

Appeal Decision

Site visit made on 26 July 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Appeal Ref: APP/F3545/D/22/3293595

7 West Road, Bury St Edmunds IP33 3EL

- 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 Katie Shipton against the decision of West Suffolk Council.
 - The application Ref DC/21/2219/HH, dated 5 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is alterations to the garden studio approved under permitted development.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed garden studio on the living conditions of neighbouring residents, with regard to outlook.

Reasons

3. The appeal property is a two storey mid-terrace dwelling in a residential road of similar properties. It is situated within a designated conservation area.
 4. Policy DM24 of the Council's Joint Development Management Policies Document (2015) addresses development within the curtilage of a dwelling. It says that such development will be permitted provided that it will not result in over-development of the dwelling curtilage and will not adversely affect the residential amenity of occupants of nearby properties.
 5. The gardens to the rear of the terrace which includes No 7 are relatively long and narrow, reflecting the modest size of the dwellings. The appeal property has a small outbuilding close to the rear boundary with a close-board fence along the shared boundary with the neighbouring dwelling, No 5 and a lower, more open boundary treatment on the other side shared with No 9.
 6. The proposed studio building would cover around half of the overall depth of the garden. It would be built up to the boundary on either side with the upper side walls and pitched roof extending above the boundary fences to either side. As such, it would be a substantial, large structure relative to the size of the garden.
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7. The effects of a structure of this size and form in the residential setting would be significant, particularly for the immediately neighbouring occupiers of Nos 5 and 9. The full extent of the studio building would be apparent from all parts of their gardens and particularly the rear, with the roof and upper walls extending above the fences at close proximity. The height, bulk and extent of the built form in this regard would be an overdevelopment of the limited space, which would appear as dominant and overbearing seen from the adjacent gardens. Consequently, the proposed building would result in material harm to the reasonable enjoyment of the neighbouring gardens.
8. The main parties refer to a Certificate of Lawfulness for an outbuilding with a similar footprint to the appeal proposal¹. I acknowledge that this represents a 'fallback' to the appeal proposal and have no doubt that the appellant may choose to implement it in the event of this appeal failing. However, there is a clear distinction between the two schemes in that the approved building has a flat rather than pitched roof. Despite its lower eaves, slightly smaller footprint and flat-roofed area to the rear, the greater bulk and overall larger profile of the appeal proposal in this regard means that its effects would be more significant and harmful. Consequently, I given the approved scheme limited weight for the purposes of this appeal.
9. The only other example of a similarly large outbuilding that is visible within surrounding gardens is next to the rear boundaries of Nos 5 and 7. However, this has a lower roof profile than the proposed studio building and is in a less prominent position relative to neighbouring gardens. As such, it cannot be seen as a precedent for the current proposal.
10. I have had regard to the appellant's contention that the Parish Council and immediate neighbours did not object and that the proposal is intended for home-working in support of creative industries. However, these matters are not sufficient reason to overcome the material harm that I have found would result from the proposal, particularly given the permanent nature of the proposal, which will affect future as well as current neighbouring residents. I have also had regard to the representation made by an interested party, which largely reflects the main issue in this case.
11. Accordingly, for these reasons, I conclude that the proposed garden studio would have an unacceptably harmful effect on the living conditions of neighbouring residents, with regard to outlook. As such, it is contrary to Policy DM24 of the Council's Joint Development Management Policies Document, as described above.

Conclusion

12. For the reasons given above it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR

¹ DC/21/1432/CLP.