



Appeal Decision

Site visit made on 15 March 2024

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/D0840/D/23/3333988

24 New Street, Penzance, TR18 2NE

- 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 and Mrs Bredenkamp & Boehler against the decision of Cornwall Council.
 - The application Ref PA23/05343, dated 29 June 2023, was refused by notice dated 12 September 2023.
 - The development proposed is described as construction of single storey extension and associated works.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by the Appellant against Cornwall Council. This application is the subject of a separate decision.

Preliminary matters

3. Since the appeal application was refused the National Planning Policy Framework 2021 has been replaced. Within the current National Planning Policy Framework December 2023 (Framework) paragraph 126, 132, 134, 160, 166, 173 189, 197 (c), 199 & 202 of the Framework 2021 have been renumbered 131, 135, 139, 166, 173, 195, 203, 205 and 208, although their content is unchanged. For the avoidance of any doubt, I confirm that in this decision I have referred to the new numbering.

Main Issues

4. The first main issue is the effect of the proposal on the character and appearance of the host dwelling, street scene, the Penzance Conservation Area (PCA) and the setting of the adjacent Grade II listed buildings. The second main issue is the effect of the proposal on the living conditions of the occupiers of 23 New Street (No.23), with particular regard to privacy. The third main issue is whether the proposed development would be satisfactorily drained.

Reasons

Character and appearance

5. Penzance Conservation Area broadly covers the towns historic urban area and includes the harbour and north-west shore of Mount's Bay. The land rises steeply from the coast, resulting in tiers of buildings and an intricate streetscape. The PCA has a number of character areas, which collectively contribute to the character, appearance and significance of the PCA.
6. The appeal site is situated within the central part of the PCA, where many of the buildings are either listed or identified as buildings of historic interest. The appeal site is located towards the bottom of New Street, which runs from the heart of the town to the harbour and includes a diverse range of uses and of buildings that step down towards the harbour. Whilst not statutorily listed the property and the adjoining dwellings to the northwest are identified as being of historic interest. The attached dwelling to the southeast is Grade II listed and the buildings on the opposite side of the road are all either Grade II listed or identified as being of historic interest.
7. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LB&CA Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Section 66 of the LB&CA Act similarly requires that when assessing the impact of a proposal on a listed building or its setting, special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Policies 1, 2 & 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP), Policy C1(7) of the Cornwall Council Climate Emergency Development Plan Document 2023 (DPD), sections 2, 3 & 4 of the Cornwall Design Guide and Paragraph 8 c), 131 & 135 of the Framework are consistent with this.
8. Collectively paragraphs 195, 203, 205 and 208 of the Framework, state that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. When considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. This is irrespective of whether any potential harm amounts to substantial or less than substantial harm to its significance.
9. Any harm to a designated heritage asset requires clear and convincing justification, whilst opportunities for new development in conservation areas should be sought. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal. A balanced judgement is required in relation to the effect of a proposal on the significance of a non-designated heritage asset. CLP Policy 24 is consistent with this.
10. The appeal property comprises a modest sized two storey terraced cottage with white painted stucco walls under a Scantle slate roof. The dwelling fronts directly onto New Street and beyond its small rear garden is a steep fall to Abbey Basin and The Quay. From here the upper parts of the rear elevation of the appeal building and the adjoining dwelling at No.23 are clearly visible, albeit at a distance. Whilst the simple form of the pair of cottages is retained the changes to the first floor fenestration and the flat roofed extension at No.23, with its uncharacteristic flat roof and strong horizontal lines, do not resect the historic identity of the dwellings.

11. In many ways it would make sense to adhere to the design of the existing rear extension at No.23. It is visually uncluttered and the pair of dwellings would retain a strong sense of uniformity. However, the proposed extension would add to the strong horizontal lines of the extension at No.23 and together with the large windows, particularly at first floor level, would have a suburbanising impact on the appearance of the pair of dwellings.
12. For these reasons the proposal would materially and unacceptably detract from the character and appearance of the rear elevation of the host dwelling and the pair of dwellings. The proposal would also dilute the historic character and appearance of the PCA, including the setting of the listed building at 4 Abbey Street, when viewed from the bottom end of Jennings Street and The Quay. Whilst the level of harm to the significance of PCA would be modest and thus less than substantial, it nonetheless needs to be weighed against any public benefits that would flow for the proposal.
13. Regarding public benefits, the appeal building is vacant and in a derelict condition and this has a degrading impact on the site and its setting within the PCA. The dwelling requires full refurbishment and the proposed extension would improve the condition of the property and result in direct and indirect local employment during the construction period.
14. Whilst I give a modest amount of weight to each of these benefits, both individually and together they would not outweigh the harm that would be caused to the significance of the PCA. It is also no a matter that could be adequately dealt with by condition.
15. The rear wall of the adjoining listed building at 4 Abbey Street (No.4) would be affected as the proposed extension would be immediately adjacent to it. However, as with the previous inspector, I consider that it would be possible to design and construct a wall without causing damage to No.4. This is something that could be adequately dealt with by condition.
16. Finally, the proposed extension and alterations would not be visible from the listed buildings on the opposite side of the road and so would have no impact on their character, appearance or significance.
17. I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the host dwelling and would fail to preserve or enhance the character and appearance of the PCA. The less than substantial harm the proposal would cause to the significance of the PCA, including the setting of No.4 would not be outweighed by public benefits. Accordingly, the proposal would conflict with CLP Policies 1, 2, 12 & 24, DPD Policy C1, sections 2, 3 & 4 of the CDG and paragraphs 8, 131, 135, 195, 203, 205 and 208 of the Framework.

Living conditions

18. The proposed ground floor extension would be in line with the existing extension at No. 23. Accordingly, subject to appropriate boundary treatment between the two properties it would not result in a loss of privacy within the rear garden at No.23.
19. The proposed first floor full height windows and Juliet balcony would be set back from the rear garden at No.23 and the first floor terrace at No.23 would help screen this rear garden from the proposed first floor windows.

Accordingly, the proposal would not result in an unacceptable loss of privacy within the rear garden of No.23. However, there would be direct views from the proposed windows and Juliet balcony into the first floor terrace at No.23. Due to their close proximity this would be unneighbourly and would unacceptably harm the living conditions of the occupiers of No.23. Whilst this could be addressed by a privacy screen, this would impact on the appearance of the development and so is not something that could be dealt with by condition in relation to this appeal.

20. I conclude on the second main issue that the proposal would have an unacceptable impact on the living conditions of the occupiers of No.23 due to loss of privacy. It would therefore conflict with CLP Policy 12 and paragraph 135 of the Framework which amongst other things seek to provide a high standard of amenity for existing and future occupiers.

Drainage

21. The appellant was unaware of the council's drainage concerns at the application stage. However, they have submitted a drainage statement with their appeal documentation. It addresses the concerns of local residents by removing the proposed soakaway and replacing it with an attenuation tank to control the flow of surface water into the SWW combined system.
22. I am satisfied that this would address the concerns raised by the council and the precise location and dimensions of the tank could be satisfactorily controlled through the imposition of a condition.
23. I conclude on the third main issue that the proposed development could be satisfactorily drained. In this respect the proposal would comply with CLP Policy 26 and paragraphs 166 & 173 of the Framework.

Conclusion

24. Whilst I have found in favour of the appellant on some matters the conclusions on the first two issues amount to compelling reasons for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR