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## Appeal Decisions

Site visit made on 24 July 2019

**by Andy Harwood CMS MSc MRTPI**

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

**Decision date: 06 August 2019**

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### **Appeal A) Ref: APP/D0840/W/19/3222345**

#### **Land known as land at 3 Alexandra Close, St Ives, Cornwall TR26 1ES**

- 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 Alexander Crook against the decision of Cornwall Council.
  - The application Ref PA18/07994, dated 26 August 2018, was refused by notice dated 28 November 2018.
  - The development proposed is described as "the construction of a fenced raised platform above the existing single-story flat-roof, with access from the first floor of the property. Enlargement of existing window vertically to allow access, retaining existing lintel."
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### **Appeal B) Ref: APP/D0840/C/19/3223887 & 3223888**

#### **Land known as land at 3 Alexandra Close, St Ives, Cornwall TR26 1ES**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeals are made by Mr Alexander Crook and Ms Emma Louise Cliff against an enforcement notice issued by Cornwall Council.
  - The enforcement notice was issued on 13 February 2019.
  - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of a fenced raised platform area on the flat roof of an existing rear single storey extension to form a balcony at first floor level.
  - The requirements of the notice are:
    - 1) Remove all timber supports, timber decking boards, fencing, fixtures and fittings that form the fenced raised platform from the flat roof of the existing rear single storey extension as shown in the approximate position edged in green on the attached plan;
    - 2) Permanently remove all materials and debris from the land resulting from compliance with 1 above.
  - The period for compliance with the requirements is 3 calendar months.
  - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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### **Appeal A Decision**

1. The Appeal is dismissed.

### **Appeal B Decision**

2. The appeal is dismissed and the enforcement notice is upheld.

## **Appeal A**

### *Main Issue*

3. The main issue is the effect of the development on living conditions at the neighbouring dwelling at No 4 Alexandra Close, with respect to privacy.

### *Reasons*

4. The appeal site includes a terraced 2-storey dwelling within a tight knit group of similar dwellings on the western side of St Ives. The building is within a reasonably sized plot with an open front and side gardens and more private rear garden. To the rear of the short rear garden is an open space and the land beyond rises up to a rugby football ground. The rear garden is enclosed by substantial boundary walls including that separating it from the garden of No 4 which secures privacy for both properties.
5. The raised platform has been constructed on top of a pre-existing single-storey flat roofed part of the dwelling that protrudes into the rear garden. A window serving the first-floor landing has been removed and replaced with a door to enable access to the platform. The platform is off-set from the side boundary with No 4. However, even though there is a substantial gap between the side of the structure and the garden of No 4, when standing on the structure I could see clearly into the side and rear garden as well as towards the side windows within the 2-storey extension of that neighbouring property. Although it is possible to see down into the garden and towards the windows within No 4 from the rear windows at first floor level, the platform provides far more extensive views into the neighbouring property.
6. The platform provides vantage point from where the open space and undeveloped land to the rear as well as towards the sea in the distance can be viewed and from where this attractive setting can be enjoyed. This is an appealing place to sit or stand upon particularly in fine weather however that is likely to coincide with when the neighbouring residents are also going to be enjoying their rear garden space. People sitting and standing upon the platform will be very obvious to the neighbouring residents which will also increase the sense of being overlooked.
7. The Council considered the possibility of privacy screens being added before making its decision but were concerned about the appearance of those. Further proposals have been put forward at this appeal stage. I share the Council's concerns that such mitigation would need to be carefully designed even if it could be designed to adequately secure privacy for the adjoining neighbours. Furthermore, without a detailed scheme having been through the full public consultation process, a planning condition should not be imposed to add to the structure. Doing so could deprive those who should have been consulted the opportunity to comment upon what could be a significantly altered development. Solving the concerns about privacy could result in other harmful impacts as a result of the additions and the further details provided within the appellant's appeal documents may not have been expected to result from this process.
8. In relation to the main issue, the development does not protect the neighbouring residents' privacy and therefore has a harmful impact upon living conditions at No 4 Alexandra Close. This would not comply with Cornwall Local

Plan<sup>1</sup>, Policy 12. The development is not sensitive to its surroundings and does not provide a high standard of amenity therefore it does not comply with Policy GD1 of the Neighbourhood Development Plan<sup>2</sup> or the National Planning Policy Framework.

*Other matters*

9. There are other balconies within St Ives but that does not make such development acceptable in all locations. The presence of a large rear extension at No 4 which the appellant considers casts a shadow onto the appeal site, does not make this development acceptable. I have not been provided with any objection from the neighbouring occupiers and the Parish Council supported the application. However, I have to consider the development on the merits as I see them. These other matters do not therefore outweigh my conclusion on the main issues.

**Conclusion Appeal A**

10. For the reasons given above and having considered all other matters raised, I consider that appeal A should be dismissed.

**Appeal B**

*Ground (f)*

11. The appeal on this ground is that the steps required by the notice to be taken exceed what is necessary. The steps required by the notice have the purpose of remedying the breaches of planning control which relate therefore to the unauthorised construction of a fenced raised platform area.
12. The appellant has not suggested lesser steps but has suggested additional steps in the form of privacy mitigation. That would not achieve the purpose of the notice and I have considered the planning merits above. There are no obvious alternatives steps that could overcome the planning difficulties in this case.
13. The appeal on ground (f) fails.

**Conclusion Appeal B**

14. For the reasons given above I conclude that appeal B should not succeed. I shall uphold the enforcement notice.

*Andy Harwood*

INSPECTOR

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<sup>1</sup> Cornwall Local Plan, Strategic Policies 2010-2030 adopted November 2016

<sup>2</sup> St Ives Area Neighbourhood Development Plan 2015-2030