



Appeal Decisions

Site visit made on 10 June 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal A Ref: APP/D0840/D/23/3328731

5 Clarence Place, Penzance, Cornwall TR18 2QA

- 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 John Forsyth against the decision of Cornwall Council.
 - The application Ref is PA22/08989.
 - The development proposed is to fix photovoltaic panels to the south side of the roof behind the parapet.
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Appeal B Ref: APP/D0840/Y/23/3334223

5 Clarence Place, Penzance, Cornwall TR18 2QA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr John Forsyth against the decision of Cornwall Council.
 - The application Ref is PA22/08990.
 - The works proposed are to fix photovoltaic panels to the south side of the roof behind the parapet.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The proposals relate to 5 Clarence Place, which forms part of a Grade II listed terrace of houses known as 1-6 Clarence Place (the listed building). The appeal site is located within the Penzance Conservation Area (CA). The description of the proposal is the same for both the planning appeal (Appeal A) and the listed building consent appeal (Appeal B), although the legal regimes are different. I have borne in mind my statutory duties in respect of sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) as appropriate. However, to reduce repetition, I have dealt with both appeals together in this decision letter unless stated otherwise.

Main Issue

4. The main issue in both appeals is the effect of the proposals on the significance and special interest of the Grade II listed building, and whether the character or appearance of the CA would be preserved or enhanced.

Reasons

Significance and special interest

5. The listed building comprises a row of 19th century, regency style two storey plus attic houses. Whilst there are subtle variations in the detailing of individual houses, the overriding impression is one of visual homogeneity. This is owing to each house being three windows wide, the balanced composition of principal elevations, the symmetrical placement of fenestration, the regular repetition of entrance porch features and the consistent use of stucco and slate roofing. Architectural detailing typical of the period is also in evidence, including string coursing, recessed architraves, scribed pilasters, parapets and cornicing.
6. The significance and special interest of 1-6 Clarence Place is partly drawn from its elegant architectural and aesthetic qualities as a good example of a regency terrace. Consistent with the prevailing building hierarchy of the time, the south facing principal elevation makes the most valuable contribution and faces onto a communal grassed area to the front.
7. Further interest stems from the configuration of 1-6 Clarence Place as part of an attractive wider grouping of 19th century listed buildings with Clarence Terrace and Clarence Cottage. Together, the houses form a fragment of deliberately planned townscape that embodies some of the social and economic changes experienced by Penzance in the 19th century, reflecting its growth in popularity and fashion.
8. 5 Clarence Place is a mid-terrace house which exhibits the characteristics described above. Its form, proportions, materials and handsome, symmetrical stucco frontage comprise an integral part of the listed terrace. Consequently, it is an important component that contributes positively to the significance of the listed building.
9. The CA covers a significant proportion of the town, which is set on a plateau adjacent to the sea. The coastal location and topography have heavily influenced the evolution of the settlement, and tie together the various elements evident in the buildings, spaces and infrastructure within the CA. These include the medieval core of the town, the importance of fishing and commerce, the harbour, the promenade and the 19th century building boom as tourism grew.
10. The Penzance Conservation Area Appraisal, March 2010 (CA appraisal) identifies that the appeal site lies within the Alverton and Morrab character area of the CA. It describes the area as being characterised by leafy roads and parks, lined with large and elegant residences. The growth of the middle classes in the early 19th century led to the erection of elegant stucco terraces noted as one of the principal features of Penzance in the CA appraisal¹. Moreover, specific mention is made of the importance of building materials, including granite, stucco and the slate roofscape. These factors result in a genteel character and appearance. Hence, part of the significance of the CA is derived from the historic townscape and rich architectural heritage found in the evolution of the town.

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11. The appeal site comprises part of a genteel stuccoed regency terrace. Thereby, it typifies a principal feature and contributes positively to the distinctive character and appearance of the character area, and CA as a whole.

The effect on the listed building and CA

12. The proposals would introduce 10 photovoltaic panels arranged in two sections onto the front facing roof slope of no.5. 8 panels would be placed between the small attic dormers, with 2 further panels to the right of the right-hand side dormer. In combination they would cover most of the available slate covered roof slope on the front roof plane.
13. As a natural material, there are subtle variations in the colour, texture and weathering associated with slate which adds richness and depth to its appearance. As illustrated in the photographic evidence provided, this is the case at no.5, even though the slate tiles may not be the original historic fabric, having been replaced relatively recently. The traditional material provides a complementary contrast with the smoothness and finer detailing of the stucco on the front elevation. By comparison the photovoltaic panels would be constituted from modern materials with a smoother and darker finish. They would have an obviously manufactured and uncompromising modern appearance, noticeably different from the matt finish of the slate roof tiles.
14. In addition, the individual rectangular photovoltaic panels would be substantially larger than the small slate tiles. As they would be placed over the slate tiling, they would also be slightly raised relative to the plane of the roof, which would alter the overall roof profile. Furthermore, the configuration would place some panels just below the roof ridge, which owing to their height, would mean that glimpses of them would be possible from land to the south.
15. In combination, these factors would mean the panels would read as an alien addition to the architectural composition, balance and finish of no.5 on its most important elevation. The harmful visual discrepancy would be exacerbated given the position of no.5 within a terrace and wider group of listed buildings where the prevailing roof material is slate.
16. By partially concealing the traditional appearance of the roof finish, the proposals would detract from qualities that contribute positively to the significance of the listed building. Those qualities would be displaced by objects with an incongruous finish, thereby adding unwelcome complexity to the roofscape. This would be harmful to the aesthetic qualities of no.5, and by undermining the homogeneity of the roofscape, detrimental to the listed terrace and wider grouping of listed buildings. In turn, this would dilute the present valuable contribution made to the CA.
17. It is highlighted that the parapet wall at no.5 would curtail visibility of the photovoltaic panels from Clarence Place itself, and that topography and tree screening would mitigate against wider prominence, especially when trees were in full leaf. Furthermore, the inverter and battery would be located within the roof void. Whilst these factors may reduce the degree of harm arising from the proposal, they would not negate it altogether. I am required to consider the effect of the proposals on the significance of the listed building, which includes its architectural qualities and integrity, and the prominence or otherwise of the building in the public realm is not the only factor relevant to that assessment.

18. Reference is made to the proposals being reversible with the photovoltaic panels having a lifetime of about 20 years. Be that as it may, the proposals are not made for a temporary period but even if they were, 20 years represents a considerable period of time. Accordingly, this would not fully surmount my concerns.
19. Overall, I consider that the proposed position, design and modern materials of the photovoltaic panels would be unsympathetic to the listed terrace, conveying a utilitarian aesthetic uncharacteristic and detrimental to the elegant regency architecture on its principal elevation. Hence, the proposals would fail to preserve the special interest of the Grade II listed building. Conflict would therefore arise with sections 16(2) and 66(1) of the Act.
20. Linked to that, the proposals would undermine, albeit to a small degree, the positive contribution the listed building would make as a notable feature. Consequently, they would fail to preserve or enhance the character and appearance of the CA as a whole, and there would be conflict with section 72(1) of the Act.
21. In terms of the National Planning Policy Framework (the Framework), it follows that the proposals would cause harm to the significance of both the listed building and the CA as designated heritage assets. In the parlance of the Framework and cognisant of the relatively modest nature of the proposals, the degree of harm to the significance of each asset would be less than substantial. Paragraph 206 of the Framework states that any harm to the significance of a designated heritage asset, should require clear and convincing justification. While paragraph 208 indicates that this harm should be weighed against the public benefits of the proposals including, where appropriate, securing the asset's optimum viable use.

