



Appeal Decision

Site visit made on 3 April 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

Appeal Ref: APP/V2635/W/23/3326495

Land adjacent to 33 Gaultree Square, Emneth, PE14 8DA

- 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 Hunns against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 22/02091/F.
 - The development proposed is the erection of a 2-storey 3-bed dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a 2-storey 3-bed dwelling, on land adjacent to 33 Gaultree Square, Emneth, PE14 8DA, in accordance with the terms of the application, Ref 22/02091/F, and subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the living conditions of occupiers of No.37 Gaultree Square, with particular regard to loss of light and outlook.

Reasons

3. The appeal site comprises a disused area of land that previously formed part of the garden and parking area to the public house to the south of it, at No.33 Gaultree Square. The public house has recently been converted into a residential dwelling, with part of the land to the rear of it being sold off separately.
4. The northern boundary of the site is partially bound by the gable elevation of No.37 Gaultree Square, which has a single ground floor window facing directly into the site. I am advised that this window serves a habitable room, which is possibly used as either a study or bedroom. I have not been provided with any substantive evidence such as internal floorplans or photographs, or any correspondence from any owner or occupier of No.37, to confirm the use of this room, or to confirm whether it has any other source of natural light or ventilation. However, the appellant has not disputed that it is a window to a habitable room, and I have therefore determined the appeal on this basis.
5. The lack of an objection made in writing by the owner or occupier of No.37 does not negate the requirement for me to assess the effect of the proposal on the living conditions of existing or future occupiers of this property. Nor does it reduce the weight to be given to policies aimed at protecting neighbours.

6. At the time of my visit, a fence panel had been erected directly in front of the ground floor window in the side elevation of No.37 Gaultree Square. Whilst I acknowledge that the fence is unlikely to require planning permission, given the age of the property at No.37, it is highly likely that it benefits from legal rights of easement for maintenance, light and ventilation. Accordingly, the presence of the fence has not influenced my assessment of the proposal, given that its removal may be secured by other legal measures.
7. The proposed new dwelling would be located approximately 3.8 metres from the window in question, with an access driveway providing parking in between. Although the window would continue to benefit from some form of sunlight, daylight and outlook from oblique angles, it is inevitable, given the two-storey height of the proposed new dwelling, together with its close proximity and positioning to the south of No.37, that it would result in some overshadowing and loss of outlook. However, I am also mindful of the fact that historically the site has been used as a public house carpark, and that the parking of vehicles directly outside of the window would also have resulted in some loss of light and a poor outlook.
8. The proposed drawings show that there would be no boundary treatment erected along the southern side of No.37. Any development permitted would need to be undertaken in accordance with the approved plans and a condition could be imposed to remove permitted development rights for the new dwelling, in order to prevent further new boundary treatment from being erected adjacent to No.37, without the express consent of the local planning authority. Conditions could also be imposed to remove permitted development rights for any new extensions or outbuildings on the northern side of the new dwelling.
9. I therefore conclude that the development would cause some loss of light and outlook to the side window of No.37. However, given that this window is quite small, the exact use of the room it serves is unknown and that it has historically faced onto a public house car park, the level of harm to the living conditions of the occupiers of No.37 would not be significant, and conditions could be imposed to prevent the window from being further obstructed in the future. As such, the proposal would accord with Policy CS08 of the Kings Lynn and West Norfolk Borough Council Core Strategy 2011, Policy DM15 of the Kings Lynn and West Norfolk Borough Council Site Allocations and Development Management Policies Plan 2016, and the National Planning Policy Framework, which seek, amongst other things, to protect the living conditions of the occupiers of neighbouring properties.

Conditions

10. I have imposed the standard time limit for commencement condition together with a condition confirming the approved drawing number which the development must be undertaken in accordance with, in the interests of certainty. A condition to ensure appropriate external materials are agreed and used in the construction of the development is necessary to ensure the development would not result in harm to the character and appearance of the area. Conditions to ensure that access, parking and visibility splays are provided prior to the first occupation of the development and are thereafter retained and unobstructed, are necessary in the interests of highway safety. Finally, the removal of some permitted development rights to prevent any extensions, outbuildings or boundary treatment on the northern side of the

approved dwelling is necessary to reduce the obstruction of natural light to the side window of No.37 Gaultree Square.

Conclusion

11. For the reasons given above, the appeal is allowed.

R Bartlett

INSPECTOR

Schedule of 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 approved plans shown on Drawing No. PP1000 Rev A.
- 3) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The dwelling hereby permitted shall not be occupied until the vehicular access to it and the on-site parking provisions have been completed in accordance with the approved drawing, and the specification of the local highway authority. The access and parking spaces shall thereafter be retained for their intended use at all times.
- 5) The dwelling hereby permitted shall not be occupied until a 1.4 metre wide parallel visibility splay (measured back from the near edge of the carriageway) has been provided across the whole of the site's roadside frontage. This visibility splay shall thereafter be maintained free at all times from any obstruction exceeding 0.6 metres high above the level of the carriageway, with the exception of the porch posts shown on the approved drawing.
- 6) No gates, bollards or other means of obstruction shall be erected across the approved access at any time.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no boundary structures shall be erected adjacent to the southern side elevation of No.37 Gaultree Square. Nor shall any planting take place that obstructs or obscures the ground floor window in the southern side elevation of No.37 Gaultree Square.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be constructed on the northern side of the dwelling hereby approved.