

Appeal Decision

Site visit made on 21 November 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2023

Appeal Ref: APP/D3505/D/23/3330097

8 The Pot Kilns, Great Cornard, Suffolk CO10 0DY

- 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 Mr & Mrs Avery against the decision of Babergh District Council.
 - The application Ref DC/23/03326, dated 15 July 2023, was refused by notice dated 7 September 2023.
 - The development proposed is construction of raised roof and first floor extension to property (following demolition of existing roof area) including alterations to fenestration and exterior appearance (re-submission of DC/22/06118).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of the proposal reflects the more detailed one given on the appeal form.
3. The Babergh and Mid Suffolk Joint Local Plan, Part 1 (the JLP) was adopted in November 2023, after the Council's decision in this case. The new plan supersedes policies referred to in the decision notice from the Babergh Local Plan (2006) and the Babergh Core Strategy (2014). Accordingly, I have had regard only to relevant policies from the adopted development plan.

Main Issues

4. The main issues, addressed under a single reason for refusal in the decision notice, are the effect of the proposal on the character and appearance of the surrounding area, and on the living conditions of nearby residents, with regard to outlook and privacy.

Reasons

5. The appeal property is a detached chalet bungalow set within a relatively large plot towards the end of The Pot Kilns, a single width cul-de-sac running off Shawlands Avenue. Properties along this road and within the surrounding area are predominantly bungalows and chalet bungalows with accommodation in the roof space. The Pot Kilns is on elevated ground above Shawlands Avenue.
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6. The proposal is a resubmission of a previous proposal for similar extensions and alterations to the appeal property, which was the subject of an unsuccessful appeal¹. The current proposal is largely unchanged from the earlier one, but the appellants contend that the changes that have been made are a direct response to the Inspector's findings. As such, and because the main issues are the same as in this case, this earlier appeal decision is material to my consideration of the current proposal.
7. The front elevation is unchanged from the previous proposal and, therefore, there is no reason for me to find differently to the Inspector in the earlier appeal, that the front would be well articulated and of an appropriate scale and proportions. Despite its greater height than the surrounding dwellings, the effects of this would be mitigated by the dwelling being set below the level of the road. For the same reason, the extended dwelling would not appear overbearing in views from the north-east, notably from the dwellings at the end of The Pot Kilns.
8. In the earlier appeal, the Inspector found that the most significant effects of the larger dwelling would be from the south-west, due to the lower ground level below that of the appeal property. As was noted in that case, No 8 is already prominent in views from 'Squirrels', the closest dwelling to the south-west, with the rear garden boundary close to the side elevation of the appeal property.
9. The appellants contend that the principal change to the design of the dwelling, the lowering of the eaves height on the south-west elevation, will overcome the harm that was found in the previous case. This resulted from the overbearing nature of the larger dwelling seen from 'Squirrels' and from views between the dwellings with frontages on Shawlands Avenue.
10. While I accept that the change that has been made would reduce the bulk of the extended dwelling to some extent, the Inspector's finding in the previous appeal was that *'the greater height and particularly the greater depth of development close to this boundary would result in it being significantly more prominent from below'*. This finding led to the conclusion that the extended dwelling would be overly dominant and would unacceptably reduce the outlook of the neighbouring occupiers. The unrelieved bulk and height would also be visible above the fence when viewed from Shawlands Avenue.
11. The Inspector's principal concerns, therefore, on which his findings of harm were based were the overall height and depth of the south-west elevation, neither of which appear to have changed between the two proposals. I am mindful that appeal decisions should be determined on a consistent basis and, for this reason, and based on my own inspection and consideration of the proposal, the limited changes that have been made between the two proposals are not sufficient to overcome the findings of material harm. Due to its height and depth, the current proposal would also have a dominant and overbearing effect on the occupiers of 'Squirrels', particularly compromising the reasonable use and enjoyment of their garden. Moreover, despite the tree cover, the overbearing presence of the substantively larger dwelling would be apparent

¹ APP/D3505/D/23/3318571 dated 12 May 2023.

from Shawlands Avenue to the detriment of the character and appearance of the surrounding area.

12. The first-floor window in the south-west elevation is unchanged from that in the previous proposal where the Inspector found that the position of the bedroom window would enable views towards the garden and rear-facing windows of 'Squirrels'. Consequently, there is no basis for me to reach a different conclusion to the earlier appeal, that obscured glazing of the lower parts of the window would address this concern and could be required by condition.
13. I agree also with the conclusion in the earlier appeal concerning the effects of the paired first floor verandas in the south-east elevation. While these would face directly towards the neighbouring dwelling, 'Bankside', the extent of separation and the intervening trees means that there would not be a harmful loss of privacy.
14. I have also had regard to the concerns raised by interested parties with regard to the effects on the outlook and privacy of properties on The Pot Kilns to the north-east. However, the facing elevation would include first floor windows with obscured glass and rooflights, none of which would enable overlooking of neighbouring properties. As found above, the position of the two-storey dwelling below the level of the road would reduce its overall height and prominence.
15. Therefore, for all the above reasons, I conclude that the proposal would have a materially harmful effect on the character and appearance of the area and on the living conditions of the occupiers of 'Squirrels', with regard to outlook. Consequently, it is contrary to the design and amenity requirements of Policy LP24 of the JLP.
16. I acknowledge that the proposed extensions and alterations are intended to create additional living space. However, these personal circumstances do not overcome the harm and conflict with development plan policy that I have found would result from the proposal.
17. I have had regard to other matters raised in the representations made by interested parties. These do not, however, raise any additional matters in relation to the main issues in this appeal that would lead me to reach a different overall conclusion.

Conclusion

18. For the reasons given, it is concluded that the appeal should be dismissed.

J Bell-Williamson
INSPECTOR