



Appeal Decision

Site visit made on 10 December 2021

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2022

Appeal Ref: APP/D0840/D/21/3277717

The Mouse House, 3 Cave Lane, Mousehole TR19 6SW

- 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 R Elliott-Ogden against the decision of Cornwall Council.
 - The application Ref PA21/00641, dated 22 January 2021, was refused by notice dated 5 May 2021.
 - The development proposed is New external steps to access parking area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (Framework) was published in July 2021. However, as the Framework's provisions that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of 1 Merlin Place, with particular regard to overlooking and disturbance.

Reasons

4. The appeal site contains a detached house – The Mouse House – set above the parking area and 1 Merlin Place (No 1). The garden includes, amongst other aspects, an area of decking – which is said to be regularly used and includes a table and chairs – and a small outbuilding positioned to take advantage of the expansive sea views. Topography means that the parking area and No 1 are set down below the house and garden, at the foot of the embankment, and No 1 is overlooked to some extent from the decking and outbuilding. However, the trees and soft landscaping on the shared boundary restrict views of No 1 and provide that property with a reasonable level of privacy. Combined with the set back of the decking from the shared boundary and the expansive outlook and views of the sea from the decking and outbuilding, I observed on my site visit that the level of existing overlooking of No 1 – including its rear fenestration and garden – from the site is therefore relatively limited.
5. The proposed staircase would be positioned closer to No 1 than the decking and outbuilding. Its lower section, extending up to the shared boundary, and the landing would face towards and provide views into No 1 and its rear garden. Although further away from the boundary, the upper section would,

- given its angle, nevertheless provide short distance views of No 1's rear fenestration. The proposed staircase would also require the removal of a tree (T9) which currently provides some screening between the site and No 1.
6. The limited degree of separation, combined with the angle of the stairs and the loss of the tree, mean that the proposed development would result in a significant increase in opportunities for overlooking of No 1 compared to the existing situation. It has been put to me that, when using staircases, people generally look at the step in front of them to avoid tripping or falling and that this would be the case here. Be that as it may, this does not mean that the stairs would not allow for extensive, close-up views of No 1's rear garden and fenestration and that significant overlooking of that property would not occur.
 7. In coming to this view, I have taken into account that additional fencing – which it is said would be more secure – would be erected on the shared boundary and that some additional soft landscaping, including a replacement tree, could also be provided. However, although it is said that these would provide better screening than at present, it seems to me that neither would sufficiently reduce overlooking opportunities of No 1 from the proposed stairs even if the additional soft landscaping on the bank were to be evergreen. It appears that the space available near the base of the staircase and the boundary with No 1 would also not allow for a replacement tree of sufficient size to provide any real screening in the area it would be needed and most effective. In any event, the submitted tree report refers to a replacement being provided in the main garden rather than near the staircase.
 8. I note the suggestion that the appellant, due to the poor quality of T9, could gain consent to remove the tree and will do so. However, it seems to me that there is no particular reason for its removal other than to allow the staircase to be installed and the submitted evidence does not indicate that it is necessary to remove the tree for health and safety reasons for example. Furthermore, its removal would only increase the level of overlooking that would be possible from the staircase and does not therefore lead me to a different conclusion.
 9. Although the staircase would be in close proximity to No 1, it would not be large enough to be used as a sitting out area or similar. The site's garden would also provide a more appealing place to be. Accordingly, on the basis that the stairs would provide access only and thus the use would be on a transitory basis, disturbance to No 1 from noise associated with use of the stairs would not be significant. In coming to this view, I have taken into account that the staircase may need to be lit when being used and that the site is currently used for holiday lettings. This is also a residential area with several dwellings located in reasonably close proximity. As such, a certain degree of noise from people coming and going – be it residents or tourists – would not be unusual.
 10. Nevertheless, for the above reasons, I conclude that the proposed development would harm the living conditions of the occupiers of No 1, with particular regard to overlooking. I therefore find that it conflicts with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP). Amongst other aspects, this requires development to protect individuals from overlooking and unreasonable loss of privacy. The proposal would also be inconsistent with the provisions in the Framework in relation to achieving well-designed places; and the guidance in the Cornwall Design Guide in relation to being a good neighbour and respecting and maintaining the privacy of residents.

Other matters

11. The site is within the Mousehole Conservation Area and the Cornwall Area of Outstanding Natural Beauty (AONB). However, the Council does not allege that the proposed development would harm the character or appearance of the designated heritage asset or the natural beauty of the AONB. Having considered the development and visited the site, I concur and find that the development would not harm either of these assets.

Planning Balance

12. It has been put to me that the proposal is well-designed, would not harm the built environment, that additional planting would enhance the quality of the conservation area, and the lack of proposed lighting means that the development would not harm the dark skies or the natural environment. The appellant's appeal statement also sets out that the appeal proposal complies with the aims of CLP Policy 24 and accords with various policies in the Cornwall AONB Management Plan because there would be no harm to the historic environment or the AONB. Be that as it may, I have found that the proposed development would harm the living conditions of the occupiers of No 1 and would therefore be contrary to CLP Policy 12. Taking all of this into account, I find that it is contrary to the development plan as a whole.
13. There is no direct access between the parking area and property, which is only accessible on foot. People accessing the property therefore have to walk around surrounding houses from the parking area or unload on Riggins Hill, if parking space is available on the highway, and walk along the pedestrian-only Cave Lane. The proposed staircase would remove the need for this, and it has been put to me that the existing access arrangements are circuitous, awkward, and present a health and safety risk because they require the carrying of luggage/shopping/linen/cleaning equipment etc and walking, including with children, along the highway with no footways and on narrow, uneven, unlit and sometimes obstructed and overgrown footpaths.
14. Providing a direct route from the parking area, the proposed staircase would provide a shorter access route to the property. However, this does not outweigh the harm I have identified nor provide justification for development that conflicts with the development plan. I observed on my site visit that the existing access arrangements are also neither particularly long nor involve obviously difficult or dangerous conditions, and the submitted evidence does not lead me to a different conclusion. In addition, it seems to me that having to negotiate approximately 20, relatively narrow, steps when carrying various items would not be significantly easier than using the existing routes. Given the layout of Mousehole and its often narrow streets and lanes, the current parking and access arrangements at the appeal site are also likely to be common for various other properties in the locality.

Conclusion

15. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR