



Appeal Decision

Site visit made on 22 March 2023

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

an Inspector appointed by the Secretary of State

Decision date: 03 April 2023

Appeal Ref: APP/D0840/W/22/3297889

12A Fore Street, Tregony, TR2 5RN

- 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 F Hornegger against the decision of Cornwall Council.
 - The application Ref PA21/03829, dated 9 April 2021, was refused by notice dated 2 March 2022.
 - The development proposed is described as the resubmission of previously withdrawn application PA20/11374 for conversion and extension of redundant studio to form a single bedroom cottage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on designated heritage assets; and,
 - The effect of the proposed development on protected habitats.

Reasons

Heritage Assets

3. The appeal site comprises land and a single storey building located to the rear of buildings fronting onto the Fore Street, accessed via a narrow track. The appeal site is located within the Tregony Conservation Area (the Conservation Area). The submitted evidence confirms the presence of a number of nearby listed buildings and structures.
4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas, which is reflected in the wording of Policy 24 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan).

6. I have not been provided with any Conservation Area appraisal. However, I was able to explore the Conservation Area at my site visit and, from the observations made and from the written information before me, I consider that the significance of the Conservation Area is predominately derived from the linear historic built form of properties flanking a wide Fore Street for accommodating fairs and markets, and from the age and architectural quality of buildings which reflect the settlement's origins as a historic planned new town.
7. The proposal seeks the extension and conversion of the single storey building to a residential dwelling. Submissions in this appeal confirm that the appeal building appears on historic documents including the 1875 Ordnance Survey map. Tithe records from the 1840s show the appeal building as part of a property which included a distinctive, long and narrow burgage plot.
8. It is acknowledged that a number of the burgage plots as included on the abovementioned Tithe documents, have been eroded by later development. However, the proposed development would not be reflective of the strong linear pattern of development exhibited in this part of the Conservation Area. I noted and saw on my visit examples of development positioned set back from the highway to the rear of buildings as referred to me by the Appellants. Nonetheless, those developments appear to be either side of a substantially scaled church building which is in itself significantly set back from the Fore Street, and which forms a break in the strong pattern of residential properties fronting onto that highway. I have not been provided with information or details regarding those developments as referred to me by the Appellants and as such I have determined this appeal on its own merits.
9. The appeal site remains as an important feature within the Conservation Area and provides a link to the development of the settlement as a historic planned new town. In this respect, the appeal building and the appeal site as a whole, makes a positive contribution to the character and appearance of the Conservation Area.
10. The appeal building has a simple traditional form and scale which reflects its age and its subservient nature to its original host dwelling. Whilst I have noted and considered the Appellants' Heritage Statement with regards to the proposed design and materials for the appeal proposal, in my view the proposed extension and works to the existing building would be substantial.
11. The proposal would result in the removal of a large section of one of the flank walls, in addition to the significant widening of an existing opening to provide what appear to be patio doors. The proposal to include a substantial extension and more complex roof form would result in a building that would have a domestic residential appearance, and which would not retain the simple form and traditional features of the existing building that, in part, provides a positive contribution to the character and appearance of the Conservation Area.
12. Furthermore, by reason of its scale and design, the proposal would, in my view, draw the eye away from the architectural quality of the listed building at 13 Fore Street, which the Historic England listing describes as being a dwelling constructed with render over stone rubble and possibly cob with a two room rear stair turret plan, built circa 1700 and refashioned during the early nineteenth century. As such and given the erosion of part of the remaining

burgage plot which contributes to the setting of that listed building, there would be harm to the significance of that designated heritage asset.

13. The appeal proposal would not be highly visible from within the wider surrounding area, nor would be visible from within much of the Conservation Area. However, the scheme would be clearly apparent from private views around the site, including from other dwellings within the Conservation Area including from the above identified adjacent listed building which forms part of, and which contributes significantly to the character and appearance of the Conservation Area.
14. By reason of the limited views of the proposed development within the surrounding area, in terms of the advice in the National Planning Policy Framework (the Framework) the harm to the significance of the Conservation Area and identified listed building would be 'less than substantial', affecting only its immediate surroundings. A finding of 'less than substantial harm' does not equate to less than a substantial objection. The Framework makes clear that any harm to the significance of a designated heritage asset should require clear and convincing justification. Accordingly, and in line with the provisions of paragraph 202 of the Framework, this harm should be weighed against the public benefits of the scheme including, where appropriate, securing its optimum viable use.
15. In this instance, the public benefits of the proposal would be limited to the delivery of an additional housing unit and in relation to the very limited economic benefits in terms of employment opportunities during the construction phase and through the future spend of residents within local businesses. Cumulatively, I attach only limited weight to the benefits of the scheme. In that regard I find that the limited benefits would not outweigh the identified harm that would be caused to the above identified designated heritage assets to which, in accordance with the provisions of the Framework, I attach great weight.
16. For the above reasons, the proposal would conflict with Policies 2, 12 and 24 of the Local Plan which, amongst other matters, aims to promote local distinctiveness and conserve heritage assets. Furthermore, the appeal scheme would fail to accord with those parts of the Framework which concern conserving and enhancing the historic environment.

Protected Habitats

17. The evidence before me confirms that the appeal site is located within the zone of influence of the Fal and Helford Special Area of Conservation (the SAC). The SAC is designated for its saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries and reefs.
18. The Cornwall European Sites Mitigation Supplementary Planning Document (the SPD) sets out that increases in population are placing greater pressure from recreational activity on the features of interest for which the habitat site is designated. It sets out mitigation strategies through strategic access management and monitoring (SAMM). SAMM is to be funded by contributions from new residential development and such is said to allow adverse impacts on the integrity of the sites to be avoided.

19. It is noted that the Appellants maintain that no request to complete a planning obligation in respect of financial contributions towards mitigation strategies through SAMM, was made by the Council. However, it appears that a draft planning obligation has been submitted as part of the Appellants' appeal submissions. In that regard, notwithstanding that the supplied draft obligation appears to comprise two distinct separate documents, the document is not dated and there does not appear to be any plan attached to the document that identifies the appeal site.
20. Furthermore, whilst noting the Council's suggestion that payment of contributions or the submission of a mechanism to secure delivery of mitigation could be secured by planning condition, the Planning Practice Guidance advises that positively worded conditions cannot be used to secure payment of money and that negatively worded conditions to require a planning obligation should only be used in exceptional circumstances. This may be where there is clear evidence that the delivery of the development would otherwise be at serious risk, such as in particularly complex development schemes. There is no such clear evidence before me, nor does the proposal appear to be particularly complex.
21. I, therefore, do not appear to have an enforceable mechanism before me which would provide appropriate mitigation in respect of the effects of the proposal on the SAC. I have not sought additional comments from the Appellants or the Council in this respect, as for the reasons given above under the first main issue, the proposal would fail to accord with the development plan and there are no material considerations that indicate that a decision should be made other than in accordance with the policies of the development plan.

Other Matters

22. Interested parties raise additional concerns on the grounds of impact on the living conditions of nearby residents, access and turning areas for vehicles, parking, land ownership and biodiversity. Whilst I have carefully considered all of the evidence and submissions before me in those regards, given my findings in relation to the main issues above, these are not matters that have been critical to my decision.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR