



## Appeal Decision

Site visit made on 3 July 2019

**by Mrs H Nicholls MSc MRTPI**

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

**Decision date: 17 July 2019**

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**Appeal Ref: APP/D0840/D/19/3226319**

**Tregenna Steps Studio, Tregenna Terrace, St Ives TR26 2DL**

- 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 & Mrs Notman against the decision of Cornwall Council.
  - The application Ref PA18/11152, dated 23 November 2018, was refused by notice dated 21 January 2019.
  - The development proposed is first floor extension & associated work.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the original application was refused, the National Planning Policy Framework has been updated (the Framework). Since the relevant policies have not significantly changed, I have taken the policies of the revised Framework into account in reaching my decision and do not consider that either party is prejudiced by me doing so.

### Main Issues

3. The main issues are:
  - The effect of the proposal on the living conditions of neighbouring occupiers of 15, 16 and 17 Tregenna Terrace, with particular regard to overlooking; and
  - The effect of the proposal on a protected view over the harbour.

### Reasons

#### *Living conditions*

4. Tregenna Steps Studio is situated in a high density built up area which is built upon a steep slope. Due to the tight-knit urban arrangement and topography, there is a degree of mutual overlooking from windows and gardens of dwellings towards neighbouring dwellings. From the appeal dwelling and its garden, the clearest views are towards the neighbouring garden which from the evidence, appears to belong to No 17 Tregenna Terrace. A low stone wall separates the appeal site from the garden of No 17, against which a trellis has been constructed at a higher level. This trellis would appear to be intended to increase the privacy of the garden, although until the climbing plants establish, its effectiveness for this purpose is limited. There are also some longer distance

- views of parts of the garden belonging to No 15, although no views towards the windows or outdoor spaces belonging to Nos 16 or 16a.
5. The appeal proposal would extend above an existing single storey flat roof section of the dwelling. There is a safety balustrade on one edge of the roof but it does not appear to be in routine use as a terrace for sitting out given the way in which it is accessed through a window and without enclosures on all sides. the appeal proposal would introduce two Juliet windows at first floor level which would afford views over the host garden and the neighbouring gardens.
  6. Irrespective of whether the garden of No 17 is large and that other areas are more likely to be used for sitting out than the section which would be overlooked, the appeal proposal would increase the opportunities for unobstructed overlooking towards the garden belonging to No 17 from a height. There are no windows that are currently orientated to look directly towards the garden of No 17 and certainly none so high that allow such direct overlooking from within the house. The overlooking that would be afforded by the proposal would also undermine the ability of the wall and trellis to create a degree of privacy within the garden.
  7. Whilst the appellant has offered to insert windows rather than Juliet balconies into the proposed extension by planning condition, no such plans are before me and I cannot be satisfied that such a solution would result in any less harm to the amenities of neighbouring occupiers.
  8. In view of this main issue, the appeal proposal would harm the living conditions of neighbouring occupiers at No 17 Tregenna Terrace with particular regard to overlooking. It would therefore conflict with Policy GD1 of the St Ives Neighbourhood Plan and Local Plan<sup>12</sup> Policy 12, which together seek to ensure that development proposals protect individuals and property from, amongst other things, overlooking and unreasonable loss of privacy. For similar reasons, conflict would also arise with the provisions of the Framework.

*Protected view*

9. Policy OS9 of the St Ives Neighbourhood Plan relates to panoramas, vistas and views and seeks to protect those views within, from and to the town that contribute to its special character and quality of coast, countryside and townscape. The Policy requires that development should not compromise the panoramas, vistas and views shown on accompanying Map 11 and described in Appendix 4 to the Plan.
10. Public vistas and views of the harbour from 'Terraces within the town' are protected by the Policy and Appendix 4. Similarly, views from the harbour to the terraces are also protected. Despite this, there is no indication on accompanying Map 11 of the specific areas of the 'Terraces' from which the views are protected. The appeal site falls just inside of Character Area S5<sup>3</sup> which, along with Character Area S11, is named 'the Terraces and Later Terraces'. However, the appeal property itself does not form part of Tregenna Terrace itself, rather it sits to the rear of it, alongside Tregenna Steps which lead down to the town.

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<sup>1</sup> St Ives Area Neighbourhood Development Plan 2015 – 2030 (made December 2016)

<sup>2</sup> Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted November 2016)

<sup>3</sup> as characterised by the St Ives Neighbourhood Plan

11. There is a view over the single storey wing of the appeal property towards the harbour and The Island experienced for a short distance before viewers descend the steps. The view is not panoramic or fully inclusive in so far as members of the public need to be sufficiently able bodied to access the town via the steps in the first place and then also need to be of sufficient height to see above the existing wall. The view available, not from a Terrace itself, is limited by the orientation of the buildings and steps in relation thereto, visible only above a certain head height and is partially obscured by vegetation growing in gardens of houses in Tregenna Terrace. The view has the potential to be further obscured if the trees and shrubs are permitted to grow larger.
12. Whilst protection is afforded to views from the 'Terraces within the town' towards the harbour and in the opposite direction, this cannot be taken to mean that every glimpse of the harbour from all public roads and pathways within Character Areas S5 or S11 is protected, as it would otherwise explicitly say so. As such, given its siting in relation to the Terraces, the limited accessibility and partial nature of the view, I do not consider that it is one that is afforded protection by the Policy.
13. As such, the proposal would not have a harmful effect on a protected view of the harbour and would therefore not conflict with St Ives Neighbourhood Plan Policy OS9.

### **Other Matters**

14. I note the support offered for the proposal from the adjoining neighbour below the site. I also note that the appeal proposal would provide additional accommodation for the appellant and his wife and allow them to continue to reside at the property. However, there is nothing to suggest that the proposal is the only means of achieving such an outcome.

### **Conclusion**

15. Whilst the appeal proposal would not have a harmful effect on a protected view of the harbour, it would have a harmful effect on the living conditions of neighbouring occupiers. The limited benefits of the appeal proposal do not amount to material considerations sufficient to outweigh the conflict with the development plan.
16. For the above reasons, the appeal is dismissed.

*Hollie Nicholls*

INSPECTOR