



Appeal Decision

Site visit made on 15 March 2024

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/D0840/D/23/3334598

11 Kernick Road, Penryn, TR10 8NS

- 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 Andrew Parker against the decision of Cornwall Council.
 - The application Ref PA23/05913, dated 18 July 2023, was refused by notice dated 5 October 2023.
 - The development proposed is described as regularisation of loft conversion, proposed roof terrace and installation of rear dormer.
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Decision

1. The appeal is dismissed insofar as it relates to the proposed roof terrace and installation of rear dormer. The appeal is allowed insofar as it relates to the regularisation of the loft conversion in accordance with the terms of the application, Ref PA23/05343, dated 18 July 2023, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Preliminary matters

2. Since the appeal application was refused the National Planning Policy Framework 2021 has been replaced. Within the National Planning Policy Framework December 2023 (Framework), paragraph 130 of the Framework 2021 has been renumbered 135, although its content is unchanged. For the avoidance of any doubt, I confirm that in this decision I have referred to the new numbering.
3. The appeal proposal includes the existing loft conversion, although this is not addressed in the officer report. It is also unclear from the evidence submitted whether the existing loft conversion and the proposed rear dormer fall within Class B, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order. Accordingly for the purposes of this appeal I have assumed that they fall outside the scope of the above Order. The provision of a roof terrace does fall outside the scope of the Order.
4. The council does not refer to the impact of the proposal on the living conditions of the occupiers of 13 Kernick Road. However, as concerns have been raised by the occupiers of that property, I have included them in the first main issue.

Main Issues

5. The first main issue is the effect of the proposal on the living conditions of the occupiers of the adjacent dwellings at 2, and 4 Poltair Road (No.2 & No.4) and 13 Kernick Road (No.13), with particular regard to privacy. The second main

issue is the effect of the proposal on the character and appearance of the host dwelling and the locality.

Reasons

6. Kernick Road and the surrounding area includes a diverse range of single, split level and two storey detached and attached dwellings which occupy an elevated position, with views towards the coast and the countryside. The dwellings occupy varied shaped and sized plots and the front and rear gardens similarly vary. Due to the steeply sloping topography many of the dwellings are sited either above or below the highway and the ground levels of the individual properties vary as they fit into the undulating topography. A number of dwellings have raised terraces and/or large first floor windows, with and without Juliet balconies. This, together with the mixture of single and two storey dwellings results in a certain amount of inter-looking between dwellings and gardens.
7. There are a diverse range of dormer windows in the locality ranging from large flat roofed dormers which fill the roof slope to small narrow pitched roof dormers that project out from ridge lines. They add to the mixed character and informality of the area.
8. The appeal dwelling is located close to the junctions of Kernick Road with Poltisko Road and Poltair Road. It comprises an almost square shaped detached bungalow with a fully hipped slate roof and rendered walls. The roof space has been converted to habitable accommodation, which is served by roof-lights in the side and rear roof-slopes. To the rear is a single storey flat roofed extension, which projects across a significant proportion of the rear elevation of the dwelling.
9. The appeal dwelling is set back from the street behind a particularly generous sized front garden and has a modest sized rear garden. The property sits at a higher level to the adjacent dwellings at Nos 2, 4 & 6 Poltair Road, which are all two storeys in height. The appeal dwelling sits at a lower level to the adjacent dwelling at 13 Kernick Road, which is two storeys in height to the rear, with a large first floor rear window that has a Juliet balcony and serves a bedroom. Although the dwellings sit at different levels, the appeal dwelling and the dwellings at 13 Kernick Road and 2 Poltair Road have similar rear building lines and their rear gardens slope down towards the modest sized rear gardens and dwellings at Nos.4 & 6 Poltair Road.
10. The appeal site's rear garden includes boundary hedging and a tall fence, which provides a good degree of privacy. Notwithstanding this, there are clear views from the rear garden into the adjacent side garden at No.2 and towards the first floor windows of No.4. Similarly, there are views from No.2 and No.13 towards the rear of the appeal property.
11. Collectively and amongst other things Policies 1, 2 and 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) and paragraphs 8 and 135 of the Framework promote sustainable forms of development. They seek to ensure that proposals are designed to a high quality and are sympathetic to and maintain local character and a strong sense of place. Proposals should provide a high standard of amenity and should protect individuals and property from overlooking and unreasonable loss of privacy, overbearing impacts and

unreasonable noise. The Cornwall Design Guide 2012 (CDG) is consistent with this.

Living conditions

12. The proposed roof terrace would facilitate views directly into the rear kitchen and bedroom windows and rear garden at No.4. Due to the proximity of the rear windows and garden at No.4 I consider that this would be intrusive and would result in an unacceptable loss of privacy for the occupiers of No.4. I appreciate that some overlooking is inevitable within the locality. For example, the rear bedroom windows at No.4 directly overlook part of the rear garden and the rear ground floor kitchen windows of the appeal property. However, there is a distinct difference between overlooking from a bedroom window and overlooking from a roof terrace potentially occupied by a number of persons through the day and evening, whether standing or sitting.
14. Although the proposed roof terrace would be sited away from the side boundary with No.13, it would still provide direct views into the rear garden and the adjacent side facing windows of the dwelling at No.13. The impact would result in a material loss of privacy for the occupiers of No.13.
15. As stated above, the dwelling and adjacent side garden at No.2 sits at a lower level and is already directly overlooked from the rear garden of the appeal property, which projects slightly closer to No.2 than the proposed roof terrace. Also, this side garden at No.2 is directly overlooked from Poltair Road, whereas the side garden on the opposite side of No.2 and away from the proposed roof terrace is enclosed and private. The side windows in the appeal dwelling already overlook the dwelling and adjacent side garden at No.2. The proposal would add to the level of overlooking, but, in itself, this would not amount to a reason for dismissing this appeal. However, it exacerbates the overall loss of privacy that would result from the proposal.
16. Concern has been expressed that due to the proximity of the proposed roof terrace to adjacent bedroom windows at No.2 and No.13, the use of the proposal could result in excessive noise and disturbance. I agree that the use of the roof terrace has the potential to generate some noise and disturbance. This has to be balanced with the potential for the use of the appellants and other nearby rear gardens to generate noise and disturbance. Also, it would be possible to impose a condition which prevents the installation of external illumination with the roof terrace, which would help restrict the use of the terrace at night. As such, this is not a matter that adds to my concerns.
17. The proposed roof terrace would have clear glazed walls and the rear dormer would be sited away from the boundaries with the adjacent dwellings. Accordingly, the proposal would not result in a loss of daylight or sunlight with the adjacent dwellings and their gardens.
18. The appellant has referred to several number of roof terraces in the locality. None of these examples appear to be directly comparable to the appeal proposal with respect to the topography of the sites and their proximity to neighbouring private rear gardens and windows. Similarly, the large windows and Juliet balconies referred to by the appellant are not directly comparable in form or siting as the proposed roof terrace. Rather than set a precedent they highlight the need to assess each proposal in accordance with the prevailing development plan policies and on their individual merits.

19. Conversely the proposed loft conversion is served by roof-lights. The side facing rooflights look over the roof slopes of the dwellings on either side. The rear roof-light is modest in size, set back from the rear elevations of the adjacent dwellings and is sloped away from the dwelling at No.4. Accordingly, it does not result in a material loss of privacy for the occupiers of No.2, No.4 or No.13. The proposed rear dormer is modest in size and would not provide expansive views out of the room it serves.
20. I conclude on the first main issue that the proposed roof terrace would result in an unacceptable loss of privacy for the occupiers of No.4 and No.13. In this respect the proposal would conflict with CLP Policy 12 and paragraphs 8 and 135 of the Framework. Conversely the proposed loft conversion and dormer window would not have an unacceptable impact on the living conditions of any local residents and would comply with the above policies and the Framework.

Character and appearance

21. The existing dormer extension, which already exists, is modest in form and design. It respects the character and appearance of the host dwelling.
22. The proposed rear dormer would be sited centrally on the rear roof-slope. It would be narrow with a pitched roof and would sit just below the top ridge line. In this respect it would be reflective of other dormer windows in the area. The proposed dormer would project out to the eaves line of the original dwelling, which would be unusual for a narrow dormer window, but typical of larger dormers.
23. Despite this, the proposed dormer would respect the modest scale of the host dwelling and would be readily assimilated into the rear garden environment. Where it could be glimpsed from Poltair Road, it would be at a distance and seen either against the backcloth of the large full depth gable extension at No.13 or against the backcloth of the existing rear roof slope. It would be readily assimilated into the informal roofscape in the immediate area.
24. Of more concern is the extent of the balustrade around the proposed terrace. On the northwestern side it sits within the line of the side roof slope, whereas on the southeast side it projects up to the side wall of the original dwelling. It would appear awkward and would upset the symmetry of the existing and proposed resultant roof. This is a detail that could be addressed by simply reducing the width of the roof terrace and due to its minor nature is something that could be adequately secured through the imposition of a condition. As such it would not amount to a reason for dismissing this appeal.
25. I conclude on the second main issue that the proposal would respect and blend in appropriately with the host building and the locality. In this respect it would comply with CLP Policies 1, 2 & 12 and paragraphs 8 and 135 of the Framework.

Other matters

26. I acknowledge that the proposed roof terrace would add to the external amenity space of the property and would thus enhance the living conditions of the appellant and their family. Whilst very modest, the construction of the roof terrace would also result in direct and indirect employment. However, such benefits should not be at the expense of harming the living conditions of other local residents.

27. Concern has been expressed regarding the proximity of the proposed roof terrace to existing overhead cables. This is a private matter for the utility providers and falls outside the scope of this appeal.

Conclusion

28. The conclusion on the first main issue amounts to a compelling reason for dismissing the appeal in respect of the proposed roof terrace. Having found in favour of the loft conversion and proposed dormer on both main issues, I have considered the possibility of issuing a split decision. In relation to the loft conversion this is possible as it is both physically and functionally separate to the roof terrace. Also, as the loft conversion already exists there is no need to impose any conditions. However, the proposed rear dormer's main purpose appears to be to provide access to the proposed roof terrace and so is not physically and functionally separate from the roof terrace. Accordingly, whilst I am able to issue a split decision in favour of the loft conversion, it does not extend to the proposed dormer.

Elizabeth Lawrence

INSPECTOR