

Appeal Decision

Site visit made on 9 August 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2016

Appeal Ref: APP/Y9507/W/16/3149164

2 De Warrenne Road, Lewes, East Sussex BN7 1BP

- 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 Dr Herb Etkin against the decision of South Downs National Park Authority.
 - The application Ref SDNP/15/04668/FUL, dated 15 September 2015, was refused by notice dated 27 November 2015.
 - The development proposed is erection of new sustainable 3 bed dwelling with sunken courtyard and off road parking.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. Subsequent to the date of their decision notice, the South Downs National Park Authority (the Authority) adopted the Lewes District Local Plan Part 1 Joint Core Strategy 2010-2030 (Joint Core Strategy) in June 2016 and it now forms part of the development plan against which I have considered the appeal. Nevertheless, the saved policies of the Lewes District Local Plan 2003 (Local Plan) referred to on the Authority's decision notice have not been superseded by the policies of the Joint Core Strategy and continue to form part of the development plan. I am satisfied that the appellant has been made aware of the adoption of the Joint Core Strategy and has had the opportunity to make any comments in respect of it. I have determined the appeal on this basis.

Main issues

3. The main issues are whether the proposal would preserve or enhance the character or appearance of the Lewes Conservation Area; and the effect of the proposal on the living conditions of the occupiers of 2A De Warrenne Road and 1A Gundreda Road with particular regard to outlook and overshadowing.

Reasons

Conservation area

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that with respect to development affecting buildings or other land in a conservation area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that
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area.” In addition, Paragraph 132 of the National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.

5. The appeal site lies within the Lewes Conservation Area (LCA). The LCA covers a large part of the town including its historic core and its historic suburban areas. The appeal site comprises 2 De Warrenne Road, a large, detached, Edwardian property and its spacious rear garden, located on the corner of De Warrenne Road and Gundreda Road. The Lewes Conservation Area Character Appraisal 2007 (LCACA) identifies that De Warren Road, including 2 Warrenne Road, lies within an historic suburban area known as The Wallands. The LCACA notes that buildings within The Wallands generally comprise substantial detached or semi-detached properties set back from the street and within generous sized plots.
6. Dwellings along the north-western side of De Warrenne Road, including 2 De Warrenne Road, are all large, detached properties set within spacious plots. Their generous sized rear gardens and the lack of any significant built form within them, provides a considerable sense of space and openness in the area. This is particularly noticeable in views across the rear gardens from along Gundreda Road and in views between these dwelling from along De Warrenne Road. In addition, the presence of mature trees in the area, including a large horse chestnut in the rear garden of 2A Warrenne Road that is growing adjacent to the shared boundary of Nos 2 and 2A Warrenne Road, provides a considerable verdant quality to the locality. These spatial and verdant qualities of the area positively contribute to the character and appearance of this part of the LCA.
7. 2 De Warrenne Road is also identified with the LCACA as a Building of Townscape Merit (BTM). BTMs are described as being good examples of relatively unaltered historic buildings where their style, detailing and building materials provides the streetscape with interest and variety and which positively contribute to the special interest of the LCA.
8. The LCACA acknowledges that new, more intensive development, including infilling, can have the effect of erasing the spacious character of this part of the LCA. Furthermore, that development that does not continue the prevailing character of large family houses set in their own spacious gardens can incrementally result in the erosion of the special architectural and historic interest of the area. The LCACA also advises that the rear gardens of BTMs should be protected from backland development.
9. The proposal would introduce a new dwelling, of a contemporary and innovative design, onto part of the rear garden of 2 De Warrenne Road. It would face and would be accessed from Gundreda Road. Three bedrooms, a bathroom and an external courtyard would be provided at lower ground floor level and a kitchen, living/dining room and living/office room would be provided at ground and first floor levels.
10. Dwellings along Gundreda Road tend to be set back from the street frontage. The southern elevation of 2 De Warrenne Road, that faces Gundreda Road, is also set back from the street frontage. The built form of the proposed dwelling above ground level would also be set back from the frontage of Gundreda Road and would not, in my opinion, deviate significantly from the established

building line along Gundreda Road. I also acknowledge that the appellant has sought to reduce the visual impact of the proposed dwelling by incorporating basement accommodation and 1.5 storeys above ground level. The proposed use of materials, including a slate roof and white rendered walls, would also reflect, to some extent, the materials displayed by some other dwellings in the local area.

