



Appeal Decision

Site visit made on 28 February 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 13 March 2017

Appeal Ref: APP/P1425/W/16/3162762

26 Bramber Avenue, Peacehaven BN10 8HR

- 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 S Bruce on behalf of JJ SEA Ltd against the decision of Lewes District Council.
 - The application Ref LW/16/0489, dated 10 June 2016, was refused by notice dated 3 November 2016.
 - The development proposed is demolition of existing bungalow and construction of a pair of semi-detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and construction of a pair of semi-detached dwellings at 26 Bramber Avenue, Peacehaven BN10 8HR in accordance with the terms of the application, Ref LW/16/0489, dated 10 June 2016, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by S Bruce on behalf of JJ SEA Ltd against Lewes District Council. That application is the subject of a separate Decision.

Main Issues

3. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - (a) The character and appearance of the area; and
 - (b) The living conditions of existing occupiers.

Reasons

The character and appearance of the area

4. The area is a residential area comprising a mix of detached bungalows and semi-detached and terraced two-storey dwellings, some chalet style with the first storey in the roof slope. The adjoining property to the north is chalet style and to the south is a bungalow with garage to the side between it and the appeal site.
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5. I observed that properties within Bramber Avenue are constructed close to the side boundaries of their plots. The proposed development, although set off the side common boundaries, would have a similar relationship to the side boundaries of the appeal site as other properties in this street.
6. The appeal site is positioned at a slightly higher ground level to that of No 24 Bramber Avenue to the south. However, the proposed eaves level of the proposal would be low and the roof would incorporate side barn hips. The front dormer would be set within the roof slope stepped in from the side eaves of the main roof. Whilst the proposed development would be taller than No 24 I saw similar variation in height in the surrounding area. Furthermore, there are other examples in the area of similar roof forms to that proposed that incorporate long roof dormers to both the front and rear of properties. I therefore cannot conclude that the proposed development would appear cramped or out of place within this streetscene or that it would be overly tall in its relationship to No 24.
7. I am aware that neighbour concern is raised to potential maintenance problems. The separation to the side boundary would enable maintenance of the proposed building.
8. Overall, I conclude that the proposed development would not harm the character and appearance of the area and, for the reasons given, would not materially conflict with Policy CP11 of the Lewes District Joint Core Strategy and saved Policy ST3 of the Lewes District Local Plan, which seek development to respect the overall scale, height, massing, alignment, site coverage, density, landscaping, character, rhythm and layout of neighbouring buildings and the local area, amongst other matters. The proposal would not conflict with the aims of paragraphs 17, 56 and 58 of the National Planning Policy Framework (the Framework) that aim to provide high quality homes.

The living conditions of existing occupiers

9. As noted above, No 24 is positioned at a slightly lower ground level to that of the appeal site. The Council advises that the side wall of the proposed development would be a height of 5.5m to the semi-hip and 7.2m to the ridge with the side wall set away from the common boundary by 1m with the roof overhang reducing this separation to 0.7m. Whilst the raised ground level at the appeal site would elevate the proposed development and both the front and rear dormers would add to the overall size of the development to some extent, I do not consider the proposal to be excessively visually imposing to the occupiers of No 24, taking into account the proposed low eaves level.
10. In addition, the intervening garage of No 24 steps this existing dwelling away from the side boundary. The side windows of No 24 currently have outlook onto the existing garage at the appeal site that is built next to the common boundary. The proposed development would have much the same building line as that of No 24. Whilst the proposed development would be more apparent to the occupiers when viewed from the back garden, the proposal would not be of a size that would be disproportionately dominant in their outlook.
11. I acknowledge that local residents have raised concerns to potential overlooking and loss of sunlight. The development proposes windows in the side elevations. At ground floor level the windows would provide light to garages and outlook for kitchens. Class A of Schedule 2 Part 2 of the Town and

Country (General Permitted Development) Order 2015 enables the erection of a fence or wall along the side common boundaries. This could protect privacy of adjoining occupiers at ground floor. The windows at first floor level in the side elevations of the proposed development would serve bathrooms and would normally be obscure glazed to protect the privacy of future occupiers and would restrict outlook from these rooms. Whilst the development would be in close proximity to the adjoining properties a degree of separation between developments would remain. I consider this would provide adequate light to the side windows of adjoining properties and the small glass porch extension at the side No 28C Bramber Avenue. Any loss of sea view is beyond the scope of planning control.

12. Further to the above, the rear dormer window would increase overlooking of adjoining occupiers properties but this would not be to the extent that would be harmful to the living conditions of these occupiers and would be of a degree normally found to take place in residential areas such as this. Similarly, the noise generated by the occupiers of two family dwellings would not be out of keeping with or significantly greater than that which would take place in residential areas.
13. Overall, I conclude that the proposed development would not harm the living conditions of existing occupiers and, for the reasons given, would not materially conflict with saved Policy ST3 of the Lewes District Local Plan, which seeks to respect the amenities of adjoining properties, amongst other matters. The proposal would not conflict with the aims of paragraphs 17 and 57 of the Framework that aim to provide high quality homes and to secure a good standard of amenity for all future occupants of land and buildings.

Other Matters

14. Some residents suggest that a pair of bungalows would be a more suitable development for the site. However, I am required to consider the proposed development that is before me, including that of the more intensive use of the site and its related garden. The proposal can and should be considered on its own merits.
15. Concern is also raised to potential demolition and construction disturbance and damage to other properties and/or the supply of services. A condition relating to construction methods could control works at the appeal site to ensure the protection of the living conditions of adjoining occupiers during construction. There is no substantive evidence before me that would indicate damage to other properties or services would occur. Demolition of the existing property would likely take place over a short period of time and any disturbance to neighbouring occupiers would be limited. Matters relating to drainage, the structural impact of adjoining dwellings and asbestos would be subject to Building Regulations. Security and potential builders profit are again beyond the scope of planning control, as is the potential for seagulls to nest on the flat roofs of the proposed roof dormers. Appropriate land levels can be achieved by the imposition of a condition relating to finished floor levels.
16. It was clear from my visit that Bramber Avenue is subject to parking pressure. Off-road parking for two vehicles at each of the proposed dwellings would be provided. I consider this sufficient for two four bedroom dwellings. I acknowledge that Bramber Avenue is a narrow highway. However, the increase in one dwelling would not significantly alter any existing access issues

or generate substantially greater highway safety concerns. A condition requiring the vehicle parking to be put in place would restrict the garages being used for any other purpose.

17. None of these matters alter my conclusion that the appeal should be allowed.

Conditions

18. I have considered the planning conditions suggested by the Council in light of paragraph 206 of the National Planning Policy Framework and the advice in the Planning Practice Guidance. In addition to the standard time limit conditions and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.

19. Conditions relating to materials and finishes to be used in the external elevations, roof and boundary treatment are appropriate in the interests of the character and appearance of the area. A condition relating to construction work is necessary to ensure the protection of the living conditions of adjoining occupiers. I consider a condition relating to finished floor levels to be reasonable to ensure the development is carried out at an appropriate land level. These conditions are fundamental to the acceptability of the proposal and, therefore, are necessary to be agreed before development takes place. A condition relating to parking provision is necessary to prevent inconvenience to road users and to ensure highway safety.

20. The Council considers that the removal of Class A to Class C of Schedule 2 Part 1 of the Town and Country (General Permitted development) Order 2015 permitted development rights would be appropriate. I refer to the advice in the Planning Practice Guidance which state that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider there to be exceptional circumstances here.

Conclusions

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDITONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed 01-0616 -03, 01-0616-04, 01-0616-05, 01-0616-07, 01-0616-08 and 01-06 16 -11.
- 3) No development shall commence until samples of the materials and finishes to be used in the external elevations and roof of the dwelling hereby approved, along with details of the site's boundary treatment, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained as such.
- 4) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Construction Method Statement.
- 5) No development shall take place until details of the finished floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No dwelling shall be occupied until the vehicle parking (garages and driveways) have been laid out in accordance with the approved plans and thereafter shall be kept available for such use.