



Appeal Decision

Site visit made on 4 December 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/D0840/W/23/3322909

Garage, St Aubyns, Marine Drive, Hannaford Point, Looe PL13 2DH

- 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 Ben Pearce against the decision of Cornwall Council.
 - The application Ref PA23/00300, dated 12 January 2023, was refused by notice dated 17 March 2023.
 - The development proposed is change of use to dwelling including external alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. I have consulted the main parties on the changes and have had regard to any representations received.
3. The site address is taken from the application and appeal forms; however, the site is accessed from Portuan Road, not Marine Drive.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the Looe Conservation Area; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers of flats in St Aubyns, with particular regard to privacy.

Reasons

Character and appearance

5. The appeal site lies within Looe Conservation Area (CA), within an area described as the Hannaford Extension. In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. The significance of the CA as a whole is derived in part from the distinctive settlement patterns of East and West Looe, focussed around the historic planned settlements either side of the estuary and harbour, and their relationship with the coast. The Hannaford extension is an early 20th Century

residential estate, and has a distinctly different character from the tight streets of Looe. As identified in the Looe Conservation Area Appraisal and accompanying Management Plan, the significance of this extension is informed by its planned layout, with a regular and ordered pattern of plots on gently sweeping parallel roads resulting in properties facing broadly south-east, oriented to look out towards the sea.

7. In the context of the site, there is a clear differentiation between the east and west side of Portuan Road resulting from the planned layout of the area. The large, detached plots on the west side present a commanding frontage, with raised ground levels increasing the height of the dwellings, alongside numerous windows and frequent balconies. In contrast, the east of the road is formed by rear boundaries to properties on Marine Drive. While there are numerous buildings present on this road edge, these are modest structures, mostly garages, that appear ancillary to the properties on Marine Drive.
8. The appeal building is seen as a subordinate structure to the rear of Marine Drive. It appears similar in position, scale and design to the other buildings along the eastern side of Portuan Road and maintains the established pattern of development. As such, it makes a positive contribution to the significance of the CA.
9. I accept that the proposed alterations to the garage visible from Portuan Road would be relatively minor, and that it would not increase in size. However, the introduction of windows and a front door opening directly onto the road would represent a marked departure from the subordinate character of the building. Alongside the change in character, a dwelling with an independent frontage onto this side of Portuan Road would fail to reflect the historic planned settlement pattern, and would appear as an isolated and incongruous feature. Together these issues would undermine the contribution that the appeal building makes, and thus result in harm to, the significance of the CA. Consequently, the proposal fails to preserve the character or appearance of the CA as a whole.
10. For the reasons described above, I conclude that the proposed development would unacceptably harm the character and appearance of the Looe CA as a whole. The proposal therefore conflicts with Policies 2, 12 and 24, of the Cornwall Local Plan Strategic Policies 2010 - 2030 (the Cornwall Local Plan), and Policies H1 and TC3 of the Looe Neighbourhood Plan (the Neighbourhood Plan). Taken together, these policies seek, amongst other matters, high quality design that positively responds to and is informed by local identity and the historic character of the site; conserves the significance of designated heritage assets; and maintains the special character and appearance of Conservation Areas. The proposed development would also be contrary to the provisions of the Framework in relation to conserving and enhancing the historic environment.
11. The appeal site also falls within the Seaton and Looe Area of Great Landscape Value (AGLV). Whilst primarily designated to conserve natural beauty and amenity, the AGLV in this area covers the settlement of Looe and its CA. The importance of the built environment is recognised in Saved Policy CL9 of the Caradon Local Plan, which seeks to protect character, including the characteristic pattern of settlements. For the above reasons, I also find conflict with this policy.

12. The harm which would be caused to the significance of the CA would be less than substantial in the terms of the Framework. In accordance with paragraph 208 of the Framework, this harm should be weighed against any public benefits that would arise from the development. Moreover, the Framework sets out that great weight should be given to the conservation of heritage assets, and any harm requires clear and convincing justification.
13. The provision of a dwelling would support the delivery of housing in Cornwall, and would assist the Government's objective to significantly boost the supply of homes. The dwelling would be delivered on a windfall site on previously developed land, and would add to the mix of housing available at Looe. There would also be economic and social benefits both during the build and in the subsequent occupation of a house with convenient access to services and facilities. However, as only a single unit of accommodation would be provided, I find that the public benefits would be limited in scope and scale, and would not be sufficient to outweigh the harm that would be caused to the CA.

Living Conditions

14. The neighbouring building at St Aubyns is located on the eastern side of the appeal site, and the rear elevation of the proposal would face the shared boundary. During my site visit I noted that St Aubyns, containing a small number of apartments, sits at a lower ground level than the appeal site, echoing the stepped terracing of built form in this area. Although new windows would be introduced into the front elevation of the appeal building, the primary outlook from the new living space and main bedroom would be to the rear, looking towards the northern end of St Aubyns.
15. My attention has been drawn to the Cornwall Design Guide (2021). This guidance document sets out that where homes face each other over a short distance, window placement should avoid overlooking into other homes. There is generally a reasonable separation distance between the two buildings, and the majority of windows on the rear elevation of St Aubyns are positioned to the south, out of the direct line of sight of the appeal building. However, the split-gabled extension to the rear of St Aubyns is closer to the shared boundary. There are four upper-storey windows within these gable elevations, two of which appear to serve a bathroom, and two which serve habitable rooms. Given its elevated position, both facing windows of the proposal, and in particular the large opening serving the main living space, would look directly down towards these rooms over a short distance.
16. Within a built-up residential area, some overlooking between properties on differing ground levels is to be expected, and the existing arrangement of properties on the western side of Portuan Road stepped above those on Marine Drive has established a degree of overlooking. However, in this case, while the majority of the windows within St Aubyns would have an appreciable separation distance, there would be direct and close overlooking of windows within the gabled extension, such that there would be an unduly harmful loss of privacy.
17. Accordingly, I conclude that the proposed development would result in unacceptable harm to the living conditions of neighbouring occupiers in St Aubyns, with particular regard to privacy. The proposed development would therefore conflict with Policy 12 of the Cornwall Local Plan, Policy DS5 of the Neighbourhood Plan, and the Cornwall Design Guide. Taken together, amongst

other matters, these seek to protect neighbouring occupiers from overlooking and unreasonable loss of privacy.

18. The Council has also referred to Policies 1 and 2 of the Local Plan in relation to this main issue. Policy 1 is a general sustainable development policy, and Policy 2 describes the Spatial Strategy for the area, including criteria relating to character and design. I have considered the effect of the development on character and appearance above. Except in so far as the proposal does not accord with other policies of the development plan and consequently is not regarded as sustainable development in the terms of the policies, I find no specific conflict with Policies 1 and 2 in respect of the living conditions of neighbouring occupiers.

Other Matters

19. The appeal site is located within the zones of influence for the Plymouth Sound and Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area, which are designated under the Conservation of Habitats and Species Regulations 2017. In accordance with Policy 22 of the Local Plan, without appropriate mitigation, residential development within the zones of influence may generate recreational activity that could have adverse impacts on the integrity of the protected sites. The parties do not dispute that these effects could potentially be mitigated by measures provided by the Council using financial contributions secured by way of a legal undertaking, the details of which have been submitted with the appeal. However, as I am dismissing this appeal on other grounds, this is not a matter which needs to be considered further as, even if I were to find that mitigation was necessary, secured and delivered, this would constitute a neutral matter and have no bearing on my decision.
20. I note that the Council does not raise concerns in respect of other issues including drainage and parking. However, the absence of harm in these matters is neutral in the planning balance and does not alter my overall conclusion.

Conclusion

21. I have found that the proposed development would fail to preserve the character or appearance of the Looe CA, and would not provide sufficient public benefits to outweigh the less than substantial harm identified. I have also found harm to neighbouring living conditions in respect of privacy.
22. For these reasons, I therefore conclude that the proposal would conflict with the development plan when read as a whole. There are no material considerations that outweigh that conflict, or which indicate that a decision should be made otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal should be dismissed.

K Jones

INSPECTOR