
Appeal Decision

Site visit made on 3 January 2023

by Roy Curnow MA BSc(Hons) CMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/D0840/C/22/3298430

Land known as The Dolphins, Bay Street, East Looe PL13 1BZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Rosemary Spooner against an enforcement notice issued by Cornwall Council ('the Notice').
 - The enforcement notice, numbered EN21/01122, was issued on 8 April 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of UPVC windows and UPVC stable doors.
 - The requirements of the notice are (1) Replace the unauthorised UPVC framed windows on the north west, south west and north east elevations with traditional timber Heritage Slimlite (4/6/4 profile, double glazed) casement windows. Pane specification same as those removed; (2) Paint the replacement windows with two coats of undercoat and two coats [sic] of white gloss paint; (3) Replace the UPVC stable doors with simple style 19th century timber doors with upper glazed elements; (4) Paint the replacement doors with two coats of undercoat and two coats of gloss paint; and (5) Make good any damage caused from complying with Steps 1 – 4 above and remove the UPVC windows and doors and any associated debris from the land shown edged red on the attached plan.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. An appeal made under Ground (f) is that the steps required by the Notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. Here, it is clear that the intention of the Notice is to remedy the breach of planning control.
3. 'Dolphins' is a flat located on the ground floor of a two-storey terraced property with another flat, 'Porpoises', above. The property lies at the heart of the historic centre of East Looe, within the Looe Conservation Area ('LCA'). The LCA is covered by an Article 4 Direction, which removes a range of permitted development rights, including the alteration or replacement of doors and windows. Therefore, planning permission is required for the works identified in the Direction.

4. A uPVC door has been installed on the front elevation, together with two uPVC windows. These windows have similar designs, comprising two side hung opening casements and a small top hung light. At the rear of the property, a uPVC door similar to that at the front has been installed looking onto the property's private yard. A two-storey element at the rear of the property has an elevation looking onto this yard and another that looks onto a yard area shared with Porpoises, from where a flight of steps provides a means of access to that property. Four uPVC windows of varying designs have been installed looking into the private yard, with another two uPVC windows looking onto the yard that provides access to Porpoises.
5. The Appellant accepts the Council's case in respect of the need to remove the door and windows to the front of the property. However, she does not in respect of those to the rear of the property. A number of reasons are put forward as to why they should be allowed to stay, including that they are not seen from public vantage points, that there are a number of other uPVC windows in the area and that the windows to the rear cause no harm.
6. Where, as here, the purpose of a Notice is to remedy the breach of planning control, and there is no Ground (a) appeal that seeks planning permission for the development, any lesser step than the requirements set out in section 5 of the Notice cannot be attained through a Ground (f) appeal. This is to say, planning permission cannot be granted for the retention of the rear windows where there is no Ground (a) appeal. Therefore, I cannot take any of these arguments into account and, as no lesser steps that would overcome the Council's objections have been brought forward in the required manner, nor can I identify any, the Ground (f) appeal fails.

Conclusion

7. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Roy Curnow

Inspector