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## Appeal Decisions

Site visit made on 9 January 2025

**by Paul Griffiths BSc(Hons) BArch IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 January 2025**

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### **Appeal A: APP/D0840/Y/24/3344511**

#### **Custom House, Office Wharf Road, Penzance TR18 4AA**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Subsea Networks Ltd against the decision of Cornwall Council.
  - The application Ref.PA23/03303, dated 22 June 2023, was refused by notice dated 17 November 2023.
  - The works proposed are described as 'the conversion of first floor from commercial office space to domestic and conversion of ground floor to office space, and external works'.
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### **Appeal B: APP/D0840/W/24/3344427**

#### **Custom House, Office Wharf Road, Penzance TR18 4AA**

- 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 Subsea Networks Ltd against the decision of Cornwall Council.
  - The application Ref.PA23/03302, dated 22 June 2023, was refused by notice dated 16 November 2023.
  - The development proposed is described as 'the conversion of first floor from commercial office space to domestic and conversion of ground floor to office space, and external works'.
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### **Procedural Matters**

1. On the original application form, the appellant described the description of works (Appeal A) and the description of development (Appeal B) in the same way. The Council adopted that description in dealing with the applications. I have set that description out in the headers above.
2. The description is adequate in relation to Appeal B as it describes the development for which planning permission is sought. In relation to Appeal A however, having regard to s.7 of the Planning (Listed Buildings and Conservation Areas) Act 1990, listed building consent is only required for works for the demolition of the listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. As such, the change of use of the first floor of the building from commercial office space to residential use, as proposed, would not require listed building consent, and neither would any change of use at ground floor level.
3. Listed building consent is only required for the works of alteration, internal or external, required to facilitate the changes in use proposed. I have dealt with Appeal A on that basis.

## **Decisions**

4. The appeals are dismissed.

## **Main Issue**

5. The Custom House dates from the early 19<sup>th</sup> Century and is a Grade II listed building. It lies within the Penzance Conservation Area. In that context, the first main issue to be considered is the effect of the works/development on the special architectural and historic interest of the listed building, and whether they preserve or enhance the character or appearance of the conservation area. In the parlance of the National Planning Policy Framework (the Framework), this can be expressed as the impact of the proposals on the significance of the affected designated heritage assets.
6. The second main issue is whether the residential accommodation proposed would provide a reasonable living environment for its occupiers.

## **Reasons**

7. Having regard to the nature of the existing office accommodation at first floor level, the internal alterations proposed to facilitate the change of use to residential proposed are low-key and would have no harmful impact on the special interest of the listed building. I take a similar view in relation to some of the external alterations. The roof-lights proposed would not be prominent and neither would the roof mounted vents. Their detailed design could be made the subject of conditions.
8. The proposed balcony and associated external staircase are a different matter, however. The frontage of the Custom House is simple in form. The existing balcony is relatively small, uncomplicated in its construction and detailing, and sits comfortably upon the frontage of the building. It has a pleasing, visually balanced, relationship with the flagpole that sits against the frontage.
9. It is proposed to replace this existing balcony with a much larger balcony, with an associated external staircase that would give access to the new residential accommodation at first floor level. This addition, whether one considers it as originally proposed, or as subsequently amended, would be of a size and complexity that would appear incongruous, dominating the frontage. The pleasing, visually balanced, relationship with the flagpole would be destroyed. On that basis, these additions would cause harm to the special architectural and historic interest of the listed building. This impact would, in turn, fail to preserve the character or appearance of the conservation area.
10. The Framework tells us that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The Framework distinguishes between the approaches to take when the harm that would be caused to the significance of an asset would be substantial or less than substantial.
11. In this case, bearing in mind that the bar for a finding of substantial harm is a high one, I find that the harmful impact of the proposals on the significance of the listed building as a designated heritage asset would be less than substantial but nevertheless considerable. Given that the conservation area covers a wide area, I find that the harm to its significance would be less than substantial, at the lower end of the scale.

12. Where less than substantial harm is found, the Framework says that the harm should be weighed against the public benefits of the proposal. I recognise that the housing situation in Cornwall is difficult, with the Council having declared a Housing Emergency as far back as December 2021. There are significant public benefits in the provision of even a single housing unit, given the situation Cornwall finds itself in. However, even if you accept that the accommodation so formed would provide a reasonable living environment for its occupiers, which I do not, for the reasons set out below, the public benefit in the provision of one dwelling, even in the context of Cornwall's housing emergency, is not sufficient to outweigh the less than substantial harm that would be caused; harm that must attract considerable weight given the workings of the Planning (Listed Buildings and Conservation Areas) Act 1990.
13. As such the proposals fall contrary to the Policies 12 and 24 of the Cornwall Local Plan that seek to secure good design and protect the historic environment from harm that is not justified. The proposal falls foul of the approach of the Framework, considered as a whole, too.
14. Turning then to the second main issue, the residential accommodation would sit on the existing mezzanine floor, above the office accommodation below, with the main access provided by the external staircase referred to above. The intention is that the office and residential uses would function separately. Achieving that in a satisfactory way would be very difficult, in my view. No details are given of how acoustic separation would be achieved within the constraints of the listed building and from what I saw, it would be very difficult to provide in a way that did not harm the building's special interest. Moreover, even if they were obscure glazed, the internal windows in the bedroom, opening out over the office floor below, would not allow for levels of privacy that a residential occupier might reasonably expect. There would be the perception that they were being watched.
15. Altogether, it seems to me that the residential accommodation proposed would not provide a reasonable living environment for its occupiers. The proposal fails to accord with Policy 12 of the Cornwall Local Plan in this regard and advice in paragraph 135 of the Framework that designs should seek a high standard of amenity for existing and future users.
16. I acknowledge that the Council have looked favourably on other residential developments in the immediate area, but I would add that there does appear to be the potential for tension between a residential use on the appeal site, and the adjoining restaurant/bar that has a late-night licence. That adds to my concerns about the standard of the residential accommodation proposed that I have set out above.
17. The Council also raised issues relating to flood risk and bats but in the event the appeals had found favour, these matters could have been addressed by condition.

## **Conclusion**

18. For all those reasons, I dismiss the appeals.

**Paul Griffiths**

**INSPECTOR**