
Appeal Decision

Site visit made on 9 March 2021

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

an Inspector appointed by the Secretary of State

Decision date: 22 March 2021

Appeal Ref: APP/D0840/D/20/3264146

Wits End, Rock, Cornwall PL27 6LD

- 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 Chilton against the decision of Cornwall Council.
 - The application Ref PA20/03305, dated 13 April 2020, was refused by notice dated 8 September 2020.
 - The development proposed is the proposed extension to dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of nearby residents with particular regard to overlooking, loss of privacy and noise disturbance.

Reasons

3. The appeal building is a two storey dwelling which fronts onto, and has access from, Rock Road. The building is the end of a terrace of three dwellings which are consistent in terms of their scale and design. The terrace is set back from the highway with very modestly sized rear external amenity areas. To the rear of the terrace a public footpath runs adjacent to the site at an elevated level.
4. Policy 12 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan) concerns design and provides, amongst other things, that development should protect individuals and property from overlooking and unreasonable loss of privacy as well as protection from unreasonable noise and disturbance. Policy 13 of the Local Plan concerns development standards and confirms, amongst other matters, that proposals would be expected to avoid adverse impacts from noise.
5. The appeal scheme proposes a number of extensions to the host building, including extensions to the ground floor and a rear dormer, as well as to the front of the host building in respect of a dormer and balcony. Furthermore, the scheme includes a proposed roof terrace with an external staircase from the second floor to the roof terrace at the rear of the host building.
6. In terms of the proposed alterations with regards to the dormer extensions and balcony, given that such features are common within Rock and by reason of the proposed use of materials that would reflect local distinctiveness, I would

concur with the findings of the Council's Officer that the proposed alterations would result in no harm to the character or appearance of the surrounding area.

7. As noted above, to the rear and north of the appeal building is a public footpath that rises uphill and passes adjacent to the site. The public footpath connects with Rock Road east of the appeal site and separates the appeal building from dwellings higher up the hillside at Carn Du and Lower Cole. The Council maintains that the proposed roof terrace would adversely affect the living conditions of residents of Carn Du and Lower Cole.
8. In this respect, and given the limited amount of external private amenity space at the rear of the host building and by reason of its scale and spread across almost the full width of the roof space, in my view the proposed terrace is likely to be used intensively by residents. The roof terrace would be in an elevated position, and approximately level with the public footpath that runs adjacent to the rear of the host building and which separates the site from the abovementioned dwellings.
9. Whilst I have carefully considered all of the information and comments before me, in my view and by reason of intervening features, including a garage building, and due to the separation distance between the proposed roof terrace and the pair of dwellings at 1 and 2 Carn Du, I conclude that the proposal would not have a harmful effect on the living conditions of residents of those dwellings with regards to overlooking, loss of privacy or noise disturbance.
10. Notwithstanding the above, the proposed roof terrace would be in close proximity to the external amenity area that serves Lower Cole and given the relative position and orientation of the respective buildings, the proposed roof terrace would provide increased opportunity for overlooking and loss of privacy.
11. As noted above, the roof terrace would be of a size which could accommodate a large gathering of people, and outlook from that roof terrace would be in all directions. Given its elevated position, this would unacceptably erode privacy levels for occupiers at Lower Cole. Whilst a level of noise and disturbance and inter-visibility between properties is inevitable in residential locations, the prominent position of the terrace on the top of the roof would exacerbate the impacts to the detriment of the living conditions of occupiers of Lower Cole with regards to loss of privacy and in respect of noise disturbance.
12. Whilst I acknowledge that users of the public footpath would also provide opportunity for overlooking and may generate noise disturbance, such effects are likely to be temporary in nature given that users of that footpath are unlikely to remain at that location before moving on. The same could not be said for the proposed roof terrace where its usage would be likely to be for significant periods of time.
13. In light of the above reasons, I conclude that the proposed development would have an unacceptable impact on the living conditions of residents at Lower Cole with regards to overlooking, loss of privacy and in respect of unacceptable noise disturbance. Whilst the appeal scheme may result in no harm to the character and appearance of the surrounding area, it would conflict with the provisions of Policies 12 and 13 of the Local Plan and would, therefore conflict with the development plan when taken as a whole.

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
15. The Appellant has put to me that the proposed roof terrace would provide much needed amenity space at the appeal building. However, the benefit of outdoor amenity space would be a private benefit for the occupiers of the appeal dwelling and whilst enhancing their living conditions it would do so at the detriment of the living conditions of nearby residents. I attach only very limited weight to the private benefit of the proposed roof terrace and, in this regard, the identified harm to the living conditions of nearby residents and the resulting conflict with the development plan, to which I attach significant weight, would outweigh the benefits of the appeal scheme.

Other Matters

16. It has been put to me by interested parties that the appeal site is subject to a covenant that restricts development of the site in the manner proposed. However, issues relating to such concerns are civil matters and have no bearing on the outcome of this appeal. The issue of the potential impact of the proposed development on property values has also been raised. However, it is a well-founded principle that the planning system does not exist to protect such private interests.
17. Interested parties raise additional objections to the proposal on the grounds of the effect of the proposal with regards parking and to precedent. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue above, these are not matters that have been critical to my overall decision.

Conclusions

18. The proposed development would conflict with the development plan when taken as a whole. There are no material considerations that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR