



Appeal Decision

Site visit made on 4 January 2022

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3RD February 2022

Appeal Ref: APP/F3545/D/21/3279103

Rosewood House, Livermere Road, Great Barton, Bury St Edmunds, Suffolk IP31 2SB

- 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 B Talebpour against the decision of West Suffolk Council.
- The application Ref DC/21/0417/VAR, dated 26 February 2021, was refused by notice dated 28 April 2021.
- The application sought planning permission for Householder Planning Application - (i) Two Storey Side Extension to Northern Elevation, (ii) Ground Floor Rear and Side Extension to Southern Elevation to Include Roof Terrace, (iii) 1no. Balcony to Rear, (iv) 1no. Veranda to Rear, (v) Alteration of Existing Openings, (vi) Formation of New Openings and (vii) Cladding of Building without complying with conditions attached to planning permission Ref DC/17/1029/HH, dated 21 July 2017.
- The conditions in dispute are No's 3 and 4 which states:

3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reference No:	Plan Type	Date Received
17-013-04 P2	Proposed Elevations	03.07.2017
17-013-01 P1	Ex Elevations & Floor Plans	26.05.2017
17-013-02 P1	Proposed Ground Floor Plan	18.05.2017
17-013-03 P1	Proposed First Floor Plan	18.05.2017
(-)	Location Plan	18.05.2017

4. Before the balcony and roof terrace are first brought into use, a 1.7m high obscure screen shall be installed along the southern length of the roof terrace and the northern side of the balcony and this form of obscure screening shall be retained permanently at all times thereafter.
- The reasons given for the conditions are: 3. To define the scope and extent of this permission; and 4. To prevent the overlooking of adjacent properties in order to ensure that residential amenity is not adversely affected.

Decision

- The appeal is dismissed.

Procedural Matter

- Since the determination of the application the National Planning Policy Framework 2021 (the Framework) has been published. The revised Framework does not diverge significantly from the previous version with regard to

relevance to this appeal. No party has been prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

Background & Main Issue

3. I understand that planning permission was granted in 2017 for various extensions and alterations to the appeal property. The appeal seeks permission to carry out the development without complying with conditions 3 and 4. The conditions include a requirement that obscure privacy screens to the roof terrace at a height of 1.7m are provided. The main issue is the effect that modifying conditions 3 and 4, reducing the obscure privacy screens to a height of 1.1m would have on the living conditions of occupants of neighbouring properties.

Reasons

4. The approved roof terrace at first floor is an extensive area which could accommodate a large number of people. Separation distances from the terrace to the boundaries shared with adjacent properties vary however properties are well spaced from one another, each set within substantial plots.
5. Views from the terrace would be screened to a degree by mature landscaping along the boundary with Fairoaks and to a lesser extent landscaping along the boundary with Bertuna Hall. Notwithstanding this, the elevated position of the terrace along with breaks in the landscaping would offer views into the private rear amenity space of the adjacent properties.
6. The appellant has drawn my attention to a balcony on the property to the north of the appeal site. Whilst the appellant has not provided substantive details relating to the balcony, I note that this is to the front of the property and whilst overlooking may occur I do not consider this to be comparable to the proposal before me which would overlook private rear amenity space and is of a scale which could be used by a significant amount of people.
7. Whilst a privacy screen at a height of 1.7m would not prevent overlooking in totality, reducing the privacy screens to 1.1m would allow unrestricted views towards the adjacent properties by most users sitting or standing on the terrace. Users of the terrace would be clearly visible to occupants of neighbouring properties which would create a sense of being under surveillance and to my mind would significantly diminish the enjoyment of their property.
8. The retention of the existing landscaping and provision of additional screening in the form of landscaping could be required through the imposition of a planning condition, however I have not been provided with substantive evidence to demonstrate that this would alleviate my concerns.
9. In view of the above, I conclude that modifying conditions 3 and 4 of planning approval ref DC/17/1029/HH, dated 21 July 2017 to reduce the height of the obscure privacy screens would harm the living conditions of the occupants of neighbouring properties. There is conflict with Policies DM2 and DM24 of the Forest Heath and St Edmundsbury Local Plan, Joint Development Management Policies Document (2015) which seek amongst other things to protect the living conditions of occupiers of neighbouring properties.
10. There is also conflict with the Framework which seeks to ensure development has high standards of amenity for existing and future users.

Conclusion

11. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR