
Appeal Decision

Site visit made on 2 April 2026

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal Ref: APP/D0840/W/25/3371065

9 Penare Road, Penzance, Cornwall TR18 3AJ

- 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 D Newby against the decision of Cornwall Council.
 - The application Ref is PA25/02385.
 - The development proposed is the Construction of Two Self Build Dwellings & Associated Works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located in proximity to the Church of St John the Baptist, a Grade II Listed Building and is situated within the Penzance Conservation Area (CA). I am mindful of the statutory duties placed on decision-makers by sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) to have special regard to the desirability of preserving listed buildings or their settings, and to preserve or enhance the character or appearance of conservation areas respectively.
3. I have taken the description in the heading above from the Council's decision notice. This describes the appeal development more accurately than the application form, as it defines the number of dwellings proposed.

Main Issues

4. The main issues are:
 - the effect of the appeal development on the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building, the 'Church of St John the Baptist', and the extent to which it would preserve or enhance the character or appearance of the Penzance Conservation Area; and
 - whether the proposed development would make adequate provision for surface water drainage to prevent flood risk elsewhere; and
 - whether the proposed development would provide acceptable living conditions for existing occupants of adjacent properties and future occupants of the appeal properties, with particular regard to outlook, external amenity space and car parking.

Reasons

Character and appearance including the Conservation Area

5. The CA covers a substantial area within the historic town of Penzance, the most westerly town in Britain. It has its origins as a market town and fishing port in the 14th Century. It expanded over the following centuries, as its importance grew, being recognised as one of the principal towns in the west by the 16th Century. Its economic success and importance as a port continued, with further expansion through the 17th, 18th and early 19th centuries from seafaring, commerce and the arts, and with significant tourist development following the arrival of the railway in the mid-19th century.
6. The appeal site is located within the northern section of the CA known as the Lescudjack & The Battlefields area. This is a suburb dating from the mid-19th century, which expanded up the hill from the town centre following the arrival of the railway in 1852. The properties on Penare Road follow a regular pattern, consisting of large, terraced dwellings with granite walls and with semi-submerged inhabited basements. They have two full storeys of accommodation above, with further accommodation in the roof space, lit and ventilated by hipped dormers.
7. The terraced properties step up the hill in a regular pattern, which is enhanced by their half-hexagonal two-storey bay windows, and their feature chimneys. Their frontages are defined by small forecourt gardens behind low level granite stone walls topped, in some cases, with original iron railings. The otherwise hard urban feel of the road is softened by hedging, small trees and feature planting to their forecourt gardens, which gives the area the character of an established and genteel residential neighbourhood.
8. The rear of the properties on the south side of Penare Road have three storey, hipped roof rear offshoots, with feature three-storey, half-hexagonal bay windows. Rear hipped roof dormers are also present, whilst the feature chimney stacks are readily visible, emphasising the stepped nature of the terrace. Some properties, such as both appeal properties, have single storey, flat-roofed extensions at ground level, as do the properties at No.5 and No.3 Penare Road.
9. The terrace has quite large rear gardens which run down to a rear lane, described on the plans as Lannoweth Terrace, but whose name is disputed by neighbours. The properties are provided with vehicular parking from this lane, having either open parking areas, or a variety of pitched or flat roofed garage structures which front onto the lane. Whilst there are two-storey properties on this lane, notably to the rear of No.1 and No.3 Penare Road, these were constructed over a quarter of a century ago and replaced a previous substantial two-storey garage building.
10. A further small two-storey building is under construction to the rear of No.5 which was approved by the Planning Committee¹ against the officer's recommendation. It is considered to be at odds with the prevalent character of the rear lane, and its otherwise modest single storey garages and outbuildings. In the main, these allow the rear elevations of the terrace of dwellings to be viewed, maintaining an openness, and contributing to the character of the CA in this location. However, the building to the rear of No.5 is narrow and so is relatively compact in its height. It is also set back from the lane by several metres, maintaining the openness.

¹ PA22/07370

11. To the rear of No.7 is an existing single storey, flat-roofed building which was formerly a garage for the host dwelling, and which gained a certificate of lawfulness² for the existing use of the outbuilding as a dwelling in November 2011. The property, now known as 'Poljigga Bungalow', is a two-bedroom dwelling with no parking. However, its restricted height allows views of the rear of the terrace of properties on Penare Road, to be maintained above its roof line.
12. Given the above, I find the significance of the CA, insofar as it relates to this appeal, to be primarily associated with an open aspect, to the rear of a substantially intact and well detailed terrace of mid-19th century properties, which step up the hill. They are set within substantial gardens with their subservient small outbuildings adjoining the lane. The open aspect and subservience of the outbuildings, contributes to the setting not just of the Church of St John the Baptist listed building opposite the appeal site, but to the significant number of other listed buildings on the south side of this section of the lane, seven out of the nine properties being listed buildings.
13. The Church of St John the Baptist was listed in November 2018 (Ref:1459134). It was constructed in 1880-81, one of several churches designed by the architect JP St Aubyn and described as the architect at his best. It is constructed from Cornish stone and also has fine examples in its interior chancel screen, alter and reredos, of fittings by G Fellowes Prynne, and stained-glass windows by Clayton & Bell, C E Kempe, William Morris of Westminster and G Maile. Given the above, I find the significance of the listed building and its setting, insofar as it relates to this appeal, is derived partly from the quality of its architectural design and interior fittings detail, and partly from its historical and social significance within the town.
14. The proposal would replace Poljigga Bungalow to the rear of No.7, with a two-storey pitched roof, two-bedroom dwelling, with its gable positioned on the boundary line, facing the lane. This dwelling is referenced as Plot 2 on the application drawings. A garage door opening would be present at ground level, in the granite stone walls, with two uPVC windows in the upper floor gable wall, which is proposed to be slate clad, as is the pitched roof.
15. Adjacent and attached, would be a two-storey building to the rear of No.9, referenced as Plot 1 on the application drawings. The road facing gable at ground level would be substantially open as a two-car parking bay, though the walls would be granite. Above the parking bays would be an upper floor, also with two uPVC windows within it, and also slate clad, as would be its pitched roof. The building, which is also positioned on the boundary with the lane, would provide a one-bedroom dwelling, and would take up the entire width of the site.
16. The differential in the ground levels between No.9 and No.7, and the increased width of the proposed dwelling at No.9, would result in its' eaves level being above the ridge level of that of the proposed dwelling at No.7. Its' ridge line would be significantly higher than that of the two properties to the rear of No.1 and No.3. I find that the combination of their width, height and relationship to the boundary with the lane, would result in the proposed dwellings being overly dominant in the lane.
17. The proposal would reduce the effective visual width of the lane, immediately opposite the Grade II listed Church of St John the Baptist and would restrict the open views to the rear elevations of the terrace of properties on Penare Road. I find

² PA11/04133

this would harm the setting of the Listed Building and harmfully change the character of the CA at this location.

18. Given the above, I find the appeal development would fail to preserve the setting of the listed building and would harm the significance of the CA. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
19. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 of the Framework goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification.
20. Whilst I have found harm to the CA and the setting of the listed building, I would assess this as being less than substantial harm for the purposes of the Framework, with the level of harm being at the lower end of this category. Paragraph 215 of the Framework requires this harm to be weighed against any public benefits of the development.
21. The proposal would provide additional housing, in an area with an acknowledged housing supply deficit. However, the proposal would only result in the addition of a single, one-bedroom dwelling at the rear of No.9, the dwelling at the rear of No.7 only replacing an existing dwelling like-for-like. The benefit therefore would be moderate. The proposed development would create economic benefit during construction and through any future resident's use of the town's commercial facilities. It would also be situated in a sustainable location, which would accord with the spatial strategy of the development plan.
22. However, due to the limited size of the proposed development, these benefits would also only attract moderate weight. I have no convincing evidence otherwise, of public benefits that would outweigh the unjustified harm I have found to the CA and to the setting of the listed building which result from the appeal development, and which the Framework requires me to assign great weight to.
23. Having regard to my duties under the Act, I conclude that the appeal development would fail to preserve the character or appearance of the CA or the setting of the grade II listed 'Church of St John the Baptist' as designated heritage assets.
24. It follows therefore, that I find the appeal development is contrary to Policies 1, 2, 12 and 24 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the CLP), Policy C1 of the Climate Emergency Development Plan Document (February 2023) (the CEDP), and Policies DDH1 and DDH2 of the Penzance Neighbourhood Development Plan 2020 - 2030 (adopted 2025) (the NDP). These require, among other things, development to provide high standards of design that respect the distinctive historic or architectural character of the area, to preserve or enhance the appearance and character of the area, to conserve or enhance the significance or setting of heritage assets, and for great weight to be given to the conservation of heritage assets.

Drainage and flood risk

25. The appeal site is located within the Penzance Critical Drainage Area designated by the Environment Agency. Accordingly, paragraph 181 of the Framework requires that a site-specific flood risk assessment is submitted with development proposals within such areas, which should also employ Sustainable Urban Drainage Systems (SuDS). This requirement is reflected in policy 26 of the CLP, and policies C1 and C3 of the CEDP.
26. The appeal application was accompanied by a 'Critical Drainage and Flood Risk Assessment' (CDRFA) document. However, having examined the submitted document it refers to the appeal proposal's surface water drainage will be as existing, discharging into mains drainage, stating any possible impact in terms of increased drainage can be maintained within the application site. It goes on to say that the rate at which water runs off the site would continue to drain to the adjacent sewer, consequently, there would be no flooding impact on any adjacent downstream sites as a result of the proposed scheme.
27. However, the CDRFA document contradicts the application form, which notes surface water drainage to be disposed via a soakaway system. Soakaways are indicated on the application drawings, though they are located outside the red line boundary of the application site, within the rear lane. It is therefore unclear as to whether this would be either achievable or legally acceptable to the landowner.
28. There is no submitted evidence of a calculation of the likely increase in surface water run-off as a result of the increased density of development, nor is there any evidence ground infiltration tests having been carried out to establish if the site is suitable for the use of soakaways as an appropriate method of surface water disposal. Similarly, no evidence is provided of any proposed rainwater harvesting, attenuation or re-use in the development, to mitigate surface water run-off rates.
29. Whilst the appellant has noted that South West Water Services (SWWS) have accepted the approach for the use of soakaways as an acceptable form of surface water disposal, this acceptance was in relation to their preferred drainage hierarchy, the proposed soakaways being high up their hierarchy preferences. SWWS note the detail and acceptability of any such proposed drainage disposal systems, needs to be demonstrated by the appellant to the Council.
30. Whilst the appellant suggests that the surface water drainage disposal could be adequately addressed by suitably worded conditions, I find it is not certain, owing to the proximity of existing and proposed development to each other, that sufficient space would exist for the use of soakaways in accordance with regulations. Under these circumstances, it is not certain that conditions on surface water disposal, and therefore flood risk, would not result in changes to the overall design to accommodate such systems within the appeal site, which would go beyond the extent of acceptable changes under conditions.
31. Therefore, I find the appeal has provided insufficient detail to satisfactorily address the disposal, attenuation or storage and re-use of surface water and therefore the management of flood risk. Accordingly, it has not been demonstrated that the proposal would not increase flood risk elsewhere. It follows that it would conflict with policy 26 of the CLP, policy CC3 of the CEMP, and policy DDH8 of the NDP. These require, among other things, that development minimises, reduces or where possible eliminates flood risk on site and in the area, through the use of SuDS.

Living conditions for existing and future occupants

32. The upper floor bedrooms to both the Plot 1 and Plot 2 dwellings rely on the use of roof windows or obscure glazed windows, for natural light and ventilation. Whilst the Council consider this would not provide acceptable outlook, and therefore poor living conditions, for future residents, these are to bedroom areas only. Both proposed dwellings would have clear glazed windows within their gables which face the lane, along with further roof windows.
33. I find these would provide acceptable outlook and ample natural light and ventilation to both properties' open plan lounge, dining, kitchen areas, which is their principal element of habitable accommodation. Bedrooms are in the main, dormitory areas, and whilst it may be preferable for outlook to be provided to all habitable rooms, it is not essential where that would cause privacy or amenity impacts both for future residents of the proposal, or for existing residents of adjacent properties. There is no suggestion by the Council that the proposal would harm the outlook of occupiers of existing properties on Penare Road, nor their privacy. Accordingly, I find the proposal would provide acceptable living conditions for future occupiers with regards to outlook.
34. Turning to the provision of external amenity space for the proposed dwellings, whilst the application drawings identify adequate external amenity space for the appeal dwellings, the Council note that with regards to Plot 1, the external amenity space allocated to it, was previously allocated to an element of the host dwelling in a previously approved application³, for the conversion of the basement of No.9 to a separate self-contained dwelling. The rear garden of No.9 being subdivided to provide equal external amenity space for No.9 and the new dwelling created from the former basement. Accordingly, approval of the appeal proposal, would result in the loss of amenity space recently considered necessary for the sub-division of the of the property at No.9.
35. With regards to Plot 2, whilst the appeal drawings indicate dedicated external amenity space to the dwelling, there is no clear evidence as to whether the existing Poljigga Bungalow to the rear of No.7 has dedicated external amenity space or shares the rear garden of No.7. Notwithstanding this, as there is no net increase in dwellings on this site, merely the reconfiguration of the pattern of one two-bedroom property from a bungalow to a two-storey dwelling, it is not considered that the external amenity space impact or provisions would be unacceptable in this appeal.
36. With regards to the provision of parking for the proposed dwellings, the introduction of a garage space to the Plot 2 dwelling would be an increase over that which currently exists for this property. However, with regards to the Plot 1 dwelling, the host dwelling at No.9 currently has two parking spaces for the main property and recently converted former basement dwelling, which were also identified and taken into consideration at the time of determination of the PA23/06900 application.
37. The proposal retains parking for two cars within the space, identifying one space for No.9 and one space for the new Plot 1 dwelling. This results in the loss of a parking space for the No.9 properties, displacing one car parking space to on-street parking, with likely results of further pressure on on-street parking in the area.

³ PA23/06900

38. Having examined the evidence before me, I find the proposal would result in the loss of external amenity space to unit 2 of No.9, and reduction in the amount of dedicated parking for the host dwelling at No.9, with consequent harms to the living conditions of their occupants, and increased pressure on on-street parking within the area. For these reasons, the proposed development would give rise to a poor standard of residential amenity for existing occupiers of the host dwelling at No.9, which would conflict with policy 12 of the CLP, section 9.3 of the Cornwall Design Guide (December 2021) and with paragraph 135 of the Framework, which require, among other things, development to provide a high quality of design which respects the natural and historic environment and which provides a high standard of amenity for existing and future users.

Planning Balance

39. The Council has stated that it can currently demonstrate a 3.9-year housing land supply. This is below the 5-year Housing Land Supply required by the Framework. Accordingly, paragraph 11(d) of the Framework is engaged for decision making purposes.
40. However, I have identified harm to designated heritage assets that would not be outweighed by the scheme's public benefits. In such circumstances footnote 7 of the Framework indicates, that a strong reason for refusing the development is provided. Therefore, the presumption in favour of sustainable development set out in paragraph 11(d)(ii) does not apply in this case.
41. I have already found the proposal would unjustifiably harm the character of the CA and would fail to preserve the setting of the Grade II listed Church of St John the Baptist, as designated heritage assets. I have also found it would conflict with the Local Plan in relation to flood risk and would harm the amenity of occupiers of the existing properties at No.9. The proposal would only result in the gain of a single one-bedroom dwelling. Accordingly, there are limited public benefits arising from the scheme, that would be insufficient to outweigh the great weight, fairly apportionable, to the less than substantial harm that would be caused to the significance of the CA and the setting of the listed building. Consequently, I have also found that the proposal would conflict with the Local Plan policies in these regards.
42. The Local Plan is well in excess of five years old. However, given that the policies with which I find conflict are consistent with the achieving well-designed places and historic environment conservation and enhancement policies of the Framework, I afford full weight to the development plan policy conflicts that I have identified.

Conclusion

43. For the reasons set out above, I conclude that the appeal development would be contrary to the development plan, read as a whole, and that there are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal should be dismissed.

D R Kay

INSPECTOR