Heritage balance

22. The greater use of renewable energy and the potential to cut carbon dioxide emissions to the wider environment are undoubtedly important public benefits. The provision of photovoltaic panels would further those aims.
23. At the heart of my determination in these appeals is the question of where to strike the balance when there is friction between conserving the historic environment and the need to support low carbon energy improvements. This is a complex and dynamic subject, as both are valid objectives for which support and encouragement can be found in national and local planning policies and guidance. Indeed, wording that seeks both those objectives is evident in policy 2(1d) and 2(2a) of the Cornwall Local Plan Strategic Policies 2010-2030, November 2016 (LP). Moreover, Historic England have recently undertaken public consultation to update their advice in relation to climate change and historic building adaptation.
24. However, where there is harm to designated heritage assets in a specific case, a balance must be struck between competing environmental and heritage issues. As is acknowledged by the appellant, it requires a judgement² to be made on how much weight the respective considerations should attract to determine ultimately, where that balance lies.

² Appellant's final comments dated 8.4.24

25. The Framework is helpful in this respect. Paragraph 164 stipulates that significant positive weight should be given to the need to support energy efficiency, including the installation of photovoltaic panels on domestic properties. In this instance, the wider environmental benefits arising from the amount of renewable energy likely to be generated are not quantified, but it is likely to be small scale. Even so, in combination with shorter term economic benefits associated with the construction phase, these are public benefits that garner significant weight in favour of the proposals.
26. However, the Framework does not say that meeting the challenge of climate change has paramountcy over its policies to protect designated heritage assets, rather it confirms they also apply.
27. It is evident that the appellant has given the proposals considerable thought and has carefully considered relevant policy and guidance in doing so. Furthermore, I recognise there are aspects of the proposals which mitigate the degree of harm caused to the significance of the listed building and CA. Nevertheless, I have found that some harm would remain. Paragraph 205 of the Framework states that great weight should be given to the conservation of designated heritage assets. Paragraph 195 of the Framework reminds us that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance, and 1-6 Clarence Place has been recognised by national listing because of its special architectural or historic interest.
28. It follows that the less than substantial harm to the listed building and CA both attract great weight. Consequently, although finely balanced, the sum of public benefits would ultimately not be sufficient to outweigh the less than substantial harm to the significance of the designated heritage assets identified. Conflict therefore arises with the historic environment protection policies within the Framework.
29. Although it is brought to my attention that no objections were raised by Penzance Town Council or by neighbours to the appeal building, these do not amount to tangible public benefits arising from the proposals.
30. My attention is also drawn to other instances of solar panels on listed buildings, including at Gloucester Cathedral and schemes permitted by the Council at St John's Hall, Penzance, and New County Hall in Truro³. I do not have all the details that led to those decisions which inhibits comparison with the appeal scheme. However, the significance of each listed building will be different, and so it does not automatically follow that what is found acceptable at one, will necessarily translate to another. A judgement in each case, rather than a system of precedent applies. Based on the limited information before me, the nature of the listed buildings referred to are very different in scale and nature from 1-6 Clarence Place and it is not demonstrated that any of the examples cited are directly comparable to the appeal proposals. Whilst the decisions in general terms attract minor favourable weight, none of them would lead me to a different view in relation to the specific merits of these appeals.
31. On that basis, I find that there would be conflict with policies 2(1d), 12 and 24 of the LP which, amongst other things, seek to sustain designated heritage assets, and maintain the special character and appearance of conservation

³ Planning references PA/22/08960 & PA/22/03076

areas. Moreover, although policy RE1 of the Climate Emergency Development Plan Document, February 2023 generally supports proposals for renewable and low carbon energy, this is subject to criteria, one of which refers to the significance of heritage assets. I judge that the harm I have found to designated heritage assets would amount to a significant adverse impact on the local environment for the purposes of policy RE1, and hence, the proposals would not derive support from it.

Conclusions

32. I have found that the works and development would conflict with the statutory provisions set out in the Act; the historic environment policies within the Framework; as well as policies in the development plan. There are not wider public benefits sufficient to outweigh the harms identified. In relation to Appeal A, material considerations do not indicate I should make a decision other than in accordance with the development plan.
33. Therefore, for the above reasons and having regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

Helen O'Connor

INSPECTOR