

Appeal Decision

Site visit made on 11 June 2024

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Appeal Ref: APP/D3505/D/24/3338238

23 Firebronds Road, Holbrook, Suffolk IP9 2TP

- 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 Miss Barbora Kalavska against the decision of Babergh District Council.
 - The application Ref DC/23/04322, dated 13 September 2023, was refused by notice dated 13 November 2023.
 - The development proposed is insertion of first floor side window.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original description of development is provided in a more succinct form in the decision notice. Therefore, the above description reflects this amended description.
3. The Babergh and Mid Suffolk Joint Local Plan, Part 1 (the JLP) was adopted in November 2023, shortly after the Council's decision in this case. Therefore, the draft policy referred to in the decision notice is now part of the adopted development plan and I have had regard to it accordingly.

Main Issue

4. The main issue is the effect of the proposed window on the living conditions of the occupiers of No 25 Firebronds Road, with regard to privacy.

Reasons

5. The appeal property is a two storey link-detached dwelling in a residential cul-de-sac of similar properties. To the south and west is rolling open agricultural land with extensive views of this from No 23's garden.
 6. No 23 has a two storey side projection with a gable end positioned towards the rear of the property, next to the garden boundary shared with No 25. This wall has a ground floor window in it and the proposal involves a larger window at first floor level to provide views of the open land to the rear.
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7. The height of the existing ground floor window and the presence of the boundary fence mean that it is not possible to gain views into No 25's garden, despite the window directly facing it. The larger upper floor window would, however, due to its height and proximity to the shared boundary, enable direct views of large parts of the garden to the side of the neighbouring property. As such, the window's presence would compromise the reasonable use and enjoyment of a large part of No 25's garden through the perception of and actual loss of privacy.
8. While there are trees and shrubs in the neighbouring garden, these would not have any significant bearing on mitigating the effects of the views into the garden. The positioning of wardrobes or other furniture within the bedroom served by the window cannot be controlled in the long term, nor is it guaranteed that this would overcome the harm described above.
9. The appellant draws attention to an extension to No 16, the other side of No 25, which includes extensive glazing and, it is contended, has similar effects to the current proposal. However, from the site inspection it is clear that the large windows in the rear elevation of this property look directly towards the open land rather than provide views into No 25's garden. Moreover, No 16 has a side-facing gable next to No 25 that is similar in its position and proximity to the gable end at the appeal property. However, this wall does not include any upper floor windows as these would enable views into No 25's garden as would be the case with the appeal proposal. For these reasons, the development that has taken place at No 16 is not comparable to the current proposal.
10. I acknowledge that there were no objections to the proposal. However, given the permanent nature of the change proposed, the effects need to be considered in the long term, with regard to both current and future occupiers of the neighbouring property. The fact that future occupants may still choose to live in the property despite the presence of the window is not sufficient reason to set aside findings of material harm to neighbouring amenity due to overlooking.
11. Therefore, for the above reasons, I conclude that the proposed window would have a materially harmful effect on the living conditions of the occupiers of No 25 Firebronds Road due to the loss of privacy that would occur. Consequently, it is contrary to Policy LP24 of the JLP, which includes the requirement that development proposals should protect the amenity of surrounding uses by avoiding overlooking. It is also contrary to the National Planning Policy Framework, which requires that decisions should ensure that development has a high standard of amenity¹.

Conclusion

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

J Bell-Williamson
INSPECTOR

¹ Paragraph 135f).