
Appeal Decision

Site visit made on 20 December 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th January 2017

Appeal Ref: APP/W3520/D/16/3157905

10 Swan Close, Stowmarket, Suffolk IP14 1UT

- 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 Mrs Julie King against the decision of Mid Suffolk District Council.
 - The application Ref 1033/16, dated 25 February 2016, was refused by notice dated 2 June 2016.
 - The development proposed is the installation of a detached timber garden room.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council initially issued a decision notice stating that planning permission had been granted. However, the Council quickly realised that it had in fact intended to refuse planning permission and subsequently issued a refusal notice to this effect. Notwithstanding this background, the appeal process has got to the stage where I have been appointed to determine an appeal made by the appellant under Section 78 of the Town and Country Planning Act 1990 ('the 1990 Act') against the refusal of a planning permission and I shall proceed accordingly.
3. The merits or legalities of whether or not there is an earlier planning permission upon which the appellant can rely given my decision to dismiss the appeal is a matter for resolution between the parties outside of this decision. If the Council decided to issue an enforcement notice against what they considered is now a breach of planning control, given my decision, that could lead to an appeal under Section 174(2)(c) of the 1990 Act. Alternatively, an application under Section 191 of the 1990 Act is a means of establishing the lawfulness of existing development. Both of these processes are separate from an appeal under Section 78.
4. The garden room has already been erected, so I have treated this appeal as a retrospective application.

Main Issues

5. The main issues are the effect of the development on (a) the character and appearance of the surrounding area and (b) the living conditions of occupiers of neighbouring properties with regard to outlook.
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Reasons

Character and appearance

6. The cul-de-sac of Swan Close forms part of a modern housing estate where properties and gardens are spaced fairly close to one another. 10 Swan Close ('the appeal site') is at the end of the cul-de-sac on the south side. Most properties along this side of the cul-de-sac have outbuildings at the rear, typically sheds that are modest in height. The ground drops significantly to the south of Swan Close to Treeview. As such, the rear garden of the appeal site is higher than the gardens and properties that adjoin it to the south. Due to its location and proximity to areas of car parking, there is clear visibility across the appeal site from the north and south.
7. The design and appearance of the garden room at the appeal site is simple and resembles a domestic shed or garage. The colour of the walls is a muted green typical of timber structures found in residential gardens and is not out of keeping. Although the rear garden is short, the building's footprint does not overwhelm the remaining garden space. However, the garden room is sited on a sizeable concrete base to address the change in levels. This adds significantly to the building's overall height, particularly to the sides and rear. It results in an unduly tall structure that overly dominates the garden and views across the site from the north and south.
8. Concluding on this main issue, the development has a harmful effect on the character and appearance of the surrounding area. Therefore, it does not accord with Policies GP1, SB2 and H16 of the Mid Suffolk Local Plan 1998 ('the Local Plan'), Policy CS5 of the Mid Suffolk Core Strategy 2008 or Policy FC1 of the Mid Suffolk Core Strategy Focused Review 2012. Amongst other things, these policies require development to maintain or enhance the character and appearance of their surrounding area and secure environmental improvements. The development also does not meet the aims of the National Planning Policy Framework (NPPF) which seeks good design. Policy H18 of the Local Plan does not appear relevant to this proposal or issue, as it relates to extensions to existing dwellings, rather than outbuildings.

Living conditions

9. Standing in the rear garden of the appeal site, one looks directly at the first floor windows on the rear elevation of properties at 22 and 24 Treeview due to the change in levels. From the roadside alongside 22 Treeview, one looks up to the rear garden and the garden room.
10. The height of the garden room along the rear boundary of the appeal site creates a very prominent structure when viewed from the rear elevation and garden of 22 Treeview in particular. This results in an overly dominant effect on the outlook of occupiers of this property. Other properties surrounding the appeal site have a more oblique view and so there is a less harmful effect on their outlook.
11. Concluding on this main issue, the development has a harmful effect on the living conditions of occupiers of 22 Treeview with regard to their outlook. Therefore, it does not accord with Policies SB2 and H16 of the Local Plan which, amongst other things, seeks to avoid adverse effects on the amenity of neighbouring properties. Again, Policy H18 is not relevant to this proposal or

this issue. The development also does not meet the aims of paragraph 17 of the NPPF which seeks a good standard of amenity for all existing occupants of land and buildings.

12. It would seem possible to erect a trellis on top of the boundary fence and plant vegetation to help screen the garden room from view. However, such measures would be unlikely to completely obscure the structure, and in themselves would add to the overly dominant effect of development. Therefore, they do not lead me to different findings in terms of the effect on both main issues.

Other Matters

13. I note the appellant's comments that pre-application advice did not indicate that planning permission was required, or that advice subsequently offered by the Council during enforcement investigations indicated that permission would be refused. I also note the timescales involved and the confusion caused by the issue of two decision notices. While I acknowledge the appellant's frustration, this does not lead me to a different conclusion on the planning merits of this appeal.

Conclusion

14. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR