The Planning Inspectorate

Appeal Decision

Site visit made on 7 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

Appeal Ref: APP/D0840/D/19/3237981
Pendennis, Bishops Road, St Ives TR26 2BY

- 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 Mrs Bev Graham against the decision of Cornwall Council.
- The application Ref PA19/02637, dated 19 March 2019, was refused by notice dated 23 August 2019.
- The development proposed is alterations and extensions to include terrace/balcony.

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the original description of development to reflect that provided within the Council's decision notice and as stated at section E of the appeal form in the interests of accuracy and consistency.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of nearby residents, with particular reference to privacy.

Reasons

4. Pendennis is a substantial detached dwelling located at the end of Bishops Road, and which is surrounded by residential development. To the north of the appeal site, the land steeply slopes away and down from the site, with residential properties occupying a lower terrace with rear gardens and courtyards of these properties facing the appeal site located higher up the hillside.

5. The proposal seeks to introduce a balcony at first floor level on the west elevation of Pendennis. This balcony would be positioned in very close proximity to the boundary with the dwelling known as The Cabin which is situated to the north and at a lower level than the appeal property. The Cabin is positioned close to the boundary and includes a rooflight.

6. The northern section of the proposed balcony would overlook The Cabin and its external amenity space at very close proximity and would overlook and down into the abovementioned rooflight. Whilst I accept that, given the nature of the sloping land and the relative position of the dwellings, there would currently be some overlooking into the garden area associated with The Cabin, part of the proposed balcony would be positioned directly in line with the roof light and

would, in my view, increase overlooking into the garden area and rooflight of this adjacent property. By reason of the height of the proposed balcony and its proximity to the shared boundary, the degree of overlooking would be substantial, and I conclude that this would have a significant adverse effect on the living conditions of residents at The Cabin with regards to privacy.

7. To the southwest of the appeal site and positioned on land at a higher level than the appeal property, is a dwelling known as Ty Bryn. The Council are concerned that the proposed balcony would overlook a significant portion of the garden of that neighbouring dwelling, as well as overlooking a patio area associated with that dwelling.

8. In this regard, by reason of the elevated position of the patio at Ty Bryn and given the height of intervening vegetation which screens the site at the boundary between the two dwellings, I find that there would be no significant overlooking into the aforementioned patio area. Furthermore, and for the same reasons, I conclude that the proposal would not result in awkward eye-to-eye overlooking between the proposed balcony and the patio area at Ty Bryn.

9. However, in respect of the concern that the proposal would result in overlooking of a significant portion of the garden at Ty Bryn, whilst I acknowledge that vegetation at the boundary would partially screen the garden from views out over the proposed balcony, a significant portion of the garden at Ty Bryn is located at a lower level than the associated dwelling which it serves and at a lower level than the proposed balcony.

10. Consequently, the proposed balcony would overlook into a substantial area of garden and would result in the loss of privacy. The harm that would arise from this degree of overlooking would not be as significant when compared to the position with regards to The Cabin described above, by reason of the separation distance between the proposed balcony and the neighbouring garden. However, the proposed balcony would still be located in close proximity to the neighbouring garden and due to its elevated position, the proposal would result in some degree of overlooking which, in my view, would fail to preserve the privacy of the neighbouring property.

11. It has been put to me by the Appellant that the proposal would represent a more effective use of land and that the design of the proposal would preserve and enhance the character and appearance of the surrounding area. Whilst I acknowledge that the proposal may provide additional space to the benefit of occupier of the appeal property and that Council Officers concluded that there is unlikely to be any harm in terms of visual impact, the proposal would result in significant harm to the living conditions of neighbouring residents.

12. Consequently, I find that any benefits of the scheme as put forward by the Appellant, would be outweighed by the identified harm to living conditions of nearby residents to which I have attached significant weight in the determination of this appeal.

13. For the above reasons, I conclude that the proposal would conflict with Policy 12 of the Cornwall Local Plan Strategic Policies and would not comply with Policy GD1 of the St Ives Area Neighbourhood Development Plan 2015-2030, which seek to protect the privacy of neighbouring property. The appeal scheme would also conflict with paragraphs 2.6, 4.1 and 4.11 of the Cornwall Design Guide 2013 which, amongst other things, requires that

development considers the impact on neighbours and demonstrates that privacy would be maintained.

14. Furthermore, the proposal would not comply with the advice contained within the Council's Domestic Alterations and Extensions Guide with regards to balconies and would not accord with the provisions of paragraphs 124, 126, 127, 128 and 130 of the National Planning Policy Framework which seek, amongst other matters, to protect individuals and property from overlooking and unreasonable loss of privacy.

Other Matters

15. I note the appellant's frustrations with the Council's communication and the way in which it handled the application. However, these matters do not impact on the planning merits of the proposal.

16. In the determination of this appeal, I have also considered the details submitted by interested parties. In this instance, however, I have found the proposed scheme is in conflict with the development plan, and there is no further information put forward by interested parties which outweighs the harm that would be caused by the development.

Conclusions

17. For the reasons given above, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR