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## Appeal Decision

Site visit made on 18 April 2024

**by R Bartlett PGDip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> April 2024**

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**Appeal Ref: APP/L2630/W/23/3323632**

**Bonnies Bungalow, Land east of Fordley Cottage, Beccles Road, Wheatacre, Norfolk, NR34 0BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Andrew Masters against the decision of South Norfolk Council.
  - The application Ref is 2022/2219.
  - The application sought planning permission for a detached dwelling and associated works without complying with conditions 2 and 10 attached to planning permission Ref 2021/1280, dated 6 August 2021.
  - The conditions in dispute are:
  - No.2 which states that "The development hereby permitted shall be carried out in accordance with the application form, plans and drawings and other documents and details received as listed below: 20.215.02 Plot C REV H Proposed Plans, Elevations & Site Plans submitted 28 July 2021, Drainage Strategy submitted 02 June 2021, Confirmation re Materials submitted 05 August 2021." The reason given for this condition is "For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans, as required by the Spatial Vision and Spatial Planning Objectives of the Joint Core Strategy and the South Norfolk Local Plan Development Management Policies Document 2015."
  - No.10 which states that "The flat roof area of the single storey rear projection hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of a further specific permission from the local planning authority." The reason given for this condition is "The use of the roof area could result in an unacceptable degree of overlooking of adjoining property detrimental to the privacy and amenity of adjacent occupiers, and contrary to Policy DM3.13 of the South Norfolk Local Plan Development Management Policies Document 2015."
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The site address on the application form is land east of Fordley Cottage. As the dwelling is now constructed and occupied, I have used its new postal address name "Bonnies Bungalow", to provide certainty as to which property the appeal relates to.
3. The Council has amended the description of development to "*variation of condition 2 and remove condition 10 of 2021/1280 – variation and removal to allow use of flat roof for balcony purposes (retrospective)*". I have not been advised whether this amended description was agreed by the applicant. However, given that it does not describe an act of development, and that an

application made under S73 should not amend the original description of development, I have used the description given on the application form.

4. At the time of my visit, the flat roof at the rear of the dwelling was already in use as a balcony. However, the proposed privacy screens had not been constructed above the parapet walls to the sides and the safety balustrade across the end comprised clear glass panels as opposed to the railings shown on the submitted plans.
5. I have been advised that since the Council determined the application, the Greater Norwich Local Plan (GNLP) has been adopted, superseding the former Joint Core Strategy. I have taken the policies that I have been referred to into account in reaching my decision and the appellant has been provided with an opportunity to comment upon these.

### **Main Issues**

6. Planning permission is sought for the erection of a detached dwelling and associated works, without complying with the approved drawing number and a condition that seeks to prevent the use of a flat roof as a balcony. The main issues are therefore the effect of the amended plans, and the use of the flat roof as a balcony, on the living conditions of occupiers of nearby residential properties and on the appearance of the dwelling.

### **Reasons**

#### *Living conditions*

7. The appeal property sits within a row of frontage dwellings. There is a vacant plot of land to the east of it, which I understand has had outline planning permission for residential development. The owner of this plot has advised that they do intend to develop it. As I have not been provided with any approved plans for a dwelling on this plot, I am unable to make a detailed assessment of the effect of the balcony on the living conditions of future occupiers of it. It is however reasonable to expect that any dwelling permitted on this plot would roughly follow the same front and rear building lines of the dwellings on either side of it.
8. The balcony projects well beyond the rear elevation of the new bungalow to the west of the site. It currently allows clear views over the whole of its garden, including its patio seating area and its rear windows and doors. Views into the rear garden of any future dwelling constructed on the plot to the east are likely to be similar. The windows and gardens of other nearby residential properties are sufficiently far away and screened by existing fences and outbuildings so as not to be harmfully overlooked.
9. Whilst I acknowledge that the approved first floor double doors in the appeal dwelling allow views over neighbouring gardens, these are more restricted. Furthermore, whereas it would be unusual for people to sit in a bedroom, looking out for long periods of time, the outdoor space provided by the large balcony would be used more frequently and for longer periods of time. The balcony does currently result in an unacceptable loss of privacy to the rear of the bungalow to the west and would be likely to have a similar affect on any future dwelling constructed on the plot to the east.

10. The provision of 1000mm high opaque glazed privacy screens, on top of the 750mm high parapet walls, on either side of the flat roof, would significantly reduce the levels of overlooking, particularly to those areas immediately to the rear of the existing neighbouring dwelling and any future dwelling to the east. Although there would still be views over neighbouring rear gardens, these would be towards the end of them. There would also be views down either side of the dwelling, through the gaps between the glazed panels and the gable roof slopes. However, these gaps would provide limited views of footways, driveways and side elevations. Moreover, users of the balcony would be unlikely to be sat facing these, they would be enjoying the open views to the south.
11. Given that access to the balcony is obtained through the master bedroom, it is unlikely to be used by large numbers of people at a time. Any noise generated from the use of the balcony would be similar to that generated by the existing approved garden space.
12. I therefore conclude that subject to the erection and retention of the opaque glazed privacy panels, at a minimum height of 1.75m above the floor level of the balcony, the proposal would not result in unacceptable harm to the living conditions of occupiers of neighbouring residents. The proposal would therefore accord with Policy DM3.13 of the South Norfolk Local Plan Development Management Policies Document (SNLP), in so far as it seeks to ensure that new development avoids overlooking of private residential amenity space.
13. As Policy DM3.4 of the SNLP relates to residential extensions and conversions, it is not directly relevant to this appeal for a new dwelling without complying with previously imposed conditions.

#### *Appearance*

14. The proposed amended design of the approved dwelling would include the addition of opaque glazed privacy screens above the approved and constructed parapet walls on the flat roofed projection at the rear of the dwelling. Due to the spacing between buildings and the flat roof projection being the full width of the gable roofed dwelling, the parapet walls are visible from the street and from neighbouring properties. However, these project only very marginally above the eaves and the tiled roof slope and as such have a negligible effect on the overall design of the dwelling.
15. The vertical privacy screens, which are not shown on the proposed front elevation drawing submitted, would project approximately 4.3m beyond the rear gable wall and would be one metre higher than the parapet wall. Due to their length and height above the eaves, they would be visible to passers-by on the street and from neighbouring properties. When viewed from the front and sides, there would be an awkward gap between the privacy screens and the roof slope. This together with the contrast between the sloping roof and the vertical panels above the eaves would result in a poorly designed scheme that would detract from the design and roof form of the originally approved and constructed dwelling.
16. I therefore conclude that amending the approved drawing condition would result in the new dwelling being of poor-quality design. This would be contrary to Policy DM3.8 of the SNLP and Policies 2 and 3 of the GNLP, which seek amongst other things to ensure all development is of high-quality design.

### **Other Matters**

17. I noted the presence of a Juliette balcony on the dwelling to the east of the vacant plot and I have also had regard to the photographic examples of balconies shown in the appellants final comments. However, in these cases the balcony screens are below the eaves or set in from the gable sides and do not project above the roof slope.

### **Conclusion**

18. Whilst I have concluded that the proposed privacy screens could appropriately mitigate my concerns regarding overlooking, these would result in unacceptable harm to the appearance of the dwelling. Without the screens, the balcony would result in unacceptable overlooking. For these reasons the conditions in dispute remain necessary and the appeal is dismissed.

*R Bartlett*

INSPECTOR