above the ridge of the entrance lobby. By contrast the main element of the proposal before me has a pitched roof with a lower ridge height (and therefore gable end). That element of the proposed roof form would join the existing building by way of a small section of mono-pitched lead roof.¹²
13. Previously the proposal was designed to consciously replicate the design features of the Lodge as it stands, including via the use of stonework with accentuated quoins, clay ridge tiles and similar chimney stack. The current proposal would also emulate the form, materials and craftsmanship at the existing Lodge in certain respects. That is notably the case of the treatment of walls potentially visible from the nearby road, and in the use of Delabole slates (declining in size the higher they are set consistent with traditional craftsmanship). However the current proposal is also designed to appear consciously different, the appellants drawing reference to the juxtaposition of a staunchly modern and historic aesthetic at the Serpentine Sackler Gallery or Holburne Museum in that context. Principally wide, aged oak panelling would be used, worked from estate trees.¹³

The effect of the proposal

14. The proposal would, I accept, have a somewhat complex form. That would, to some extent detract, from the simple geometric nature of the Lodge. The form and materials proposed would appear consciously divergent from the present harmony of the building, which reflects its original design. Irrespective of works already undertaken, consent is sought for the removal or alterations to historic fabric. Albeit that those alterations would be limited, the fabric of the building nonetheless embodies authenticity. In that context the proposal would fail to preserve the significance of the listed building or its setting (a setting which overlaps and interrelates with others identified above). That would be in contrast to the expectations of statute and relevant elements of the development plan and NPPF set out in paragraph 4 above.
15. However the degree of harm would, in my view, be highly limited. The Lodge, House, gate posts, scheduled monuments and the wider estate all reflect complex layers of historic evolution. Successive changes have been for aesthetic or cultural reasons as much as, if not more so, than for practical necessity. The Lodge appears to have been designed principally to form part of

¹⁰ Drawing No. 21/06/2 showing the existing arrangement and 21/06/12 as proposed.

¹¹ Ref. PA90/00105/FE01.

¹² Drawing No. 21/06/9.

¹³ As specified in the DAS with comparable detailing included in the document 'Photographs of Bosvathick Lodge'.

the experience of those entering the estate and travelling along the avenue. By virtue of its height, scale and orientation, and given also the presence of intervening trees and vegetation flanking the avenue and a decline in the landform through the site, the proposal would have a barely perceptible effect from the foregoing vantage points. Moreover 'modern' design and historic character are not inherently inimical. In my view the consciously different design proposed would, as much as it would detract from the modest geometric arrangement of the Lodge, safeguard an appreciation of its original form.

Consideration

16. In the light of the foregoing, the harm arising in terms of the listed building and its surroundings would fall within the category of 'less than substantial' within the terms of NPPF paragraph 199. I acknowledge that NPPF paragraph 200 sets out how 'any harm' to the significance of a designated heritage asset should require clear and convincing justification. Nevertheless, on account of my reasoning in paragraph 15, the extent of harm arising here may fairly be described as highly limited, approaching negligible.¹⁴ NPPF paragraph 202 further guides that where less than substantial harm would result, that should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I now turn to that balance.

Other matters

17. As alluded to above, and attested to by the appellants, maintaining the Lodge remains a hard fought battle. That may be, albeit that it is hypothesis, that the Lodge was constructed based on plans sketched on the back of an envelope, and may not have been of the highest craftsmanship. Nevertheless, superficially, the Lodge appears in relatively good order. Many historic properties require significant ongoing maintenance, and such works are not inherently dependent on the scheme before me. I do not therefore accord the benefits of the scheme in terms of structural integrity, in and of itself, any significant weight.
18. However in terms of an ongoing viable use, the expense of upkeep dovetails with the functionality of the Lodge as a dwelling (essentially consistent with the purpose for which it was created). Individuals often accept quirks and constraints as the corollary of living in a property with a rich history and character. However given the limited size, layout and arrangement of the Lodge described in paragraph 9, it is highly constrained (atypically so of many historic buildings). I am told there have been a succession of tenants, few of which have 'stayed very long'. That is unsurprising given the foregoing constraints, including the lack of connection with surrounding land despite being in a comparatively tranquil rural setting. I note that the Planning Practice Guidance ('PPG') explains that historic buildings are generally best maintained by 'ensuring that they remain in active use that is consistent with their conservation'.¹⁵
19. Ongoing maintenance coupled with constrained living conditions represent a significant concern for the ongoing viable use of the Lodge. That thorn in the side has persisted for some considerable time, noting that it formed part of the justification for the 1990 scheme. The proposal would enable the Lodge to

¹⁴ Notwithstanding that it is essentially a binary distinction between 'substantial' or 'less than substantial' harm.

