
Appeal Decision

Site visit made on 25 July 2017

by Paul Jackson B Arch (Hons) RIBA

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

Decision date: 31 July 2017

Appeal Ref: APP/U1430/W/17/3175151
53 Kewhurst Avenue, Bexhill, TN39 3BH

- 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 Arrowstream against the decision of Rother District Council.
 - The application Ref RR/2017/569/P, dated 1 March 2017, was refused by notice dated 26 April 2017.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect on future occupiers of the new development and the occupiers of the host dwelling, in terms of private amenity space; and
 - The effect on the occupiers of adjoining property, in terms of outlook.

Reasons

3. The appeal property lies on a corner between Kewhurst Avenue and Withyham Road. A garden lies to the side, facing Kewhurst Avenue. The proposed development would be sited in the garden area. A garage would be demolished and a new access created for the existing dwelling.
 4. The area generally is characterised by houses and bungalows set in reasonably generous plots. Dwellings and gardens in Kewhurst Avenue are noticeably larger and more varied than most of those in Withyham Road and are set back further from the highway. The gap created by the garden of the appeal property and that behind the property on the opposite corner, 21 Withyham Road, serve to visually separate the character of development in the two streets. In the case of the appeal site, there are also views through to the mature trees in Gilham Woods Nature Reserve. Views between houses towards back gardens and greenery are an important contributor to a general sense of spaciousness in the locality.
 5. In this context, the appeal dwelling would be unusually close to the host property, much closer than other houses in Kewhurst Avenue and similar to those in Withyham Road. It would introduce a congested and cramped element that would be out of keeping in Kewhurst Avenue. The effect would be
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emphasised by the construction of the 2 storey gable following the building line of No. 53, which would add considerable bulk to development on the corner. By largely blocking the view through between the houses, it would also conspicuously erode the spacious character of the area. Although it would display elements of massing and detail that would reflect the host dwelling and would not be discordant if situated on the opposite side of Withyham Road, the close siting and 'mirrored' elevational design seen immediately north of No. 53 would be jarring and out of character. It would conflict with the character and appearance aims of policies EN3 and OSS4 (iii) of the Rother Local Plan Core Strategy of 2014 (CS).

6. With regard to amenity space, there is no minimum standard brought to my attention in policy. Policy OSS4 (i) requires 'appropriate amenities'. The National Planning Policy Framework (NPPF) requires as a core principle that a good standard of amenity should be sought for all existing and future occupants of land and buildings. The existing garden is visible over the existing low fence from Kewhurst Avenue but retains a reasonable standard of privacy. If the proposed development came to pass, the host dwelling would lose this area and the front garden would have to be adapted by means of a significant increase in planting or fencing. Whilst that would be a change, it would be large enough to accommodate a new private area for relaxation.
7. The new dwelling would have very little private space at the rear, but the front garden area would be available, albeit possibly needing additional vegetation screening. There is little to suggest that the area available for either dwelling would be inappropriately restricted or poor. There would be no conflict with the relevant aims of policy OSS4 paragraph (i).
8. Turning to the living conditions of adjacent occupiers, the rear garden of No. 23 Withyham Road enjoys an open aspect to the west which would be obstructed by the proposal. However the 2 storey bulk of the scheme would be mitigated by the sloping roof descending to the ground floor closest to the boundary. Given the angle at which the new dwelling would be perceived, the effect on outlook would not be unacceptable. Although natural light would be affected it would not be sufficient to significantly detract from the living conditions of the occupiers. Having regard to the specific reason for refusal regarding outlook, the scheme would not conflict with the relevant aims of policy OSS4 (ii).
9. Having said that, the large sliding and folding door of the living area of the proposed dwelling, which would be about 8 metres wide, would face the boundary with the rear garden of No. 23 Withyham Road at a distance of just over 4 metres¹ with paving outside the door. The kitchen window would also face the boundary at a similar distance. The fence is proposed to be raised to around 1.8 metres but it is likely that normal family activities on the paved area and from time to time, activities inside the living room, would be very apparent to the neighbouring occupier in their private back garden by way of noise and disturbance. The fence would have to be raised higher than 1.8 metres to avoid the perception of privacy being invaded, if not actual overlooking. Despite the intervening fence, the distances involved would be such that speech or a TV could be clearly heard in the garden of No. 23 and this would be intrusive. Whilst there are many situations in neighbouring gardens where people tolerate nearby conversation, it would be reasonable to

¹ Using the scale on the application drawings

assume that in a garden more than 20 metres long, the occupiers of No. 23 would be able to find a space where a reasonable degree of quiet enjoyment might be possible. Together with the existing proximity of No. 49 Kewhurst Avenue, the appeal scheme would make that much more difficult. This aspect is a further indicator of the cramped nature of the scheme and would conflict with the amenity protection objectives of local and national policy.

Conclusion

10. The development would provide a new dwelling which would make a useful contribution to housing need. Notwithstanding the acceptable impact on amenity space and outlook, the detrimental effect on the character and appearance of the area significantly outweighs this benefit. The potential impact on the privacy of neighbouring occupiers and by way of noise and disturbance adds to the justification for dismissing the appeal.

Paul Jackson

INSPECTOR