



Appeal Decision

Site visit made on 10 December 2021

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2022

Appeal Ref: APP/D0840/D/21/3281341

23 Riverside Avenue, Newquay TR7 1PN

- 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 Lee Dacey against the decision of Cornwall Council.
 - The application Ref PA21/01499, dated 12 February 2021, was refused by notice dated 18 June 2021.
 - The development proposed is a first floor extension, plus balconies to rear and front porch.
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Decision

1. The appeal is allowed and planning permission is granted for a first floor extension, plus balconies to rear and front porch at 23 Riverside Avenue, Newquay TR7 1PN in accordance with the terms of the application, Ref PA21/01499, dated 12 February 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3569 01 D and 3569 02 D.
 - 3) Prior to occupation of the first floor extension hereby permitted obscured glazing shall be used for the balustrade along the full extent of the west facing side of the balcony that is 1.8 metres in height from balcony floor level and in the windows in the east elevation of the first floor extension, which shall not be capable of opening further than 12 degrees, this obscured glazing shall be permanently retained thereafter.

Main Issues

2. The main issue is the effect of the proposal on the living conditions of neighbouring residential occupiers.

Reasons

3. The appeal property is a detached bungalow with pitched roof and gable ends that sits in an elevated position in the middle of a group of detached residential properties that are in a staggered arrangement as they set back from the steep roadway at Riverside Avenue at its Junction with Riverside Crescent.

4. The local area is residential in nature with predominantly detached houses on relatively small plots that are positioned on a steep hillside overlooking the estuary of the river Gannel on the outskirts of Newquay. The residential properties in the local area, including the appeal property, appear to have been positioned to maximise the benefits of the views and sunlight afforded by such a location
5. The proposal is for a first floor extension with a hipped roof form; the existing conservatory on the Riverside Avenue frontage to be replaced by a first floor balcony across two thirds of the front elevation with a glass balustrade, the area below this to be enclosed by glazed screens to the exterior. A single storey porch style extension with an obscured glazed roof is proposed for the rear.
6. The proposal is similar to that which was the subject of an earlier appeal¹, dismissed on the basis of the Inspectors assessment of overshadowing and overlooking. This relates to concerns raised by neighbouring residential occupiers as part of the appeal process, although the original application was refused by the council on different grounds relating to character and appearance.
7. In response to the overshadowing effect identified in the reasons for dismissal and through the application process, the appellants have made adjustments to their proposal by introducing a hipped roof form and by reducing the extent of the proposed balcony by moving it away from the eastern elevation facing No.21, although this would omit previously proposed obscured glazing.
8. The appellants have commissioned a sunlight study submitted as part of their statement that illustrates the effect of the proposal on the sun path and shadowing of No.21, in March, June and December for the critical later afternoon hours of 3 and 5 PM. This study also includes the effect of the existing and the dismissed appeal proposal. This has been helpful in informing my assessment of the proposal, which I was also informed in this regard by my site visit.
9. Whilst the study shows that the proposal would increase the degree of overshadowing of the garden and dwelling at No.21, it would be a reduction compared to the degree of overshadowing of the dismissed appeal proposal. This is predominantly due to the proposed hipped roof form.
10. The increase in overshadowing that would result from the proposal relates only to direct sunlight, with, given the distances, no apparent effect on the amount of daylight throughout the year. The additional overshadowing and loss of sunlight to the front rooms of No.21 and its garden would only be experienced for a relatively short part of the day from the late afternoon. Given the degree of overshadowing of No.21 by the appeal property as existing and the distances involved, I find that this increase in overshadowing would be experienced by the occupiers of No.21, in the context of the whole day throughout the year, as of marginal impact in terms of amenity and living conditions.

¹ Appeal Ref: APP/D0840/D/20/3254649

Other Matters

11. Concerns have been raised by interested parties with regard to loss of outlook. I find, however, that given the scale of the hipped roof first floor extension and the distances involved, the loss of outlook experienced by the neighbouring residential occupiers including No.21 would be limited to the loss of a part of the sky in otherwise expansive southerly views. This would be marginal in this context and would not be to the extent that it would be experienced as enclosing or oppressive and would not, therefore, result in any significant loss of outlook from No.21 or other adjacent properties.
12. Other interested parties have raised concerns regarding overlooking and loss of privacy. I find that the setback of the proposed balcony from the eastern elevation would result in only very marginal overlooking of the garden at No.21. The high-level fixed windows in the east elevation would provide the opportunity for some intrusive overlooking, but this can be remedied through the use of obscured glazing, which can be made the subject of a suitable condition. With this condition in place and in combination with the distances involved, I do not find that the opportunities for overlooking would be the extent that it would be experienced as oppressive or impact on the privacy of the occupiers of No.21. To remove the potential for overlooking from the west side of the proposed balcony facing 25 Riverside Avenue, a suitable condition can be attached to require the installation of a suitable obscured glazed screen.
13. Other interested parties have raised concerns with regard to the effect of the proposal of the character and appearance of the local area. I find However that the proposal would reflect the eclectic design characteristics of the area, matching the scale and design detail of other nearby properties that form the immediate setting of the appeal, and would not result in harm in this regard.
14. Concerns have been raised by interested parties with regard to the potential for alterations to the terraces to the front of the property as well as its parking arrangements. These do not however, form part of the proposal and I have determined this appeal accordingly.
15. For the reasons given above, I find that the proposal would not result in overshadowing, loss of outlook, or overlooking to a degree that would cause harm to the living conditions of the occupiers neighbouring residential occupiers, including those at No.21. The proposal would, therefore, accord with Policy 12 of the Cornwall Local Plan (2016), Policy H1 of the Newquay Neighbourhood Development Plan (2019) and Paragraph 130 of the National Planning Policy Framework (2021), which collectively seek to ensure that development does not have a detrimental impact on the amenity of neighbouring residential occupiers.

Conditions

16. In the interests of certainty, I have attached the standard time limit condition for implementation of the planning permission and a condition relating to the implementation in accordance with approved plans.
17. To secure the privacy of the residential occupiers of 21 and 25 Riverside Avenue and I have attached a condition requiring suitable obscured glazing to

the western side of the proposed balcony and in the windows in the east elevation of the proposed first floor extension.

Conclusion

18. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

Victor Callister

INSPECTOR