¹⁵ Reference ID: 18a-002-20190723.

better function as a dwelling, bringing it up to modern standards rather than representing a preferential whim. It would remedy the confined and impractical arrangement of the property, minimising loss of historic fabric with a barely perceptible effect from significant vantage points. Inherent in my reasoning above is that altering the Lodge to create contemporary living standards would form a logical part of the narrative of change here. The use of oak cladding drawn from the estate would also serve to embody a contemporary connection between the buildings and its surroundings.

20. I acknowledge that the scheme may not be the only way of achieving the foregoing public benefits. Nevertheless the public benefits of the scheme, in the form of aiding the ongoing viable use of the Lodge as a dwelling, amount to clear and convincing justification within the terms of NPPF paragraph 202 and also LPSP policy 24.¹⁶ They are sufficient to outweigh the highly limited harm that I have reasoned would arise.

Conclusion

21. For the above reasons, and having taken account of all other relevant material considerations, I conclude that appeals A and B should be allowed subject to the conditions in the first and second schedule to this decision respectively.

Conditions

22. In addition to requiring commencement within the relevant statutory period, I have imposed conditions specifying compliance with supporting plans and that agreed materials are used (whether that agreement is on the basis of samples or details). Those conditions are necessary for certainty and so as to ensure that the proposal is implemented as assessed above. In imposing conditions I have had regard to the tests in the NPPF, the PPG, and to relevant statute. Accordingly I have amended the wording of certain conditions proposed to ensure they are appropriate, without altering their aims.
23. In that context I have included Plan No. 21/06/14 in the second conditions within the schedules. That plan contains amended floorspace figures relative to earlier information, rather than alters the scheme. There are some details within the supporting information regarding cladding and surfacing. However, for precision, including to ensure works shown on plan 21/06/12 are undertaken sensitively, I have specified within condition 3 of the schedules that details or materials in respect of cladding, surfacing and boundary treatments shall also be implemented as agreed. I have also imposed condition 4 in the first schedule to ensure that any works affecting the fabric of the listed building are minimised and detailed (to ensure appropriate control and recording of that process).

Tom Bristow

INSPECTOR

¹⁶ Noting that the wording of LPSP policy 24 uses the phrase 'substantial public, not private, benefits'.

FIRST SCHEDULE OF CONDITIONS

- 1) The works hereby authorised shall begin not later than three years from the date of this consent.
- 2) The works hereby authorised shall be undertaken in accordance with the following approved plans: 21/06/1, 21/06/2, 21/06/8, 21/06/9, 21/06/10, 21/06/11, 21/06/12, 21/06/13, 21/06/14.
- 3) Notwithstanding condition 2, before their use as part of the works hereby permitted details or materials of external surfaces (doors, windows, lintels, sills, stonework, cladding, surfacing, boundary treatments, roof slates and method of fixing) shall have been submitted to and agreed in writing by the local planning authority. Works shall be carried out in accordance with the agreed details and maintained as such thereafter.
- 4) No works hereby authorised affecting the existing fabric of Bosvathick Lodge shall be undertaken until a method statement detailing how any relevant works will abut, connect with, or be tied in to, the existing fabric of the building, along with any internal finishes and associated making good, has been submitted to and agreed in writing by the local planning authority (including as shown on sections at a minimum scale of 1/20). The works hereby authorised shall be undertaken in accordance with the method statement thus agreed, and shall thereafter be retained.

SECOND 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 undertaken in accordance with the following approved plans: 21/06/1, 21/06/2, 21/06/8, 21/06/9, 21/06/10, 21/06/11, 21/06/12, 21/06/13, 21/06/14.
- 3) Notwithstanding condition 2, before their use as part of the development hereby permitted details or materials of external surfaces (doors, windows, lintels, sills, stonework, cladding, surfacing, boundary treatments, roof slates and method of fixing) shall have been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the agreed details and maintained as such thereafter.