
Appeal Decision

Site visit made on 21 October 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 6th November 2019.

Appeal Ref: APP/D0840/D/19/3232183

Tregarthen Barn, Tregarthen Farm, Tregarthen, Long Rock TR20 8YH

- 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 and Mrs Richards against the decision of Cornwall Council.
 - The application Ref PA19/01725, dated 26 February 2019, was refused by notice dated 17 May 2019.
 - The development proposed is described on the application form as 'Retention of existing structural post and proposed extension to balcony'.
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Decision

1. The appeal is allowed and planning permission is granted for structural post and proposed extension to balcony at Tregarthen Barn, Tregarthen Farm, Tregarthen, Long Rock TR20 8YH in accordance with the terms of the application, Ref PA19/01725, dated 26 February 2019, and the plans submitted with it, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 003J

Application for costs

2. An application for costs was made by Mr and Mrs Richards against Cornwall Council. This application is the subject of a separate Decision.

Procedural matters

3. The appellants submitted an amended plan (Ref 003J) as part of the appeal. The plan corrects a drawing error, so that the proposed floor plan now corresponds with the proposed elevation. The Council identified the error and has had the opportunity to comment on the plan. Representations from third parties also refer to 'version J' plans. The amendment does not materially alter the appeal scheme from what was considered by the Council. Therefore, I do not consider that any interested party will be prejudiced by my decision to take the amended plan into account when determining the appeal.
4. At the time of my site visit, I saw that the structural post was in place but the proposed balcony extension had not been constructed. Therefore, I have determined the appeal on the basis that only part of the development has already occurred.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of Tregarthen Farm House in respect of privacy.

Reasons

6. I saw at my site inspection that a section of the lower part of the large, sloping garden of Tregarthen Farm House was visible from the existing balcony. From that balcony, views of the remainder of the neighbouring garden were concealed by the existing dwelling. There are however two existing large glazed openings in the rear of the host property at first floor level, serving a large living room. I saw that while the view from the opening closest to the boundary is partially screened by an internal shutter, the view from the opening closest to the balcony was not restricted. From that opening I was able to see into a much larger part of the neighbouring garden than from the existing balcony. While this is not an unusual relationship between two residential properties, nevertheless there is already significant overlooking of the neighbouring garden from the host property.
7. I also saw the appeal site from the garden of Tregarthen Farm House. Although the end of the existing balcony was only visible from the lower part of the garden, I could clearly see the first-floor openings from a significant proportion of the garden.
8. Because of the position of the proposed balcony and the angle of view, the extent of the neighbouring garden visible from it would not be materially greater than what is already seen from the nearest first-floor opening. While the proposed balcony would provide an additional vantage point from which that part of the garden could be seen, it would be from a greater distance than from the existing opening. The proposal would not therefore create a more immediate or significantly more intense view of the garden of Tregarthen Farm House than is already achievable. Consequently, the degree of overlooking from the proposed balcony would not be materially greater than the existing situation.
9. In these circumstances therefore, I conclude that the proposed extended balcony would not materially harm the living conditions of the occupiers of Tregarthen Farm House in respect of privacy. As such, I find no conflict with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030, which seeks to protect individuals and property from overlooking and unreasonable loss of privacy. Furthermore, I find no conflict with the aims of sections 2.6, 4.1 or 4.11 of the Cornwall Design Guide 2013 or page 12 of the Cornwall Council Domestic Alterations and Extensions Guide 2017, which seek to achieve designs that respect and maintain the privacy of neighbours; or with paragraph 127 of the National Planning Policy Framework which requires development to provide a high standard of amenity.

Other matters

10. The design of the proposed balcony would be very similar to the existing and its appearance and scale would integrate satisfactorily with the existing property. I note interested parties' comments in relation to the planning history of the appeal site and concerns about discrepancies in the plans in respect of the windows and roof line of the existing extension. These matters are not

however part of the appeal before me. As set out above, the drawing error in relation to the appeal proposal has been corrected.

Conditions

11. As part of the development has already commenced, an implementation condition is not necessary. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of certainty.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

L McKay

INSPECTOR