
Appeal Decision

Site visit made on 9 July 2019

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2019.

Appeal Ref: APP/D0840/D/19/3228113

18 Trelawney Avenue, Poughill, Bude EX23 9HB

- 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 J Spicer against the decision of Cornwall Council.
 - The application Ref PA18/12120, dated 29 December 2018, was refused by notice dated 28 February 2019.
 - The development proposed is a wooden balcony.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The balcony has been erected and therefore I am considering this appeal retrospectively.
3. At the time of my site visit I saw that the appellant had installed fabric screens above the handrail on the side closest to 16 Trelawney Avenue and around the railings. These screens do not however form part of the plans submitted for the appeal and have not been subject to consideration by the Council or third parties. Paragraph M.2.1 of the procedural guidance on appeals¹ notes that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. As such I have determined this appeal on the basis of the plans listed in the Council's decision notice, and have taken no account of any mitigation that may or may not be provided by the attached screens.
4. At the request of the Council and with the occupants' permission, as part of my site visit I viewed the development from the garden of No 16.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of neighbouring properties, with particular regard to privacy.

Reasons

6. The position and height of the balcony mean that it provides a direct view down into the majority of the conservatory and garden of 16 Trelawney Avenue. It is also possible to look back into their bedroom window. While the first floor windows and

¹ Procedural Guide: Planning appeals – England, 19 March 2019.

garden of the host property allow views into parts of these areas, significantly more can be seen from the balcony, leaving little of these spaces private.

7. Furthermore, I saw at my site visit that the balcony has a table and chairs on it and is of a size that it can be used for sitting out. This results in more prolonged views and a stronger perception of being overlooked, as people using the balcony can be seen and heard from neighbouring properties. As a result, the balcony has an intrusive and unacceptable impact on the privacy of the occupiers of No 16.
8. The majority of the garden of 20 Trelawney Avenue can be seen from the first floor windows of the host property. The balcony does not provide a significantly greater view of these areas, however for the reasons set out above, its use has a more intrusive impact than overlooking from windows. As such the balcony also results in some loss of privacy for the occupiers of No 20.
9. Vegetation and outbuildings largely screen views from the balcony towards the rear windows and gardens of 3, 5 and 7 Anthony Close to the rear. As such there is no significant overlooking of private areas and I do not consider that the balcony results in significant harm to the living conditions of the occupiers of those properties.
10. I find that the balcony harms the living conditions of the occupiers of 16 and 20 Trelawney Avenue. The development is contrary to Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) which seeks, among other things, to protect individuals and property from overlooking and unreasonable loss of privacy. It does not accord with Section 4 paragraph 4.11 of the Cornwall Design Guide 2013 which aims to maintain privacy. Furthermore, it does not accord with the policies of the National Planning Policy Framework which seek to achieve a high standard of amenity through good design.

Other matters

11. I saw during my site visit that doors had been inserted at first floor in the rear of a nearby property. Although the doors could provide access onto the flat roof of an extension, the Council has confirmed that no planning permission has been granted for a balcony. As such it is not directly comparable to the appeal scheme.
12. I appreciate the appellant's desire to promote health and wellbeing through enjoyment of the surrounding countryside and sea view, however these are private benefits which do not outweigh the harm identified.

Conclusion

13. Overall, while I have found no significant effect on the living conditions of properties in Anthony Close, this does not outweigh the harm identified to the living conditions of the occupants of 16 and 20 Trelawney Avenue. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

L McKay

INSPECTOR