
Appeal Decision

Site visit made on 7 August 2018

by **J A B Gresty MA MRICS**

an Inspector appointed by the Secretary of State

Decision date: 30 August 2018

Appeal Ref: APP/A2525/D/18/3202119

26 Elizabeth Crescent, West Pinchbeck, Spalding, Lincolnshire PE11 3TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Robinson against the decision of South Holland District Council.
 - The application Ref H14-0211-18, dated 20 February 2018, was refused by notice dated 10 April 2018.
 - The application sought planning permission for a two-storey rear extension and associated alterations to detached dwelling without complying with a condition attached to planning permission Ref H14-0906-15, dated 19 November 2015.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg. No's. A1165-01, A1165-02, A1165-03, A1165-04, A1165-10b, A1165-11b, A1165-12b and A1165-13.
 - The reason given for the condition is:
For the avoidance of doubt and in the interests of proper planning.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether condition 2 is necessary to ensure satisfactory the living conditions of the occupiers of 25 Elizabeth Crescent with respect to privacy.

Reasons

3. The approved plans for the extension constructed by the appellant include formation of a small first floor habitable room which would receive natural daylight from a roof light only. The appellant has not installed the roof light and seeks permission for a window in the outer wall of the room. The appellant indicates that the window is required in order to comply with building regulations, providing a potential means of escape from the room.
4. There would be clear views from the proposed window into the side garden of 25 Elizabeth Crescent. The garden is largely enclosed by hedging and fencing and is not readily open to view from outside No 25's plot. Accordingly the garden provides an area of good quality private outdoor amenity space for the occupiers of No 25. Views of the garden from the proposed window would

result in a significant loss of privacy for the occupiers No 25 when using the garden, to the extent that there would be significant harm to their living conditions, contrary to the requirements of saved Policies SG14 and SG17 of the South Holland Local Plan.

5. Although not proposed by the appellant or council, I have considered whether this loss of privacy could be overcome by fitting the proposed window with obscure glass. This could be required by imposition of a new condition. However, to ensure that No 25's garden is not overlooked from the window, I consider that the window would have to be non-opening below normal eyelevel as well as obscure glazed. It is not clear that this would provide an adequate means of escape to comply with building regulations as indicated by the appellant. Accordingly such a condition would not be appropriate.

Conclusion

6. At the heart of the National Planning Policy Framework (the Framework) there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and creates better places in which to live. Whilst the proposed window would enable the appellant to make good use of the first floor room, the proposed window would result in significant harm to the living conditions of the occupiers of No 25 as a result of loss of privacy. Accordingly, the proposed window would not represent sustainable development as sought by the Framework and, on balance and for the above reasons, I conclude that the appeal should be dismissed.

J A B Gresty

INSPECTOR