
Appeal Decision

Site visit made on 21 October 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2025

Appeal Ref: APP/D0840/W/25/3366929

Land North of 36 Eliot Road, St. Austell PL25 4NN

- 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 Rhino Construction Ltd against the decision of Cornwall Council.
 - The application Ref is PA25/00149.
 - The development proposed is construction of dwelling house and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of dwelling house and associated works at Land North of 36 Eliot Road, St. Austell PL25 4NN in accordance with the terms of the application, Ref PA25/00149, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupants of 36 and 38 Eliot Road with particular regard to outlook and privacy.

Reasons

3. The appeal site lies in a residential area of two-storey semi-detached and terraced houses arranged in a courtyard formation around a central car-parking area. The dwellings are all of similar scale and design, with mansard roofs. The site itself is an unused piece of land to the north of a terrace of four houses, with pedestrian access off the parking courtyard. It is not disputed that the location of the site accords in principle with the settlement strategy of the development plan, and that the design and siting of the proposed dwelling would not be harmful to the character and appearance of the area. A car-parking space is proposed on a nearby piece of land, and the Council does not object to this arrangement.
4. 36 Eliot Road is an end-terraced house that borders the site to the south. Although its main entrance door is in the northern side elevation, the outlook from its main habitable accommodation is through windows to the front and rear. The proposed house would lie to the north, so would not impede any sunlight from reaching the windows or garden of No 36. Furthermore, there would be a significant gap between the existing and proposed houses, so there would be little impact on the level of diffuse skylight reaching No 36.
5. The house would be within a metre of the side boundary of No 36, and would be two storeys in height, so it would have a notable physical presence. However, its front and rear walls would align with those of the existing house, so there would be no loss of outlook from the main windows to the front and rear. There is a first-floor

window in the side elevation of No 36, which looks towards the appeal site. However, the roof of the proposed house would be hipped, and the significant gap between the dwellings would allow occupants to retain a relatively open outlook from this window to a wide expanse of sky around and above the proposed building. This would be a similar relationship to that which currently exists with other side-facing first floor windows in the courtyard. Consequently, the proposed dwelling would not result in a significant loss of outlook for occupants within the house at No 36.

6. The proposed house would be close to the side boundary of No 36, so would have a very obvious physical presence from this part of the garden. However, it is not unusual for a house to be close to the side boundary of another, and none of the other dwellings in this courtyard have large side gardens. As with the other houses, No 36 has a reasonably proportioned rear garden, which would still have an open outlook to the north and south. Whilst the proposed dwelling would be visible from here, it would not be an overly dominant feature, and the garden would not be unduly enclosed, as views would be retained through the wide gap between the existing and proposed dwellings. The proposal would not, therefore, result in a harmful loss of outlook, and the occupants of No 36 would retain a good standard of outdoor amenity.
7. The proposed dwelling would have a 1.8m close-board fence to its southern and western boundaries, so there would be no loss of privacy to Nos 36 and 38 from ground floor windows. Furthermore, there would be no first-floor windows looking towards No 36. There would, though, be two first floor windows in the west elevation, which would look over the boundary fence towards the rear garden of No 38 from close range. Whilst the drawings do not specify obscure glazing to these windows, they both serve bathrooms. The appellant has indicated that a planning condition to secure fixed pane obscure glazing would be acceptable. In these circumstances, there would be no perceived or actual loss of privacy to the occupants of the rear garden of No 38. There would, therefore, be no harm to their living conditions.
8. For the reasons given above, I conclude that the development would not result in harm to the living conditions of the occupants of 36 and 38 Eliot Road through loss of outlook or privacy. The proposal would, therefore, accord with Policies 1 and 12 of the Cornwall Local Plan Strategic Policies 2010-2030, which seek to ensure, amongst other things, that proposals protect individuals and property from overlooking and unreasonable loss of privacy, and overshadowing and overbearing impacts.

Other Matters

9. Concerns have been raised in representations regarding the potential difficulty in delivering building materials to the site, and noise and dust during construction works. However, these are logistical problems associated with many developments in built-up areas, and are covered by other regulatory regimes. They do not, therefore, carry significant weight in my decision.

Conditions

10. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council has submitted

a schedule of suggested conditions to cover other matters, which I have considered against the advice in the Planning Practice Guidance (the PPG). Where I have agreed that the conditions meet the relevant tests, I have altered them, in the interests of clarity and precision, to better reflect the guidance.

11. A condition requiring obscure glazing, with fixed panes below eye level, is necessary to protect the privacy of the occupants of No 38. The proposed external materials for the building are specified on the drawings, and are appropriate for the surroundings, so a condition requiring the submission of further details would be unnecessary.
12. The Council has suggested a condition removing householder permitted development rights for the appeal site. However, I have not been provided with any justification for such restrictions, or evidence as to why the limitations imposed by the legislation on the exercise of these permitted development rights would be insufficient to avoid any significant harm. The PPG advises that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity¹. For these reasons, I have found the proposed condition would fail the tests, so I have not imposed it.
13. Conditions requiring the provision of suitable foul and surface water drainage arrangements, and an off-street car-parking space, are reasonable and necessary in the interests of flood and pollution control, and highway safety, respectively.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 2638/001 - Location Plans; 2638/002 - Topographical Survey; 2638/003 - Site Plan; 2638/004 - Proposed Plans & Elevations; 2638/005 - Opening Schedule and Sections.
- 3) The dwelling house hereby permitted shall not be occupied until the windows at first floor level in the south west elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and, once installed, the obscured glazing shall be permanently retained thereafter.

¹ Paragraph: 017 Reference ID: 21a-017-20190723

- 4) The dwelling house hereby permitted shall not be occupied until the installation of a system to serve the development for the disposal of foul and surface water drainage has been completed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The details shall include a programme for maintaining the system if required. The system shall thereafter be permanently retained and maintained in accordance with the approved details.
- 5) The dwelling house hereby permitted shall not be occupied until the proposed parking space has been provided in accordance with drawing no 2638/001. Thereafter that space shall be permanently retained for the parking of vehicles only.

END OF SCHEDULE