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# Appeal Decision

Site visit made on 30 July 2024

**by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 August 2024**

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**Appeal Ref: APP/D0840/W/23/3332927**

**Portscatho, Dobbin Close, Padstow, Cornwall, PL28 8QS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Wayne Adams against the decision of Cornwall Council.
  - The application Ref is: PA23/00481.
  - The development proposed is the demolition of existing property and erection of new residential dwelling with associated building works.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of residents at Gulland House with particular regard to overlooking and loss of privacy.

## Reasons

3. The appeal site comprises land and a single storey detached dwelling located within the settlement at Trevone. The immediate surrounding area is characterised by residential development of varying scales and designs. To the west of the appeal site is the property at Gulland House, which includes a substantially scaled detached dwelling set within a generous plot.
4. Gulland House is positioned within its plot with the rear of that dwelling and private amenity space facing the proposed rear elevation of the appeal site. The private amenity space at the rear of Gulland House includes an area used for seating and which is separated from the appeal site by a hedgerow. At the date of my visit, that hedgerow exhibited significant variation in terms of height along the length of the shared boundary between the appeal site and Gulland House.
5. The appeal scheme seeks to replace the existing single storey dwelling at the site with a two-storey dwelling of contemporary design. The proposed dwelling would not have an overbearing effect on neighbouring residents given its scale and overall height which is comparable to the existing dwelling at the appeal site.
6. Nonetheless, the rear of the proposed replacement dwelling would incorporate a balcony and substantially scaled window openings at first floor level, and which would directly face the private amenity area at Gulland House. Whilst I note that the proposed replacement dwelling would have a similar overall

height when compared to the existing dwelling, the window openings at the rear of the existing dwelling are at ground floor level. Given the proximity of the proposed development to the shared boundary, and by reason of the height of the balcony and the large window openings at the rear elevation of the proposed replacement dwelling, there would be potential for overlooking into the highly valued private amenity space at the rear of Gulland House.

7. I acknowledge the Appellant's submissions that the existing hedgerow on the boundary between the appeal site and Gulland House provides screening against overlooking and I accept that a degree of mutual overlooking is to be expected within residential areas. The length of hedge at the boundary may provide some screening from views that could be obtained from the balcony on the rear of the proposed replacement dwelling. However, the future condition and health of the hedge cannot be guaranteed, and in the event that such vegetation is lost, it would take time to re-establish itself to a sufficient height to prevent harmful overlooking.
8. I also note the inclusion of a close boarded timber fence that is proposed to be positioned along part of the shared boundary. However, from the details provided that fence would not be of sufficient height to prevent overlooking into the parts of the rear external amenity space at Gulland House from some of the substantially scaled window openings which would also be located at first floor level on the rear elevation of the replacement dwelling.
9. The Appellant has referred me to other approved development within Trevone for which the details suggest that hedgerow screening was found to be sufficient to prevent harmful overlooking, with a second example where balconies had been allowed. However, I do not have the full details of the circumstances that led to those proposals being accepted and so cannot be sure that they represent a comparable position. In any event I have determined this appeal based on my own observations and on its own merits.
10. Furthermore, I do not agree that the scale and height of the existing permitted dwelling at Gulland House would justify allowing the proposal which, for the reasons given above, would result in overlooking and loss of privacy.
11. In light of the above, I conclude that the appeal scheme would result in overlooking and unacceptable loss of privacy for residents at Gulland House. Consequently, the appeal proposal would conflict with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030 which confirms, amongst other matters, that proposals should protect individuals and property from overlooking and unreasonable loss of privacy. The scheme would also fail to accord with the provisions of paragraph 135 of the National Planning Policy Framework (December 2023).
12. The Council has cited conflict with Policy PAD(6)(1) of the Padstow Parish Neighbourhood Plan 2018-2030 within the decision notice. That policy concerns settlement boundaries and, in part, requires that development be appropriate to its setting in terms of scale, height and massing. As noted above, I find that the proposed replacement dwelling would be comparable in those respects to the existing dwelling at the site. As such I find no conflict with that policy.
13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.

14. I acknowledge that the proposed replacement dwelling would be energy efficient and would provide very limited short term economic benefits in terms of employment opportunities during construction. However, in my view the limited benefits of the scheme would not outweigh the harm identified above and the resultant conflict with the development plan when taken as whole, to which I attach significant weight.
15. I also note that the Appellant has put it to me that the appeal scheme would make a contribution towards the Council's five year housing land supply. However, it is apparent that the proposal is for a replacement dwelling and therefore there would be no net gain in the number of residential units at the site.

### **Conclusion**

16. For the reasons given above the appeal should be dismissed.

*Mr A Spencer-Peet*

INSPECTOR