



Appeal Decision

Site visit made on 23 September 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 September 2025

Appeal Ref: APP/D0840/D/25/3369363

36 Penlee Street, Penzance, Cornwall, TR18 2DE

- 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 Ms Tara Stevens against the decision of Cornwall Council.
 - The application Ref is PA25/00949.
 - The development proposed is demolition of existing rear extension and construction of replacement partial two storey extension.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing rear extension and construction of replacement partial two storey extension at 36 Penlee Street, Penzance, Cornwall, TR18 2DE in accordance with the terms of the application, Ref PA25/00949 and the plans submitted with it, subject to the conditions listed below:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing No's 123-LP; 123-2000A; 123-2100.
 - 3) The materials used in the construction of the external surfaces of the development hereby permitted shall be as shown on the approved plans.
 - 4) Notwithstanding condition 2 and the details of the works hereby approved, prior to the first occupation of the development hereby permitted the first floor side (north) elevation bathroom window, as shown on drawing No. 123-2100, shall be obscure glazed and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of opening. The obscure glazing shall be obscured to Pilkington Level 5. Once installed the obscure glazing shall be retained thereafter.

Application for Costs

2. An application for costs was made by the Appellant against Cornwall Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers at 35 Penlee Street (No.35).

Reasons

4. The appeal site is located on Penlee Street and comprises a two storey terraced property with a small garden (courtyard) at the rear that backs onto a shared lane. An existing single storey flat roofed extension extends from the main rear wall of the host property to its boundary with the lane. The extension is not full width and is set back from the common boundary with No.35 (sited to the north east). This common boundary is formed by a stone wall of some 2 metres in height. No.35 also benefits from a single storey extension with flat roof that is again not full width and set back a similar distance from the common boundary with the host.
5. To the south west is 37 Penlee Street (No.37) which benefits from a ground floor extension that extends to its rear boundary with a mono pitch roof that links to a smaller (depth wise) first floor flat roofed extension. There are further examples of rear extensions in Penlee Street as well as on the terrace on the other side of the shared lane (Gwavas Street). These examples include full length single and two storey extensions, most with flat roofs.
6. The appeal proposal involves the demolition of the ground floor extension and its replacement, on the same footprint, with a new extension and a mono pitch roof that would rise up to meet a smaller (depth wise) first floor extension. The latter would have a flat roof and sit marginally below the existing eaves of the host. It would extend some 2.4 metres from the main rear elevation of the host.
7. The Council have not raised any objection to the impact of the proposal on the character and appearance of the area or to its design. I concur with these findings and note that the design would not be out of keeping with similar extensions in the terrace and would mirror that at No.37. The Council do contend that the proposal would result in an unacceptable increase in overbearing and overshadowing, and in a loss of light and outlook to the occupiers of No.35.
8. Whilst the Council's Delegated Report (CDR) explains its objection further, I note that there is no technical analysis in the report or reference to any tests or specific standards from the local plan policies or design guidance that the Council seek to apply when considering the impact of extensions on neighbours. The CDR does reference to its own shadow software, but no further details of this software are included in the report or are before me. Whilst I note the queries raised in the CDR in relation to the Appellant's Shadow Analysis (ASA), a revised version of this has been provided with the appeal to correct any errors or omissions in the original analysis. As such, it appears that the Council's objection is based largely on the Officers site visit and an overall judgement about living conditions.
9. The revised ASA shows that the impact of the proposal on No.35 would be modest and from my interpretation of its findings, it does not support the view that there would be an undue loss of light or that there would be a harmful increase in overshadowing. That finding is supported by my observations on site. I also note that the Council do not suggest that the proposal would lead to any infringement of, for example, the 'BRE Site Layout Planning for Daylight and Sunlight - a guide to good practice (2022)'. My attention has also not been drawn to any local guidance on extensions or any relevant tests or standards that are applied when assessing the impact of new extensions on neighbours living conditions. The Council do refer to part 2.b of policy 12 of the Cornwall Local Plan Strategic Policies 2010–2030

- (CLP) but this is a generic policy seeking to protect properties from the overshadowing and overbearing impacts of any new development.
10. The Council has also referred to paragraphs 9.3.1 and 9.3.5 of the Cornwall Design Guide (CDG) which seek to ensure an adequate level of privacy and outlook for existing and new residents. The guidance is very general and does not refer to any relevant standards or tests that will be applied. Indeed, my attention has not been drawn to any part of the CDG that specifically relates to new extensions. I note that in this respect, paragraph 1.6.2 of the CDG lists the forms of development that the guidance is intended to be used for, which does not include extensions.
 11. As I confirmed earlier, the proposed ground floor extension would be on the same footprint as existing. Whilst it would include a mono pitch roof, that element would have no material impact on the light and outlook to No.35. Whilst the shallower first floor element would be more visible from No.35, the depth of that extension is, in my view, modest with its overall scale and mass reduced due to its flat roof design and the fact it sits just below the existing eaves of the host. Moreover, there would remain a reasonable gap between the proposal and the boundary wall with No.35. A similar gap would be retained between this boundary wall and the side windows and door to the rear extension of No.35.
 12. The existing windows, doors and garden (courtyard) to No.35 would thus remain a reasonable distance from the proposed extension. As such and bearing in mind the presence of the boundary wall and the modest projection of the new first floor extension, mirroring that on No.37, I am satisfied that the proposal would not result in any significant harm to the outlook or to the light received by No. 35 and would not appear overbearing. That finding is supported by the ASA and is based on the views and judgements I formulated on my site visit. I accept that the proposal would have some impact on the outlook and light to No.35, but the level of impact would, in my judgement, be modest. The door, windows and courtyard to No.35 would continue to benefit from a good level of outlook and light.
 13. Overall, I am satisfied that the proposal would not result in significant harm to the living conditions of the occupiers of No.35. In view of that finding, I have not considered the examples of other extensions within the area that both parties have referred to. As is required, I have determined the proposal on its individual merits having regard to the particular circumstances of the case.
 14. Even so, the Council contend that a number of these examples were permitted prior to the CLP and CDG and therefore under a different policy regime. I am not convinced by that argument and there is no substantive evidence before me to support that statement. I have already questioned the relevance of the CDG in that it does not contain any specific guidance on extensions. In addition, the generic CLP policies in relation to the loss of light, outlook and privacy appear no different to those that have for years been applied to such developments. That is also the case for sunlight and daylight indicators and other standards such as the 45⁰ test that all existed before the CLP and are still to be commonly found in design and extension guides.
 15. The Appellant's evidence indicates that the proposal complies with a notional 45⁰ test, a useful rule of thumb when considering the impact of new extensions on the habitable windows of neighbouring properties. This adds further support to the findings of the ASA. Even so, the latter as well as other tests and standards

mentioned are not mandatory and should be applied flexibly. Moreover, even if such tests/standards are failed it does not necessarily mean that light or outlook would be unacceptable, but that more detailed tests may be required or that a judgement needs to be reached based on the circumstances of the case and observations made on site.

16. Accordingly, I find that the appeal proposal would not lead to any significant harm to the living conditions of the occupiers of No.35 and would, therefore, be compliant with policy 12 of the CLP, the CDG and paragraphs 131 and 135 of the National Planning Policy Framework (NPF).

Other Matters

17. The appeal site lies within the Penzance Conservation Area (PCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the NPPF as well as in the CLP. The CDR found that the design of the proposal would be acceptable, that there were similar extensions within the terrace and that the proposal would be relatively concealed within its setting. I concur with those findings. I am satisfied, therefore, that the proposal would preserve the character and appearance of the PCA in that it would leave it unharmed.
18. Concerns have been raised by interested parties in relation to overdevelopment, the sufficiency of the submitted plans, damp, impact on outdoor drying space and the use of the property for rental purposes. There is no detailed evidence before me to suggest that any of these concerns would result in material harm and I note they are not matters that the Council have specifically raised in their reason for refusal. Whether the property is used for rental purposes does not affect the assessment that needs to be undertaken. The submitted plans are to scale and sufficiently detail the design of the proposal and its relationship to neighbours.

Conditions

19. The Council has suggested various conditions which I have considered against the advice in the NPPF and the Planning Practice Guidance chapter on the 'Use of planning conditions'. A condition requiring the development to be carried out in accordance with the approved plans is reasonable and necessary in the interests of securing a high quality development. I have added a condition requiring the materials to be as shown on the approved plans. I am satisfied that a condition to require the proposed bathroom window on the side elevation to be obscure glazed is also necessary to protect the living conditions of neighbours. However, I have amended the wording and added the requirement that the window should not be openable below a height of 1.7 metres from the floor to that room.

Conclusion

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

G Roberts

INSPECTOR