



Appeal Decision

Site visit made on 2 August 2022

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2022

Appeal Ref: APP/D0840/D/22/3298333

Tregenna Steps Studio, Tregenna Terrace, St Ives, TR26 2DL

- 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 Robert Notman against the decision of Cornwall Council.
 - The application Ref. PA21/12191, dated 6 December 2021, was refused by notice dated 24 February 2022.
 - The development proposed is first floor extension with associated works and windows to east elevation.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers at 17 Tregenna Terrace, with particular regard to overlooking.

Reasons

3. The appeal proposal has been submitted in response to previous applications to the Council to extend the host property at first floor level, including a proposal dismissed on appeal on 17 July 2019 (ref. APP/D0840/D/19/3226319) (2019 Appeal). In the latter decision, the Inspector found that the proposal would not have a harmful impact on a protected view of St Ives harbour, but would harm the living conditions of the neighbouring occupiers of 17 Tregenna Terrace (No.17) due to the overlooking of that property from two Juliet balconies within the east elevation of the proposed first floor extension.
4. The current appeal proposal involves a similar first floor extension with the Juliet balconies, in the east elevation, replaced by two fixed casement windows. The submitted plans indicate that these windows would be clear glazed, with the right hand pane to each window fixed shut and the left hand pane to each window opening to 90°. The proposed windows would serve a new bedroom.
5. As the Inspector highlighted in the 2019 Appeal, from the host property and its garden there are clear views towards the rear garden of No.17. On the common boundary, between the two, is a low stone wall, behind which, within the garden of No.17, is a trellis fence that extends above the height of the boundary wall. However, as I observed on site, the screening effect from this trellis is somewhat limited.

6. The appeal proposal would extend above the existing single storey flat roofed addition to the host property and as a result, the two new casement windows would have views into the rear garden to No.17. The latter is well maintained and includes a summer house sited against the southern (rear) boundary of No.17 with a sitting out area in front, providing extensive views over St. Ives harbour.
7. Within the above context, I agree with the Council that the proposed replacement windows do not address the concerns and findings of the previous Inspector in relation to the harmful overlooking of No.17. The proposed windows would serve a new bedroom and comprise large double panes, in each casement, that would allow the occupiers to have direct views into the rear garden of No.17. The views introduced would be new, in a location where no such views exist at present. As the proposed windows would also be at a high level, they would enable occupiers to look down and into the rear garden, resulting in an unacceptable loss of privacy to the occupiers of No.17.
8. The fact that a pane in each new casement window would be fixed shut and the other pane would open to 90°, would not provide any mitigation for the harm that would arise or the direct views that the new windows would afford, even when closed. My findings in this respect are supported by having viewed the proposed relationship from the rear garden of No.17. The latter simply reinforced the harm that would arise and that the views afforded would be over the existing trellis fence, which would not, therefore, provide any screening or mitigation.
9. Reference has been made to the existence of a number of sitting out areas within the garden of No.17 and whether, therefore, the impact on this rear area of the garden is thus harmful. However, I concur with the 2019 Appeal Inspectors findings that irrespective of whether the garden to No.17 is large and has other areas more likely to be used for sitting out, the proposal would still increase the opportunities for unobstructed overlooking towards the garden of No.17. Even so, as I observed on site, this part of the rear garden to No.17 affords significant views over the harbour and the existing summer house with its sitting out area appears to have been located in this position to take full advantage of those views, and as such it forms an important part of the private amenity space to that property.
10. I also note that in the 2019 Appeal the Appellant suggested that the Juliet balconies could be replaced by windows and whilst no plans were submitted to enable that option to be fully assessed, the Inspector stated that it was not possible to conclude, on the evidence available, whether such a solution would result in any less harm than the proposed balconies. As I have found above, the harm to the living conditions of the occupiers of No.17 would remain and would not be mitigated by the proposed casement window design.
11. The Appellant has referred to examples of where they contend alterations and extensions to adjoining properties has resulted in their property being overlooked and that the appeal proposal would be no different to these permitted relationships. However, I do not know the full planning circumstances of any of these examples and it is not possible for me, therefore, to determine whether they are in any way relevant or comparable to the appeal proposal. Even so, I can only consider the proposal that is before me and

determine it on its individual merits having regard to the specific circumstances of the case.

12. Whilst I agree with the Inspectors statement in the 2019 Appeal, that within densely built up areas on steep slopes, as in the case of the appeal site and surrounding area, some mutual overlooking is an inherent characteristic, the existence of such overlooking does not provide any justification for a proposal that would introduce new windows within such close proximity to a neighbouring garden, at first floor level and with a direct line of sight, where no such high level views exist at present.
13. Reference has also been made to the Council's Domestic alterations and extensions guide (Guide) (January 2017) and specifically the considerations when assessing the impact of development on neighbours. I note that in referring to the unacceptability of allowing views into a neighbours only private outdoor amenity space, the Guide does not preclude consideration being given to the impact on other parts of the rear garden or to the impact on gardens that contain more than one private outdoor amenity space. Also, as the introduction to the Guide states, the intention of the document is not to dictate but provide guidance on the general principles and guidelines to follow. That allows the decision maker to interpret the Guide's advice in relation to the individual circumstances of the case and the acceptability of the relationships that arise, and to also apply, where required, their planning judgement.
14. Accordingly, I find that the appeal proposal would give rise to an unacceptable level of overlooking of the rear garden to No.17 contrary to policy GD1 (part a)) of the St Ives Area Neighbourhood Development Plan 2015-2030 (SINP) (January 2016), policy 12 (part 2.a)) of the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016), and paragraph 130 f) of the National Planning Policy Framework (July 2021). Combined, these policies seek to ensure, amongst other requirements, that new development does not result in a harmful impact on the amenity of neighbouring occupiers or results in an unreasonable loss of privacy.

Other Matters

15. Concerns have been raised over the impact of the proposal on a protected view. As I confirmed earlier, this issue was considered in the 2019 Appeal, wherein the Inspector concluded that the proposal would not have any harmful impact on a protected view of the harbour and would not, therefore, conflict, in this respect, with policy OS9 of the SINP. Based on my observations on site, I concur with the previous Inspectors conclusions and there is no new evidence before me that would lead me to reach a different finding on this issue.

Conclusions

16. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR