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## Appeal Decision

Site visit made on 20 September 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 7<sup>th</sup> October 2016

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**Appeal Ref: APP/U1430/W/16/3150662**

**Skyscape, Channel Way, Fairlight, East Sussex TN35 4BP**

- 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 Mr & Mrs P Vidler against the decision of Rother District Council.
  - The application Ref RR/2016/272/P, dated 28 January 2016, was refused by notice dated 23 March 2016.
  - The development proposed is a new dwelling.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr & Mrs Vidler against Rother District Council. This application is the subject of a separate decision.

### Main Issues

3. The main issues are:
  - a) the effect of the proposal on the living conditions of the adjacent properties in relation to light, outlook and visual intrusion;
  - b) the effect of the proposal on the character and appearance of the area;
  - c) whether the proposed development would provide satisfactory living conditions for future occupants in relation to private amenity space.

### Reasons

#### *Living conditions of neighbours*

4. The appeal site is part of the L-shaped garden of Skyscape which currently wraps around the adjacent property, Firecliff, and provides Skyscape with frontage on both Channel Way and Shepherds Way. I understand that the site was originally part Firecliff's garden, the property occupying the corner plot at the junction of these two streets. It now appears to be a vacant plot between Firecliff and Hillside, both of which are single storey dwellings.
  5. The rear elevation of Firecliff is close to the side boundary of the appeal site and its kitchen window looks out on a small courtyard towards the shared boundary. The proposed dwelling would be close to this boundary resulting in the gap between its side elevation and the rear elevation of Firecliff being
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about 7.4m at most. This proximity, combined with the height and width of the roof of the proposal, would reduce the outlook from Firecliff's kitchen window and introduce a significant sense of enclosure for anyone standing at the kitchen sink. This would make the kitchen a less pleasant place.

6. In addition, it is proposed to insert a dormer with a mono-pitched in the roof of the proposed dwelling. Although this would not include a window that would overlook Firecliff, its additional bulk would compound the sense of enclosure in the kitchen and would appear overbearing for the occupants of this adjacent property. In my view the proposal would therefore be visually intrusive and adversely affect the living conditions of the occupiers. I accept that the siting of the proposal would ensure that there would be no harmful overshadowing or loss of light. However, this would not diminish the harm arising from the visually intrusive nature of the development.
7. The property immediately to the north of the appeal site, Hillside, has primary windows that would face the proposal. On my site visit I saw that it has also been extended close to the common boundary, although this extension is not shown on the submitted plans. The garage of the proposed chalet bungalow would have a flat roof and would be closest to this shared boundary, whilst the separation distance between the flank walls of the two dwellings would be of the order of 7.5-10.0m. Although the outlook from the side elevation is partially restricted by the existing boundary fence, the additional height and bulk of the proposal would appear visually intrusive from the side windows of Hillside, making this part of the house a less pleasant place to be.
8. The rear elevation of the proposed development would be less than 7m from the residual rear garden of Skyscape. It would therefore appear overbearing and introduce a sense of enclosure within the remaining garden. The appellant has indicated that the window in this elevation would have restricted opening and would be fitted with obscure glazing. Whilst I accept that this could mitigate any harmful overlooking, it would restrict the outlook from the proposed dwelling thereby having a detrimental effect on the living conditions of future occupiers. Consequently, I am not satisfied that it would be an appropriate means of addressing the overlooking of Skyscape's garden. This adds to my concern about the effect of the proposed development on the living conditions of the occupants of the host property.
9. Taking all these factors into consideration, I conclude that the proposed dwelling would be harmful to the living conditions of occupants of the adjoining properties, arising from unacceptable loss of outlook and visual intrusion. It would therefore fail to comply with Policy OSS4 of the Rother Local Plan Core Strategy (Core Strategy), which requires development not to give rise to unreasonable harm to the living conditions of adjoining properties.

#### *Character and appearance*

10. The proposal would be set in from the boundaries with both adjacent dwellings, by approximately 1.5m. Its ridge height would be comparable with those of its neighbours and it would effectively complete the Shepherds Way street scene by occupying a section of vacant frontage. However, Firecliff and Hillside are both low profile, single-storey dwellings whereas the proposed dwelling would include side-facing dormers that would significantly increase the apparent width and bulk of the building at roof level. In my view this would result in it appearing to be out-of-scale with the adjacent properties. I acknowledge that

there are larger two-storey dwellings in the vicinity, including elsewhere on Channel Way and Shepherds Way. However, I do not consider this to be a justification for permitting a building on the appeal site which would be out of keeping with its immediate neighbours.

11. The front elevation of the proposed dwelling would be a little closer to the street than the neighbouring properties. In view of the staggered nature of the building line on this part of Shepherds Way this aspect of the proposal would not appear out of place in the street scene. However, the depth of the dwelling would leave only a restricted space at the rear of the site. Although plot sizes in the vicinity exhibit considerable variety, the appeal site is materially smaller than any of those in the immediately surrounding area and the proposal would occupy a significantly greater proportion of its plot. In my view the combined effects of the footprint of the proposed dwelling, its proximity to the side and rear boundaries of the site and the bulk of the roof with its dormers, demonstrate that the proposal would be too large and bulky for this constrained and restricted plot. This would result in it appearing cramped and out of character with the area.
12. I therefore conclude that the proposed dwelling would be harmful to the character and appearance of the area, contrary to Policies OSS4 and EN3 of the Core Strategy, which requires development to be high quality and to make a positive contribution to the character of the site and its surroundings.

#### *Amenity space*

13. On my site visit I saw that the garden of Skyscape had been enclosed on its western side immediately to the rear of the garage. However, this fence line did not correspond with the boundary of the appeal site, which would run from the rear corner of Firecliff's garden. The appeal site is therefore smaller than the area that has currently been enclosed.
14. The proposal would enable the provision of a limited amount of private amenity to the rear of the dwelling and a little more to the rear of the garage. Although its size might not be ideal for a children's play area there would, nevertheless, be sufficient room to hang out washing and for future occupants to sit outside.
15. The Council has not directed me to any specific standards in relation to the quantity of amenity space that it considers would be appropriate for a dwelling of the scale proposed. It seems to me that in this case it would be for potential future occupants to assess whether or not it would meet their needs.
16. I therefore conclude that the proposed dwelling would provide satisfactory living conditions for future occupants in relation to amenity space. In this respect the proposal would comply with Policies OSS4 and EN3 of the Core Strategy which requires development to meet the needs of future occupants.

#### **Other matters**

17. I have had regard to the representations about various other matters, including the proximity of the proposal to the cliff edge, which is known to be receding. However, the Council has indicated that the site is not within the zone identified as vulnerable. Consequently, this matter and others, such as drainage and parking, are not determining factors in this case.

## **Conclusion**

18. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. The appeal site lies within the development boundary of Fairlight Cove. There is therefore no objection in principle to a residential development on the appeal site, provided this can be achieved without harm to the local environment. However, I have found that the proposed development would be harmful to the living conditions of the occupants of adjoining dwellings and to the character and appearance of the area. The benefits that would accrue from the provision of the additional dwelling would not outweigh this harm.
19. For this reason, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR