



Appeal Decision

Site visit made on 6 June 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 30 June 2017

Appeal Ref: APP/Z3825/W/17/3167371

Twigs, Bashurst Hill, Itchingfield, West Sussex RH13 0NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Duncan Jagger against the decision of Horsham District Council.
 - The application Ref DC/15/1888, dated 18 August 2015, was approved on 9 August 2016 and planning permission was granted subject to conditions.
 - The development permitted is "retrospective application for the erection of a four bed chalet bungalow together with the erection of a detached garage with accommodation above and external air source heat pumps and erection of a cycle store."
 - The conditions in dispute are Nos 14 and 16 which state that:
 - 14. *Within two months of the date of this decision, the triangular windows within the south west elevation shall be fitted with privacy level 5 obscure glazed glass. The windows shall be obscure glazed in perpetuity.*
 - 16. *Within two months of the date of this decision, an additional landscaping scheme for the site, including details of mature trees to be planted around the boundaries of the site, shall be submitted to and agreed in writing by the local planning authority. The landscaping as agreed shall be planted within 3 months following agreement of the details and completed strictly in accordance with the approved details. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.*
 - The reasons given for the conditions are:
 - 14. *To prevent the perception of overlooking to the neighbouring property in accordance with Policy 33 of the Horsham District Planning Framework (2015).*
 - 16. *To protect the privacy of the occupiers of the neighbouring property in accordance with Policy 33 of the Horsham District Planning Framework (2015).*
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Decision

1. The appeal is allowed and the planning permission Ref DC/15/1888 for the erection of a four bed chalet bungalow together with the erection of a detached garage with accommodation above and external air source heat pumps and erection of a cycle store at Twigs, Bashurst Hill, Itchingfield, Horsham, West Sussex RH13 0NY granted on 9 August 2016 by Horsham District Council, is varied by deleting conditions 14 and 16 and substituting for them the following condition:

Within two months of the date of this decision, an additional landscaping scheme for the site shall be submitted to and agreed in writing by the local planning authority. The landscaping as agreed shall be planted within 3

months following agreement of the details and completed strictly in accordance with the approved details. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Preliminary Matters

2. The Council's decision notice describes the development as retrospective. However, that is not a description of development so I have removed it from the description in my formal decision. The address given in the application and Council's decision notice describes the dwelling as demolished. As it has now been re-built, I have removed reference to this in the address in the banner heading above and in my decision.
3. The development has been completed such that I was able to view inside the bathroom and around the garden when I visited and I have taken this into account when coming to my decision.
4. I understand that a landscaping scheme was submitted and refused by the Council under reference DISC/16/0318 relating to condition 16 as it did not include mature trees. However, that decision has not been appealed and, as such, these details are not before me.

Background and Main Issue

5. The appeal relates to a new dwelling at Twigs that has been constructed following an extensive planning history including amendments to the original approval and re-siting of the property. The development does not comply with two conditions on the permission for the property relating to the provision of obscure glazing within first floor side windows (condition 14) and the requirement for mature planting to the boundaries of the site (condition 16), both of which were inserted to protect the living conditions of neighbouring occupiers.
6. Consequently, the main issue is whether the disputed conditions are necessary and reasonable, having regard to the living conditions of neighbouring occupiers of Willow Cottage, Beggars Roost and Silver Birches, in particular their privacy.

Reasons

Windows

7. Twigs is located in a rural area and is surrounded by other large detached houses within substantial gardens. It is located toward the rear of the plot, with a patio area between the new dwelling and the boundary with Willow Cottage that has a wide side garden over the boundary, with ground floor windows to this side of the house. The boundary is formed by a tall yew hedge that appears to be within the curtilage of Willow Cottage.
8. The obscure glazed triangular side windows referred to in condition 14 are located to the side of the dwelling closest to Willow Cottage and within the eaves of the gabled roof end to the side of the building, serving two en-suite bathrooms. As such, they are located high on the building and well above the

height of a person standing in the showers immediately below the windows. Any views from the windows would only be possible when standing on a ladder, for example when cleaning, but this would be occasional and for very short periods, such that there would not be material harm to the occupiers of the neighbouring property.

9. Those neighbouring occupiers may have some perception of overlooking given the windows are in the side elevation that faces their property, but this would be limited given the height of the windows and distance from the property boundary and between the dwellings.
10. For these reasons, I conclude that the triangular windows to the side elevation do not have a material effect on the living conditions of neighbouring occupiers by reason of loss of privacy. As such, the disputed condition 14 is not necessary or reasonable.

Landscaping

11. Planting has been completed to some boundaries of Twigs, with a leylandii hedge on the boundary with Beggars Roost and bamboo screen to the rear boundary. Dwellings to the rear are located some distance from the property and there is mature planting on those neighbouring properties, but given the topography of the land and the bedroom windows at first floor in the rear elevation of the dwelling there is some overlooking from the new dwelling toward neighbouring properties to the rear. Whilst this would be reduced considerably with a mature tree screen to the rear and the bamboo screen is too low to have a significant impact on views to the rear, the mature trees on the neighbouring property and considerable distance to the neighbouring house to this side mean that the amount of overlooking is minimal.
12. The leylandii hedge on the boundary with Beggars Roost does little to restrict views toward Beggars Roost, but there is a close boarded fence behind that. Beggars Roost is located on lower ground and the only window in this side of Twigs is a modest bathroom window on the first floor, with a side door at ground floor level. As such, any overlooking between these properties is limited and is not unusual between neighbouring properties, even in such a rural area.
13. For these reasons, I conclude that additional mature trees to the boundaries of the property are not necessary to protect the privacy of neighbouring occupiers, which is not harmed to any material effect. As such, reference to mature trees within the disputed condition 16 is not necessary or reasonable. However, I note that circumstances have changed since the consideration of previous landscaping details, not least alteration to the position of the dwelling and the removal of some existing planting, such that a condition requiring landscaping details is still necessary in order to protect the character and appearance of the area.

Conclusion

14. For the above reasons, the appeal should succeed and I will vary the planning permission by deleting the disputed conditions and inserting a new condition relating to landscaping details, without reference to mature trees.

AJ Steen

INSPECTOR