



Appeal Decision

Site visit made on 5 August 2025

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2025

Appeal Ref: APP/D0840/W/25/3358964

58 Sea Road, Carlyon Bay, St Austell, Cornwall, PL25 3SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr and Mrs Davies against the decision of Cornwall Council.
- The application Ref PA24/00808 was approved on 12 September 2024 and planning permission was granted subject to conditions.
- The development permitted is to replace an existing poor quality two-storey dwelling and connected garage with a new three-storey dwelling with an integral garage and associated landscaping.
- The conditions in dispute are Nos 3, 4 and 5 which state, with the reasons given, that:
Condition 3 – Notwithstanding the plans hereby approved, the two large windows on the North Eastern corners of the First Floor and Second Floor, shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.

Reason – To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties and in accordance with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030.

Condition 4 – Prior to the occupation of the dwelling the balconies on the first floor and second floor hereby approved, shall have 1.8m high privacy screens erected on the North Eastern elevations, details of these shall be submitted to and approved in writing by the LPA. The said screens shall be maintained and retained thereafter.

Reason – To protect the privacy of occupiers of the dwelling known as Gull Rock and in accordance with Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030.

Condition 5 – The development hereby approved shall be designed and built to ensure all dwellings achieve the Climate Emergency DPD Policy SEC1 standard of 110 litres/person/day water efficiency prior to occupation.

Reason – In the interests of improving water usage efficiency in accordance with Climate Emergency DPD Policy SEC1.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, an application under section 73 of the Town and Country Planning Act 1990 to carry out the development permitted under Ref. PA24/00808 without complying with conditions 2 and 3 has been approved by the Council. This approval was dated 27 February 2025 (Ref. PA24/08947). The variation related to the two large windows on the north eastern corners of the first and second floors and sought to reduce the size of these and install louvers over the windows. In approving this application, condition 3 was varied accordingly. I refer to this approval to clarify that those changes do not form part of the proposal

that is before me. The current appeal seeks the removal of all three conditions that are in dispute.

Main Issue

3. The main issue is whether the conditions are reasonable and necessary in the interests of protecting the living conditions of neighbouring occupiers.

Reasons

4. The appeal site comprises a large detached two storey dwelling on Sea Road. It forms part of a private estate of similar properties a number of which have been replaced by more modern developments. The site, as with its neighbours, sits in an elevated position with extensive views towards the sea and coast. To the north east is 60 Sea View (No.60), referred to as Gull Rock House, a large detached two storey property and Grade II Listed Building.
5. Full planning permission for a replacement three-storey dwelling with integral garage on the appeal site was granted on 12 September 2024 (Ref.PA24/00808). No works on implementing the permission appear to have started on site. It is condition 3 (obscure glazing), condition 4 (balcony screening) and condition 5 (water efficiency) of this permission that this appeal seeks to vary by their removal.
6. For ease of reference I have dealt with the conditions in turn.

Condition 3

7. The condition requires the approved two windows on the north eastern corners of the first and second floor of the new dwelling to be obscure glazed and fixed shut to a height of 1.7 metres above floor level.
8. As I observed on site, there are already windows on the north eastern elevation facing towards No.60. There are also windows on No.60 facing in the opposite direction, a not uncommon feature within urban areas where mutual overlooking is an inherent characteristic. However, the existing windows on the hosts side elevation are small and largely look across towards the side elevation of No.60 or parts of its rear garden.
9. The approved windows on the first and second floor are much larger in terms of their height, depth and width. As such, their field of view would be much greater than existing. They would be sited closer to the common boundary with No.60. In addition, the new dwelling would project much further beyond the main rear wall of the existing host, which would open up more views from the proposed windows to the rear windows and immediate private amenity area of No.60.
10. Combined, all of these factors would increase the level of overlooking that currently occurs to an unacceptable level that would be harmful to the living conditions of the occupiers of No.60.
11. The position and relationship is not, as has been suggested, similar to existing and without the obscure glazing and the windows being non-opening to a certain height, the proposal would result in a harmful loss of privacy. In addition, the new windows would serve a bedroom and open plan kitchen/living area that benefit from large bi-folding doors/windows leading onto large full width balconies on the rear elevation. Even with restricted opening and obscure glazing to the windows, there would be

no material impact on the outlook, light and views from these rooms due to these large principal bi-folding doors/windows.

12. Furthermore, the February 2025 variation to reduce the size of these windows and introduce louvres appears to be acceptance that some form of mitigation is required to prevent a loss of privacy if these windows were clear glazed and fully openable. As I have found, the removal of the obscure glazing and non-opening restriction would result in an unreasonable loss of privacy to the living conditions of No.60.

Condition 4

13. The condition requires the approved first and second floor balconies to have 1.8 metre high privacy screens on their north eastern elevations to protect the privacy of the occupiers of No.60.
14. Whilst the existing host has a balcony on this rear elevation it is located at ground floor level, on stilts, due to the topography of the site. Whilst it was not possible to stand on this balcony due to its poor condition, existing fencing and planting on the common boundary partly mitigates views from the balcony towards No.60. Even so, the approved balconies would be sited at a much higher level, in line with the new windows referred to above. The balconies would project beyond the main rear elevation of the new dwelling, which, as I confirmed earlier, is sited well forward of the main rear elevation of the existing host.
15. No screening is shown on the approved balconies and they would, therefore, give future occupiers unfettered views of the rear windows and garden to No.60. These views would be at a high level and from a position where no such views exist at present. I accept that both balconies are narrower at the north eastern end due to the angled design of the bi-folding doors/windows but it would still be possible for people to stand or sit on these parts of the balconies.
16. Privacy screens to a height of 1.8 metres on the north eastern elevation would mitigate for the increased level of overlooking that would arise from the balconies. The removal of this condition and screening requirement would, therefore, result in an unreasonable loss of privacy and harm to the living conditions of No.60.
17. The approach that the Council adopted in relation to both the obscure glazing and the screens was consistent, in my view, with that in paragraph 56 of the National Planning Policy Framework (NPPF). This states that Council's should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.

Condition 5

18. This condition requires the new dwelling to achieve a water efficiency standard of 110 litres/person/day. This requirement is supported by policy SEC1 of the Climate Emergency Development Plan Document (DPD). The Council's Statement of Case confirms that this policy was endorsed by the DPD's examining Inspectors Report and found to be a sound given that Cornwall is an area of water stress.
19. Paragraphs 13 and 14 of the Planning Practice Guidance (PPG) chapter 'Housing: optional technical standards' deals with water efficiency. This states that the NPPF sets out how planning can contribute to the achievement of sustainable development including providing for high quality future housing that uses natural

resources prudently and adapts to climate change to take full account of matters such as water supply and consumption.

20. The PPG continues by stating that all new homes have to meet a mandatory national standard for water efficiency set out in the Building Regulations of 125 litres/person/day. However, where there is a clear local need, local plan policies can require new dwellings to meet the tighter Building Regulations optional requirement of 110 litres/person/day. Condition 5 seeks to secure that optional requirement in line with policy SEC1.
21. Turning to the wording of the condition, this reflects, in my experience, the model wording often used, bearing in mind that the implementation of the water efficiency level is secured through Building Regulations. The wording is clear in terms of what is required, namely that the development shall be designed and built to ensure the standard is achieved and by when, prior to occupation. The fact that it refers to dwellings instead of dwelling does not alter the meaning or the effect of the condition or its requirement. As such, it is, in my view, enforceable.
22. I am also satisfied that there is no conflict with condition 6 which requires the energy and water efficiency measures set out in the approved Energy Statement (ES) to be implemented. Whilst not that clear, it would appear that the ES simply suggests the water efficiency measures are likely to be based on the requirements within the Building Regulations, without specifying what this is. As such, Condition 5 provides clarity and certainly that the optional water efficiency measures of policy SEC1 are required.
23. Given the above, I find that conditions 3, 4 and 5 are necessary and reasonable having regard to paragraph 57 of the NPPF; conditions 3 and 4 in the interests of protecting the living conditions of neighbouring occupiers in accord with policy 12 (Design - part 2.a.) of the Cornwall Local Plan Strategic Policies 2010 – 2030 (CLP) and paragraph 135 f) of the NPPF; and condition 5 in ensuring that water efficiency accords with policy SEC1 of the DPD.

Other Matters

24. The appeal site lies within the setting of a Grade II Listed Building, 60 Sea View (Gull Rock House). Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special regard must be had to the desirability of preserving the setting of the listed building. Similar advice is to be found in the NPPF. Given that the appeal relates to mitigation required in relation to overlooking and water efficiency, I am satisfied that there would be no further impact on the setting of the Listed Building.

Conclusion

25. For the reasons given above I conclude that the disputed conditions are reasonable and necessary. The appeal is dismissed.

G Roberts

INSPECTOR