



Appeal Decision

Site Visit made on 22 June 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Appeal Ref: APP/K1128/D/21/3271471

The Villa, Cliff Road, Wembury PL9 0HN

- 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 Fred Tribe against the decision of South Hams District Council.
 - The application Ref 3673/20/HHO, dated 9 November 2020, was refused by notice dated 26 February 2021.
 - The development proposed is alterations to roof including loft conversion.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to roof including loft conversion at The Villa, Cliff Road, Wembury PL9 0HN in accordance with the terms of the application, Ref 3673/20/HHO, dated 9 November 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Other than to comply with Condition 4 below, the development hereby permitted shall be carried out in accordance with the following approved plans: PL.01 – Existing Ground Floor Plan; PL.02 – Proposed Ground Floor Plan; PL.03 – Proposed First Floor Plan; PL.04 – Proposed & Existing North Elevations; PL.05 – Proposed & Existing East Elevations; PL.06 – Proposed & Existing South Elevations; PL.07 – Proposed & Existing West Elevations; PL.08 – Existing Site Block Plan & Location Plan.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Notwithstanding the approved plans, details of the glass balustrade to the north side elevation of the roof terrace shall be submitted to, and approved in writing by, the local planning authority, prior to any development relating to the roof terrace. The details shall provide for obscure glazing to a height of at least 1.4m above the finished floor level of the roof terrace. The balustrade shall be constructed in accordance with the approved details prior to the first use of the roof terrace, and shall be permanently retained thereafter.

Preliminary Matters

2. The description of the development used on the Council's decision notice differs to that on the planning application form. The appellant has agreed that the

appeal can proceed on the basis of the amended description, so I have used it in my decision, as it more accurately describes the proposal.

3. The Council's reason for refusal refers to the adjacent property to the north as Glen Haven. However, the appellant clarifies that it is called Brambles, and I saw that this was the case at my site visit. I have, therefore, referred to the property as Brambles in my decision.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupants of Brambles, with regard to privacy and disturbance.

Reasons

5. The Villa is one of a row of three bungalows, within a loose cluster of dwellings that is detached from the village of Wembury to the north. The land slopes down to the west, so that the rear gardens of the bungalows are at a lower level than their ground floors. The Villa has been subject to a range of extensions and alterations, resulting in it having a rather disjointed appearance. One of these extensions is a flat-roofed addition to the northern end of the rear elevation, close to the boundary with Brambles. There is a raised terrace in front of this extension, with steps down to the lawned garden. From this terrace, there is a stairway giving access to the roof of the extension which, at the time of my visit, was laid out as a roof terrace with metal sheet flooring and enclosed by tubular steel barriers.
6. The roof terrace provides panoramic views of the coast to the southwest, and the open landscape beyond the village to the west and northwest. Most of the rear garden of Brambles is also visible from the terrace, including the raised deck that runs along its rear elevation. The windows in its side elevation and conservatory, which face the appeal site, are also overlooked at quite close quarters from the higher vantage point of the terrace. The rooflights in the slope facing the site are roughly at eye level when viewed from the terrace, so it is possible to see into the rooms that they serve. The steel barriers have quite widely spaced vertical bars, which do not provide any screening function. Consequently, these views would be obtained by a person on the terrace from a standing or sitting position.
7. There is some dispute between the parties regarding how long the roof has been used as a terrace. However, the appellant has provided significant evidence to demonstrate that the use is a long-standing one. There is no contrary evidence, and from my own observations, the extension and stairway appeared to be well-established structures. At the time of my visit there were two sun loungers in position. It is acknowledged in the Officer's Report that it would not be unlawful to use a flat roofed area as a terrace. I therefore give significant weight to the existing use of the roof as a terrace in my decision.
8. The proposals involve the reconstruction of the roof over the entire bungalow to provide a more coherent building. As part of the scheme, accommodation would be provided within the roofspace, with three dormers to the rear. The northernmost of these dormers would have a full height opening, allowing access to the roof terrace. Although the panoramic views could be obtained from within the first-floor accommodation, the greater ease of accessing the

terrace, from within the building, would be likely to result in a significant increase in the frequency and duration of its use.

9. Whilst the terrace would be likely to be used more often, it would be in the same position, and at the same height as the existing roof. The proposals would not, therefore, result in the overlooking of any spaces that were previously private, nor would they result in any activity nearer to the property boundary. Furthermore, the proposals would involve a limitation on the extent of the roof that could be occupied, by drawing it back from the edges. This would not significantly reduce the degree of overlooking, as little more would be visible by advancing to the edge of the roof. However, it would limit the space available, such that it would be a relatively small area, which would not accommodate many people, and, consequently, would be unlikely to generate substantial levels of disturbance.
10. The proposals also include the enclosure of the terrace with a parapet wall and opaque glass balustrade. As it would not be above the eye level of a standing person, it would not prevent all overlooking. Nevertheless, it would reduce the field of vision for occupants of the terrace when stood back from the balustrade, and would limit casual overlooking from a sitting position. It would also contain a significant proportion of any noise generated by activity on the terrace. It would, therefore, go some way towards mitigating the impact of the increased use of the terrace. Nevertheless, at 1.2 metres in height, occupants of the terrace would still be able to look over it, and they would be readily visible from the garden and windows of Brambles, increasing the perception of overlooking and disturbance. Consequently, the screen, as proposed, would not entirely outweigh the harm caused by the increased use of the terrace.
11. The appellant has suggested that the side screen could be increased to 1.4 metres in height, and has stated that a condition securing this would be acceptable. At this height, people seated on the terrace would not be able to look over it, and they would not be seen from the garden, windows, or rooflights of Brambles. This would significantly reduce overlooking, and the perception of overlooking. Whilst it would still be possible to see over the screen, this would only be achieved when standing near the northern side of the terrace. Compared with the existing situation, where there is no effective screening, there would be a marked reduction in intervisibility between the terrace and the garden and windows of Brambles. Consequently, although the terrace would be used more frequently, the screen would ensure that there was no net increase in disturbance or loss of privacy for occupants of Brambles.
12. In coming to my conclusion on this matter, I have had regard to the Plymouth and South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document (2020) (the SPD), which contains guidance on balconies and roof gardens. It advises that they can be unacceptable in higher density areas because of the impact they can have on the privacy of neighbours' gardens or habitable rooms. It also advises that alternative designs, such as setting back roof gardens, or a privacy screen, will be considered on a case by case basis. The appeal site lies in a low density, semi-rural area, and the higher screen would reduce overlooking to a point where it was no more harmful than that which already exists. Consequently, the proposal would not conflict with the advice in the SPD.

13. The dormer windows would be set further from the boundary with Brambles than the terrace, and would face west over the rear garden. Consequently, occupants of the accommodation would not overlook the deck, conservatory, windows or rooflights of Brambles. Views of the neighbouring property would, therefore, be limited to the lower part of the garden. Furthermore, views from the dormer nearest to the boundary would, to a certain extent, be obscured by the screen on the northern edge of the terrace. The other dormers would be a significant distance from the boundary, so would not result in a level of overlooking that would be harmful to the privacy of occupants of the garden of Brambles.
14. I therefore conclude that, subject to a condition requiring an opaque boundary screen, the development would not have a harmful impact on the living conditions of the occupants of Brambles, with regard to privacy and disturbance. Consequently, the proposal would accord with Policies DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan 2014-2034, which seek to ensure that development provides satisfactory privacy and protection from noise for existing residents.

Conditions

15. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. To protect the character and appearance of the area, I have imposed a condition requiring external materials to match the existing building. Finally, for the reasons given, I have imposed a condition requiring a 1.4 metre high opaque glass screen to be provided on the northern side of the terrace.

Conclusion

16. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Nick Davies

INSPECTOR