



Appeal Decision

Site visit made on 5 July 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2022

Appeal Ref: APP/X1118/W/22/3290255

22A Trinity Street, Barnstaple EX32 8HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr K Reay against the decision of North Devon District Council.
 - The application Ref 73951, dated 19 August 2021, was refused by notice dated 30 November 2021.
 - The application sought planning permission for 'variation of condition 2 (approved plans) attached to planning Permission 71713 to allow for amended layout to upper flat' without complying with a condition attached to planning permission Ref 72424, dated 21 December 2020.
 - The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans/details:
 - R2004 S1 Block-Location Plan received on the 06/11/20
 - R2004 P1B Floors received on the 15/12/20
 - R2004 P2C Elevations received on the 15/12/20 ('the approved plans').
 - The reason given for the condition is: To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Background

2. The appeal proposal sought to vary the approved plans condition (No. 2) on a planning permission, Ref 72424, which itself was an approved variation to an original planning permission, Ref 71713 (the original permission). This original permission enabled the "change of use from A1 to C3, former undertakers to two flats". The amended scheme, Ref 72424, included a first floor extension over part of the walled courtyard parking area to allow for the kitchen to project out from the main building and for a second bedroom to be incorporated within the larger remaining original floor area.
3. The current proposal seeks to utilise the remainder of the space above the walled courtyard to create a roof terrace for the first floor flat. This would be accessed via double doors from the kitchen. A wall and glazed screen of around 1 metre in height would front directly onto Trinity Street and a higher wall of around 2 metres would extend along the side of the roof terrace as a means to protect the privacy of neighbours.

Main Issue

4. The main issues are the effects of the proposal on the character and appearance of the area, whether the character or appearance of Barnstaple Town Centre Conservation Area (CA) would be preserved or enhanced, and whether the proposal would affect the settings of the grade I Penrose Almshouses (and grade II garden walls and gates), and grade II listed buildings known as Nos. 1 & 2 Trinity Street, Salem Almshouses and Nos. 1 to 13 Barbican Terrace .

Reasons

Character and appearance and Conservation Area

5. The Council's Conservation Area Character Appraisal, 2018 (the CA Character Appraisal) indicates that the CA designation as a whole encompasses the whole of the town centre and consolidated what was previously six different conservation areas and various extensions thereto. The CA incorporates the Norman Castle Mound scheduled monument and its associated Green, and many medieval buildings, along with shopping streets that retain their medieval burgage plot lay-out and which are pleasantly narrow and enclosed. Some of these enclosed streets give way to open spaces such as at The Square, or wider streets such as 'The Strand' and 'Boutport Street' which follows the curving line of the former medieval town wall. The CA's historic significance is therefore as an important medieval defensive town which saw much mercantile-related expansion in the mid-16th century, with a later phase of evolution in the early 19th century of a typical Victorian character.
6. The appeal site falls within a sub-character area, 'Area 7 - Summerland Street, Salem Street, Higher Church Street', which, with the exception of Salem Almshouses and the Roman Catholic Church includes the later 19th Century development of a different character to much of the rest of the CA in that it represents a distinct more recent and briefer phase of expansion from the end of the Victorian period. In this sub-area, the predominant built form is of two storey domestic terraced properties, brick faced or painted render, and with decorative detailing in the window and door heads. With particular relevance to this appeal, the special interest and significance of the CA as a designated heritage asset therefore stems from its layout and the historic integrity of the varied buildings and streets, in this area, particularly in relation to the speculative Victorian expansion of the town.
7. The appeal building is a typical two storey building with a domestic form, albeit that its previous use was for commercial purposes. It has a more unkempt appearance than buildings found in its surroundings and for these reasons, has a slight negative effect on the appearance of the CA. The extant permission for the change of use and development to form two flats would lift the appearance of the building and make it a positive contributor in the streetscene and to the character and appearance of the CA.
8. The proposal would introduce a metre high wall with glazed section to the front building line along Trinity Street. The roof terrace space behind it would be fully visible to the street. The southern side wall would be larger and more prominent as a boundary feature than the existing walls and would, in itself, form an unsympathetic feature in the streetscene. The combined effect of enclosing the terrace in such an elevated position within the streetscene would

- be to emphasise the flat roof feature of the terrace itself, for which there are no historic references or precedents within the streetscene, and draw the eye to the domestic features and use of the space. Whilst there are some front gardens and small defensive spaces, there are no visible terraces used as a main sitting out space within the streetscene. For these reasons, the proposal would form an incongruous and prominent feature in the streetscene and undermine the coherent character and appearance of the area.
9. Whilst the extant scheme includes two Juliet balcony features, these are suitably restrained and do not include projecting terraces that would enable domestic paraphernalia to be on display. They simply provide a subtle glazed safety feature over larger door openings for which there is already a precedent at first floor level within the existing building.
 10. The proposal would therefore harm the character and appearance of the area, and would therefore fail to accord with, in particular, Policies ST04 and DM04 of the North Devon and Torridge Local Plan 2018 (Local Plan). These Policies require development to be of a high quality inclusive and sustainable design that contributes positively to local distinctiveness, the historic environment and sense of place.
 11. In a similar manner, the proposal would also incrementally harm the character and appearance of the CA. This falls short of the expectation of Section 72(1) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (the Act) to preserve or enhance the character or appearance of conservation areas.
 12. The National Planning Policy Framework (the Framework) sets out in Paragraph 202 that where a proposal would harm a designated heritage asset, this should be balanced against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I return to this below.

Listed Buildings

13. The Council's decision notice refers to 'various listed buildings' but the delegated report specifically details Nos. 1 & 2 Trinity Street, Penrose Almshouses (and garden walls and gates), Salem Almshouses and Nos. 1 to 13 Barbican Terrace. Each of the relevant formal list entries has been provided.
14. Nos. 1 & 2 Trinity Street (list entry Ref. 1385375) is a grade II listed building comprising a pair of semi-detached two storey cottages. The listing description details that these stuccoed cottages date back to c.1830 and have a handed plan form, a symmetrical three window range, with sash windows, and rusticated quoins. There is also a pair of centred front doors beneath rounded window heads and brick stacks to either end of the pitched slate roof.
15. This listed building is slightly offset but on the opposite side of the street from the appeal site and, owing to the narrow street arrangement, has a close relationship with it as part of the street scene. Given the manner in which the proposal would feature as part of the same intimate streetscene and would introduce incongruous built features and domestic clutter thereupon, it would detract from the setting of the listed building and thus, in a minor way, harm its significance. Such harm would be less than substantial.
16. Penrose Almshouses are grade I listed under list entry Ref. 1385215 and the associated garden walls and gates enclosing the allotment gardens at the rear

- are grade II listed under list entry Ref. 1385216. These buildings derive added significance from the group value from the association with the other. The Almshouses are recorded as being completed in 1627, after the death of their founder, former local merchant, John Penrose. The building comprises 4 ranges of almshouses arranged around a central courtyard, single storey with attic and gabled half-dormers. There is a passageway at the front with a granite colonnaded porch, and a second passageway to the rear, leading to the shared allotment garden. It is constructed of local ashlar masonry, has slated roof and has features such as a continuous slate pentice at first floor level, ovolo-moulded oak mullioned windows with diamond-leaded glass panes and brick stacks with corbelled cornices. Its special interest and significance lies in its historic integrity as an ambitious C17 complex of Almshouses, the associative connections with John Penrose and the surviving historic fabric of the building.
17. The listed building comprising the garden walls and gates are significant for their role as an enclosure for the large allotment garden and the surviving fabric is believed to be contemporary with the Almshouses. The original walls, or where original fabric survives, is of a cob construction, atypical of the area, and with slate coping. However, much 20th century repair work appears to have been undertaken, particularly on the Trinity Street side where the walls have also been topped with metal railings.
 18. The distance between the site and the Almshouses themselves, and their orientation facing away from the appeal building and instead fronting Litchdon Street, means that the proposal would not have a direct relationship with the grade I building, and nor would it be experienced sequentially with it or in views to its rear. Though the appeal site and the grade II walls are capable of being experienced in combined oblique views, the significance of this building as a feature associated with the host Almshouses, means that how it is experienced in the streetscene is not generally related to the surrounding Victorian housing. As such, I do not consider that the proposal would harm the settings of either of these listed buildings or detract from their significance.
 19. Salem Almshouses are grade II listed under list entry Ref. 1385376 and the CA Character Appraisal notes that they, along with the Roman Catholic Church, are a feature of the CA's sub-area that are not from the end of the Victorian period and do not fit with the otherwise consistent rhythm of Victorian streets and houses. Although dating from early 19th Century, this building has a regular terraced form around a courtyard plan open to the street behind reinstated iron railings and their construction is of a local rubble stone facing material. The significance and special interest of this listed building lies in its historical integrity as a good example of a set of Almshouses, its layout and architectural detailing, including the regular rhythm of casement windows and prominent chimney stacks and flat stone arched window and door heads.
 20. Salems Almshouses are further along Trinity Street than the appeal site and whilst capable of being experienced sequentially whilst walking along the street, are sufficiently far removed and obscured by the main part of 22A Trinity Street that the proposal itself would not form a detracting feature within their immediate setting. For this reason, the proposal would preserve the setting of this listed building, avoiding harm to its significance.
 21. Nos. 1 – 13 Barbican Terrace (list entry Ref. 1384981) is a grade II listed building formed of a terrace of 13 dwellings dating back to early to mid C19.

Whilst the majority are of the typical two storey domestic form found in this part of the CA, there are three three-storey villas at Nos. 5, 6 and 7. The significance and special interest of the listed building lies partly in the consistency and integrity of its traditional form, materials and detailing that combine to reflect the Classical architectural aesthetic of the mid-19th century.

22. As the proposal would be seen prominently in views from the junction of Trinity Street and Barbican Terrace, the proposal would harmfully affect the setting of this listed building and the way in which it is experienced as part of a coherent C19 residential expansion. Such harm would be less than substantial.
23. Given the manner in which the proposal would harm the settings of the designated heritage assets, Nos. 1 & 2 Trinity Street and Nos. 1 – 13 Barbican Terrace, it would fail to meet the expectations of Section 66(1) of the Act which requires that special regard be given to the desirability of preserving any listed building, or its setting, or any features of special architectural or historic interest. These harms would be less than substantial, and under the terms of the Framework, must be weighed against the public benefits of the scheme.

Other Matters

24. I note that the proposal would not have an adverse impact on the biodiversity of the area. Whilst it is suggested that the roof terrace would provide a habitat for flora and fauna, there would be no requirement for future occupiers to install any landscaping. Thus, this weighs neither for, nor against the proposal.

Heritage and Planning Balance

25. The proposal would realise some degree of improvement to the living conditions of future occupiers through the provision of an outdoor amenity space. There would also be some marginal additional economic benefit throughout the construction phase.
26. The harm that I have identified would affect the significance of three designated heritage assets. Taken together, I attribute the sum of public benefits associated with the proposal to carry limited weight in its favour. On the other hand, even less than substantial harm to a designated heritage asset carries considerable importance and weight. Taken cumulatively, the sum of public benefits are not of sufficient weight to outweigh the harm identified to the CA and setting of the listed buildings as individual designated heritage assets.
27. The proposals therefore conflict with the heritage protection policies of the Framework. For these reasons, conflict also arises with Policies ST15 and DM07 of the Local Plan which seek to only support proposals which conserve and enhance heritage assets and their settings.

Conclusion

28. In the absence of considerations that indicate that the appeal should be determined other than in accordance with the development plan, I conclude that the appeal should be dismissed.

Hollie Nicholls
INSPECTOR