

Appeal Decision

Site visit made on 15 May 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20TH June 2023

Appeal Ref. APP/C1570/D/23/3318692 24A Borough Lane, Saffron Walden CB11 4AG

- 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 Bev Chapman against the decision of Uttlesford District Council.
 - The application ref. UTT/22/2491/HHF, dated 7 September 2022, was refused by notice dated 16 January 2023.
 - The development proposed is front and rear domestic extensions, alterations to facing materials and windows and external landscaping, including new entrance gates.
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Decision

1. The appeal is allowed and planning permission is granted for front and rear domestic extensions, alterations to facing materials and windows and external landscaping, including new entrance gates at 24A Borough Lane, Saffron Walden CB11 4AG in accordance with the terms of the application ref. UTT/22/2491/HHF, dated 7 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3097/01 - Existing floor plans & elevations; 3097/04 Rev A - Proposed floor plans & elevations; 3097/05 - Site topographical survey; and 3097/06 Rev A - Block Plan & Street Elevation.
 - 3) Prior to occupation of any part of the front and rear extensions hereby permitted, a Biodiversity Enhancement Strategy (BES) for protected and priority species shall be submitted to and approved in writing by the local planning authority. The content of the BES shall include: (a) the purposes of and conservation objectives for the proposed enhancement measures; (b) detailed designs or product descriptions to achieve stated objectives; (c) locations, orientations and heights of the proposed enhancement measures by appropriate maps and plans; (d) persons responsible for implementing the enhancement measures and a timetable for their implementation; and (e) details of initial aftercare and long-term maintenance (where relevant). The BES shall be implemented in accordance with the approved details and timetable and shall be maintained in that manner thereafter.
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Preliminary matter

2. As suggested by the Council in its questionnaire, in addition to visiting the appeal property I also assessed the appeal proposal from the adjacent property to the east known as Mandeville House, 26 Borough Lane.

Main issue

3. Flowing from the Council's sole reason for refusal, the main issue is the effect of the proposed development upon the reasonable occupation and enjoyment of the neighbouring dwelling at Mandeville House, 26 Borough Lane, with particular regard to the potential for any overbearing effects on outlook and loss of daylight.

Reasons

4. Nos 24A and 26 are 2 of 4 detached houses of different age and size situated on the southern side of Borough Lane between its junctions with Mandeville Road and Springhill Road. No. 26 occupies somewhat higher ground than no. 24A and stands next to the former junction. The appeal property dates from the 1970s. Its front elevation includes an advanced 2-storey gable attached to the front of which is a slightly narrower flat-roofed double garage.
5. The Council refused the application contrary to the recommendation of its officers and stated that "*The proposed development is unacceptable by reason of its the (sic) size, scale, design and location resulting in an overbearing impact and loss of daylight to the residential occupiers of the neighbouring property at no 26 Borough Lane...*". I have also taken into account the minutes of the relevant Planning Committee meeting and the local representations received by the Council during the processing of the application.
6. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Policies GEN2 *Design* and H8 *Home Extensions* of the Uttlesford Local Plan 2005 (ULP) and Policy SW3 *Design* of the Saffron Walden Neighbourhood Plan 2021-2036 (SWNP) contain clauses which variously seek to ensure that development does not adversely affect neighbouring amenities in terms of overbearing impacts, loss of outlook and loss of daylight. These policies are broadly consistent with the National Planning Policy Framework (the Framework). The decision notice also refers to the Supplementary Planning Document – *Home Extensions* 2005 (SPD); this is a material consideration which I have had regard to.
7. The decision notice does not highlight exactly which parts of the neighbouring property would be adversely affected, although reference was made in the minutes to its kitchen and the 45 degree rule which appears in the SPD as a guide to making assessments on daylight and outlook. From my reading of the case, the main point of contention is the proposed first floor front extension over the double garage which would enlarge the master bedroom.
8. A narrow single-storey wing is attached to the western gable wall of no. 26 and stands adjacent to the boundary line with no. 24A. This wing, which contains a kitchen, is set well back from the front elevation of the dwelling. The only window in this wing that the Council could have been realistically concerned

about is the front window to the kitchen. The front extension proposed would add to the bulk of building close to the boundary, infringe the 45 degree rule in respect of that front window and exacerbate the existing sense of enclosure or tunnelling effect caused by obstructions on both sides of that window. However, I consider that these concerns can only be given significant weight if the kitchen is deemed to be a habitable room.

9. There is no single legal definition of the term "habitable room". I have not been referred to any working definition in the ULP, SWNP or SPD. In my experience, local planning authorities adopt a wide variety of approaches to how kitchens are treated in this respect depending on, amongst other things, their overall floor area and whether the space is solely used as a functional kitchen or has a dining area as a centrepiece of the room. Having inspected the interior of no. 26, I see no reason to depart from the view expressed by the Council's officers and the appellant that the kitchen in the side wing should not be considered as a habitable room. It is a narrow and functional room given over to the cooking and preparation of food, storage, a sink (under the front window) and utility space. There is a fairly wide opening giving access to the dining room but they are perceived and serve essentially as 2 separate rooms.
10. In any event, to the extent that ideally a kitchen ought to receive reasonable daylight, I am satisfied that any loss of light to the front of the kitchen will be mitigated to some extent by the daylight received from the south-facing window and half-glazed door at the rear of the kitchen and by borrowed light entering from the south-facing dining room. Many kitchens do not benefit from more than one source of natural light. Moreover, no sunlight will be blocked by the front extension.
11. More generally, the experience of no. 26 as being set out with a back garden which faces south would endure. The main openings in the rear-facing wall of no. 26, including the window to the dining area, would continue to receive very good levels of sunlight and daylight and to provide reasonable outlooks over the rear garden. I consider that as the centre of the principal front-facing bay windows (lounge below a bedroom) closest to the proposed front extension would lie outside the 45 degree angle on both plan and elevation, the impact of that extension on the daylight reaching and the outlook from those rooms is likely to be small. The front garden of no. 26 is principally in use as a parking area rather than a private amenity space so the increased massing on part of its western boundary should not be a cause for great concern.
12. Taking all relevant factors into account, I am not therefore persuaded that the proposed development would give rise to such an unacceptably overbearing sense of enclosure or such an overwhelming loss of daylight for this neighbouring property as to justify withholding planning permission.
13. I find on the main issue that the proposed development would not have a materially adverse effect upon the reasonable occupation and enjoyment of the neighbouring dwelling at Mandeville House, 26 Borough Lane, with particular regard to the potential for any overbearing effects on outlook and loss of daylight. As such, there would be no conflict with the aims of ULP Policies GEN2 and H8 and SWNP Policy SW3. There would also be compliance with the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future users.

14. I now turn to other key matters raised. I am afraid that the 1970s design of the host property has not aged well, particularly when it is viewed against the taller and grander residential properties at nos 24, 24B and 26 which also display far greater architectural quality and better materials of construction. The modernisation scheme put forward in the submitted drawings, which includes the use of white monocouche style render and grey aluminium window frames, is therefore to be welcomed. There is a wide variety of dwellings along Borough Lane and a number of examples where white render is used as a facing material either wholly or in part. The advanced 2-storey front gable that would result from the extension scheme would complement the built form at no. 24B. Just like the existing flat-roofed garage, the front of that gable end may well be slightly closer to Borough Lane than any parts of the other 3 detached houses but it would not be so out of line or so close to the road as to appear unduly visually intrusive in the street scene. The Council's decision notice raised no concerns about design, local character and appearance and I have found no reason to disagree.
15. The Council's members and officers did not identify an adverse impact on the amenities of 13 and 15 Borough Lane for any reason. These dwellings lie on the opposite (northern) side of the lane. In particular, I am satisfied that the separation distance is sufficient on its own to protect against harmful overlooking and loss of privacy for these neighbours. Those properties also contain attractive and well maintained vegetation in their front gardens which would also assist, albeit to only a moderate degree, in this regard.
16. I have noted the conditions suggested by the Council (in its Committee Report and Questionnaire) and the County Council's Assistant Ecological Consultant. In addition to a condition setting a time limit for the commencement of development, a condition requiring that the development is carried out in accordance with the relevant approved drawings is necessary as this provides certainty. The third condition I have imposed seeks to ensure reasonable opportunities to improve biodiversity at the site are integrated into the design. I have worded this condition so as to make provision for a timetable for the implementation of any agreed biodiversity enhancement measures.
17. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR