



Appeal Decision

Site visit made on 26 January 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2021

Appeal Ref: APP/L2630/W/20/3259164

February Cottage, Norwich Road, Long Stratton, Norfolk NR15 2PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Benjamin Phillips against the decision of South Norfolk Council.
 - The application Ref 2020/0677, dated 6 April 2020, was refused by notice dated 18 June 2020.
 - The application sought planning permission for sub-division of garden and erection of new residential dwelling with associated access drive, turning area, car parking and amenity space without complying with a condition attached to planning permission Ref 2016/1823, dated 29 September 2016.
 - The condition in dispute is No 2 which states that: The development shall be constructed in accordance with drawings ref: 6571/P01, 6571/P03/A, 6571/P04/A and 6571/P05 submitted on 3rd August 2016.
 - The reason given for the condition is: For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans, as required by the Spatial Vision and Spatial Planning Objectives of the Joint Core Strategy.
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Decision

1. The appeal is allowed and planning permission is granted for sub-division of garden and erection of new residential dwelling with associated access drive, turning area, car parking and amenity space at February Cottage, Norwich Road, Long Stratton, Norfolk NR15 2PG in accordance with the application Ref 2020/0677, made on 6 April 2020, without complying with condition No 2 set out in planning permission Ref 2016/1823 granted on 29 September 2016 by the South Norfolk Council, but otherwise subject to the conditions set out in the Schedule attached to this decision.

Background and Main Issue

2. The proposal relates to a recently built dwelling fronting the main road in Long Stratton. It occupies land which was previously the front garden to the bungalow named Alston, which lies to its rear. The new dwelling was designed to avoid overlooking from first floor level onto this existing bungalow. On the approved rear elevation, two casement style windows served a bathroom and WC and were both fixed shut with obscure glazing. A high-level roof light served the rear bedroom. An obscure glazing condition was imposed on the windows, which were both non-opening, as was indicated on the approved elevation drawing.

3. This proposal is over changes made to the first-floor layout. These also include a lower height bedroom roof light to the rear, installed to provide a means of escape required under the Building Regulations, and an ensuite bathroom window with opening restricted to 100mm. The central window to the landing remains fixed shut and obscure glazed. The contentious matter is the lower height bedroom roof light. The Council's reason for refusal was over this, and the increased level of overlooking and loss of privacy caused to the occupiers of the bungalow to the rear.
4. On the basis of the above, the main issue in the appeal is whether the variations to the approved plans sought, most notably the lower height bedroom rooflight, continue to provide acceptable living conditions for the occupiers of the bungalow to the rear of February Cottage, with particular regard to privacy.

Reasons

5. The rooflight serves the smallest, third bedroom. Whilst it might alternatively be used for other purposes, such as perhaps a study, it is quite likely to continue to be a bedroom. Due to its size it would not be a main habitable room, like a sitting room or kitchen.
6. The rooflight is to be obscure glazed and so the only potential over-looking would be when it was fully opened. I consider the incidences of this might reasonably be deemed infrequent, with it more likely being mainly closed shut or just partly opened to provide ventilation. The new dwelling has a short back garden and the window to window distances to the rear neighbour are relatively small. The new dwelling already has a quite significant effect on the outlook from Alston. There is not considered to be a significant degree of further harm resulting from the lowered rooflight, as the degree of potential overlooking caused is relatively minor.
7. The changes sought are not considered to have a materially harmful effect on the living conditions of the occupiers of the dwelling at Alston, with regard to loss of privacy. Therefore, the proposal complies with policies DM3.5 and DM3.13 of the South Norfolk Local Plan Development Management Policies 2015 insofar as these pertain to such matters.

Conditions

8. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. Some of these have clearly been complied with, as the dwelling has been built. I have imposed those others recommended by the Council but in the event that some have in fact been discharged in the interim, that is a matter which can be addressed by the parties.

Conclusion

9. For the above reasons, I conclude the appeal be allowed.

Jonathan Price

Inspector

Schedule of Conditions

- 1) The development shall be constructed in accordance with drawings ref: 6571/P01, 6571/P03/A, 6571/P04/A (front and side Elevations only) and 6571/P05 submitted on 3rd August 2016 for approval reference 2016/1823, proposed rear elevation site & block plans submitted on 6th April 2020 and proposed floor plans 209.779.02 submitted on 28 May 2020.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no enlargement, improvement or other alterations of the dwelling [Class A]; no additions or alterations to the roof [Class B & C]; or any other works as defined by Classes A, B and C of Part 1 of Schedule 2 of that Order shall be erected or brought onto the land unless an appropriate planning application is first submitted to and approved by the local planning authority.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order)(with or without modification), there shall be no additional window or other opening constructed at first floor level or above in the north, south and west elevations of the development hereby approved unless an appropriate planning application is first submitted to and approved by the local planning authority.
- 4) The first floor windows in the west elevation hereby approved shall be obscure glazed to a specification of not less than the equivalent of classification 5 of Pilkington Glass and shall be installed in accordance with the approved details prior to the first occupation of the building and shall remain so in perpetuity.
- 5) Details of the proposed opening restriction mechanism for the rear first floor bathroom window shall submitted to and approved in writing by the local planning authority. The new window shall be installed in accordance with approved details and retained as such thereafter.
- 6) Prior to the first occupation of the development hereby permitted any access gate(s), bollard, chain or other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 5 metres from the near channel edge of the adjacent carriageway. Any sidewalls / fences / hedges adjacent to the access shall be splayed at an angle of 45 degrees from each of the (outside) gateposts to the front boundary of the site.
- 7) Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 8) Prior to the first occupation of the development hereby permitted the vehicular access shall be laid out in the position shown on the approved plan. The construction specification shall be in accordance with highway specification drawing TRAD1 attached. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

- 9) No foul drainage from the development hereby approved shall be discharged other than to the main sewer. The foul water disposal shall be implemented prior to the first occupation and retained as such thereafter.
- 10) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres/person/day. No occupation of the dwellings shall take place until an assessment which relates to that dwelling and which confirms that the development has been constructed in accordance the above requirement for water usage has been submitted to and agreed in writing by the local planning authority. All completed water conservation measures identified shall be installed in accordance with the details as agreed and thereafter permanently retained.
