



Appeal Decision

Site visit made on 12 March 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2024

Appeal Ref: APP/V2635/D/23/3333891

59 Kensington Road, King's Lynn, Norfolk PE30 4AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs C Ruck against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/01559/F.
 - The development proposed is construction of an upper floor extension forming new bedroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development given in my banner heading omits some of the text from the description provided on the planning application form as it does not describe acts of development.
3. Subsequent to the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published in December 2023. Both parties have been given opportunity to comment on the revised Framework. I have had regard to the comments received and the revised Framework in determining the appeal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - i) the living conditions of the occupiers of No 57 Kensington Road with regard to outlook and light; and
 - ii) the living condition of the existing occupiers of the appeal property with regard to outlook and light.

Reasons

Living Conditions – neighbours

5. The appeal property is one of a pair of semi-detached, two storey dwellings located within a residential area. At some point the property has been extended to the rear. The proposed development would be located to the east of No 57. This neighbouring property has a number of windows to its rear elevation, close to the shared boundary.

6. I acknowledge that the outlook and light of existing ground floor windows at the adjoining dwelling are already affected to some degree by an existing single storey rear extension on the appeal property. However, the appeal scheme would extend the appeal building the full length of the existing extension and increase its height to two storeys and would result in a harmful loss of light to the ground floor windows of No 57. Furthermore, having regard to its height, size, orientation and proximity to No 57, the proposed development would result in a visually dominant form of development that would significantly reduce and adversely affect the outlook for the occupiers of the neighbouring property. Whilst the first-floor element would be set-in off the shared boundary and of a light-coloured external finish, nevertheless, given the close proximity of existing windows at No 57, it would not be sufficient to mitigate the harm identified.
7. The orientation, siting and height of the proposed development means that there would be very little overshadowing of the closest first-floor window serving No 57 and then only for a very short period of the day. On this basis, there would be no significant loss of daylight or sunlight reaching the first-floor windows.
8. For the reasons set out above, I conclude that the proposal would adversely affect the living conditions of the occupiers of No 57 with particular regard to outlook and light. This would be contrary to Policy CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy 2011 (Core Strategy) and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016 (DMPP). Collectively, these policies seek to protect the living conditions of existing occupiers including by reason of overbearing and overshadowing. It would also conflict with the Framework which requires decisions to ensure safe and healthy living conditions.

Living conditions – existing occupiers

9. As a consequence of the proposed extension to the rear elevation the existing first floor bedroom window would be lost. The proposed plans show that a new opening would be provided to the first-floor side elevation of the appeal property. The proposed window would be obscure glazed to mitigate overlooking of the neighbouring property at No 61 Kensington Road. Whilst a single window would be acceptable to serve this room to provide ventilation and a means of escape, by reason of it being obscure glazed, the occupiers of the bedroom would not be provided with satisfactory living conditions due to poor outlook and light.
10. It has been suggested that the first-floor obscure glazed window would be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. Even if I were to accept that the window would be permitted development it would not result in an acceptable form of development for the reasons stated above.
11. The appellant asserts that obscure glazed windows have been approved on several applications. However, the full details of those cases, including their design and context, are not before me. I am therefore unable to assess any direct comparability to the current appeal proposal.

12. For the reasons outlined above, I conclude that the proposal would not provide for satisfactory living conditions for the occupiers of the appeal property, with regard to outlook and light. Conflict therefore arises with Policy CS08 of the Core Strategy and Policy DM15 of the DMPP. These policies seek to secure high-quality developments that avoid significant impacts on amenity including future occupiers of the proposed development. I also find conflict with the Framework which requires that developments provide a high standard of amenity for existing and future users.

Other Matters

13. At my site visit, I observed other two-storey extensions in the vicinity, including that at No. 55 Kensington Road. However, their impact on the living conditions for occupiers of neighbouring properties is not comparable to the appeal proposal given their different locations, design, and orientation relative to neighbouring dwellings. In any event, I have determined the appeal on its own merits.
14. The external finish of the proposed extension in terms of its materials is not in dispute, and I see no reason to reach a different view. Furthermore, the external materials could be subject to an appropriately worded pre-commencement condition if I were to allow the appeal. The appellant asserts that the proposal would be sympathetic and would be a quality construction in terms of methods, materials, builders employed and neighbourly respect. Furthermore, whilst the proposal may improve the quality and provision of accommodation at the dwelling, these matters would not outweigh the harms identified.
15. The appellant asserts that the occupiers of No 61 do not object to the proposed development, however, I must take into account the lifetime of the extension and its effect on both current and future occupiers.
16. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

Conclusion

17. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. The appeal is therefore dismissed.

R. Gee

INSPECTOR