11. Nevertheless, the proposal would introduce a noticeable form of rear garden infill development, that would, in my opinion, constitute a form of backland development. It would be clearly recognisable as a dwelling given its size and use of glazing. As a result, it would appear substantially out of keeping with the prevailing pattern of development along this part of De Warrenne Road. Furthermore, it would considerably reduce the important and characteristic open and spatial qualities of this part of the LCA afforded by the current undeveloped nature of the rear garden of 2 De Warrenne Road. In addition, the subdivision of the plot, whilst it would not affect the fabric of the building, would fail to adequately maintain the large rear garden setting of 2 De Warrenne Road, a BTM, and would thereby contribute to the erosion of the historic interest of the area.
12. I acknowledge the figures relating to density and plot ratios supplied by the appellant. Nevertheless whilst the density may reflect that of some other plots locally, this does not mean that the relationship of the proposed dwelling to its surroundings would be satisfactory for the reasons that I have already given.
13. I therefore conclude that by virtue of its scale, layout and positioning, the proposed dwelling would result in a cramped and incongruous form of development that would fail to maintain the important spatial qualities and historic interest of the area. Consequently, it would fail to preserve the character and appearance of the LCA.
14. The submitted arboricultural report suggests that due to level changes between the appeal site and the garden of 2A De Warrenne Road, combined with the likely 600mm deep foundations of the historic boundary wall, no roots from the horse chestnut are likely to extend into the appeal site. However, I did not observe any noticeable level changes between the gardens of Nos 2 and 2A De Warrenne Road. Moreover, without any evidence of further investigations in respect of the depth of the foundations of the boundary wall, I cannot be certain that the foundations would be 600mm deep, especially given its considerable age. Whilst the Authority does not raise any objections in this regard, I cannot be confident, in light of these factors, that the roots of this tree, given its close proximity, do not extend into the appeal site.
15. Therefore, I consider that the position of the proposed dwelling and any associated excavations required, which could reasonably fall well within the root protection area of the horse chestnut, would likely result in the considerable root loss of this tree. Given its high amenity value and the positive contribution it makes to the verdant qualities of the area, the potential for damage to and subsequent demise of this tree, would also fail to preserve the character and appearance of the LCA. This lends considerable weight to my decision to dismiss the appeal.
16. The proposal would therefore be contrary to the requirements of s72(1) of the Act. The proposal would also conflict with saved Policies ST3- Design, Form and Setting of Development and H5- Development Within or Affecting

Conservation Areas, of the Local Plan; and Policy CP11- Built and Historic Environment and High Quality Design, of the Joint Core Strategy. These policies require, amongst other things, development to respect the character of the local area, to respect the character and distinctiveness of the district's built heritage, to respond sympathetically to the site and its local context, to not result in loss of spaces around buildings which make an important contribution to the character of an area and to conserve or enhance the character or appearance of conservation areas.

17. However, in the context of the LCA as a whole, I consider the harm arising to the significance of the LCA designated heritage asset would be less than substantial. As required by paragraph 134 of the Framework, I must therefore consider whether there are any public benefits that would outweigh the less than substantial harm identified above. I undertake this balancing exercise later in my Decision.

Living conditions

18. The proposed dwelling, which would be approximately 6.7m in height to its ridge, would be located approximately 900mm from the boundaries of 1A Gundreda Road and 2A De Warrenne Road.
19. I observed that the space to the front of 1A Gundreda Road, nearest the shared boundary with the appeal site, comprises an area of hardstanding for the parking of vehicles rather than a garden area that provides a functional amenity space for the occupiers of this property to sit out and relax. In addition, some tall, evergreen vegetation within 1A Gundreda Road that is growing along this boundary, is already likely to provide some enclosure and overshadowing of the space to the front of 1A Gundreda Road. This vegetation would also greatly assist with softening the visual effects of the proposed dwelling in views from within the area to the front of 1A Gundreda Road.
20. Furthermore, the roof of the proposed dwelling would slope away from the shared boundary which would reduce its overall bulk and massing along this boundary. The proposed dwelling would also be offset from any windows within 1A Gundreda Road that face the street and would therefore not obscure any views currently obtained from these windows by the occupiers of 1A Gundreda Road.
21. For these reasons, I consider that the proposed dwelling would not appear overbearing for the occupiers of 1A Gundreda Road and would not result in a harmful level of overshadowing in respect of this property.
22. The proposed dwelling would extend along only a short part of the shared boundary of the rear garden of 2A De Warrenne Road. Moreover, this would be along part of the boundary where the large horse chestnut is growing within this garden, which is already likely to provide some enclosure and overshadowing to this part of the garden. For these reasons I consider that the proposed dwelling would not appear overbearing for the occupiers of 2A De Warrenne Road and would not result in a harmful level of overshadowing in respect of this property.
23. I therefore conclude that the proposal would not result in harm to the living conditions of the occupiers of 2A De Warrenne Road and 1A Gundreda Road in

respect of outlook and overshadowing and it would not harm their enjoyment of their respective homes and gardens.

24. The proposal would therefore comply, in this regard, with saved Policy ST3, of the Local Plan, which requires, amongst other things, development to respect the amenities of adjoining properties including in respect of light and visual amenities. The proposal would also comply with the broad aims and objectives of the Framework which seek planning to secure a good standard of amenity for all existing occupants of land and buildings.

Public benefits

25. The Authority considers that, on the adoption of the Joint Core Strategy, they can now demonstrate a five year supply of housing land. Having regard to the Joint Core Strategy Inspector's Report, I am satisfied that this is the case, albeit with little flexibility. Furthermore, the appellant, in their response to the Authority's Appeal Statement appears to accept the Authority's position on this matter. Nevertheless, I acknowledge the general benefits of an additional high quality home, constructed from sustainable materials and designed to maximise energy efficiency, with regard to maintaining and increasing the Authority's level of housing supply. With an eye to the policies of the Framework as a whole, I accept that such a contribution to housing supply may be, in the context of paragraph 134 of the Framework, a public benefit. However, such a contribution would be, in the wider scheme of things modest, and would not be sufficient in my view to outweigh the harm I have identified in respect of the designated heritage asset.

Other matters

26. Lewes is located within the South Downs National Park (SDNP). However, given that the appeal site lies within a built up part of the town and that the effects of the proposal would be localised, it would not significantly affect the natural beauty, wildlife or cultural heritage of the area for which the SDNP was designated.
27. I acknowledge the concerns of the occupiers of 1A Gundreda Road in respect of matters of privacy. Nevertheless, the Authority did not raise any concerns on neighbour living conditions grounds in respect of the occupiers of 1A Gundreda Road beyond those relating to outlook and overshadowing. On the basis of the evidence before me, and given that there would be no windows within the proposed dwelling that would have a direct relationship with any windows in 1A Gundreda Road, I have no substantive reasons to take a different view.
28. Whilst not specified on their decision notice, the Authority also raises a concern in respect of outlook and amenity space provision with regard to the occupiers of 2 De Warrenne Road. Nevertheless, the proposed dwelling where it would extend above ground level, would be set back from the proposed new rear boundary of 2 De Warrenne Road by a generous distance of approximately 6.3m and from the rear windows of this dwelling by approximately 12.3m. Furthermore, the roof would slope away from the flank wall of the proposed dwelling which would reduce its overall bulk and massing. Having regard to these factors, I do not consider that the proposal would appear overbearing for the occupiers of 2 De Warrenne Road from within their garden or from any windows within their property and would not detrimentally affect their outlook.

29. Whilst the rear garden of 2 De Warrenne Road would be considerably reduced in length, the Authority has not provided any local external amenity space standards by which to assess the proposal against. Moreover, the rear garden of 2 De Warrenne Road, which would be approximately 6 metres in length and would be of a regular shape, would still be well connected to the internal living areas of this dwelling. The shape and size of the rear garden and its connection to internal living areas would, in my opinion, continue to provide a functional amenity space with a good level of utility for the occupiers of this dwelling. Moreover, I observed that there is an additional generously sized, private external amenity area to the south of the dwelling, which combined with the external rear garden would, overall, continue to provide good living conditions for the occupiers of this dwelling in this respect.
30. I acknowledge the appellant's argument that the Friends of Lewes and Lewes Town Council raised no objections to the proposal. Nevertheless, this does not automatically mean that no harm would arise, but rather no specific harm has been identified by these third parties. Moreover, it falls on me to determine the appeal on the basis of the evidence before me, the merits of the case and having regard to local and national planning policy, which, as can be seen from my reasoning above, I have done.

Conclusion

31. Whilst I have not found harm in respect of neighbour living conditions, I have found that the proposal would fail to preserve the character and appearance of the LCA. Whilst the harm would be less than substantial, the benefits, including any public benefits, would not be sufficient to outweigh this harm.
32. Therefore, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR