
Appeal Decision

Site visit made on 7 August 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/D3830/W/17/3174536
117 Grand Avenue, Hassocks BN6 8DH

- 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 Sean Lippett against the decision of Mid Sussex District Council.
 - The application Ref DM/16/4999, dated 22 November 2016, was refused by notice dated 18 January 2017.
 - The development proposed is erection of one bungalow in existing curtilage of 117 Grand Avenue.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in determining this appeal are the effect of the proposed development on: -
 - (a) The character and appearance of the area, including the existing trees at the appeal site; and
 - (b) The living conditions of future occupiers.

Reasons

Character and appearance

3. That part of the appeal site to which the proposal relates is laid as lawn and comprises some outbuildings, ornamental planting, trees and hedges. The garden is at a higher land level than that of the existing residential development at Ockley Way. I observed that the existing gated parking space at the rear of the site is sunken below the level of the garden to facilitate vehicular access to and from Ockley Way.
4. Grand Avenue and Ockley Way are characterised by dwellings that front onto the highway. I acknowledge that the size of the proposed plot and building, alongside the amount of proposed private open space, would be comparable to that of some of the properties at Ockley Way and that the appeal site is wider than the plot widths of adjacent properties. Nonetheless, development of the rear garden of No 117 Grand Avenue would be out of keeping with the pattern of development in this area.

5. Despite the low ridge and eaves height of the bungalow and its sunken ground level the roof of the proposed bungalow would be visible from the surrounding area. The harm to the character and appearance of the area of creating a dwelling in the back garden would be readily apparent to adjoining occupiers. It would also be apparent in public views from Ockley Way as the bungalow would be visible from the adjacent public highway. I am not persuaded by the appellant's argument that the frontage hedge at No 60 Ockley Way, the vegetation along the carriageway verge or other existing vegetation at the north eastern corner of the site would offer any significant barrier to public observation. I therefore do not consider the site would be screened to such an extent that would obviate the visual harm that would arise.
6. For these reasons I conclude that the proposal would be harmful to the character and appearance of the area. The proposed development would be contrary to Policies B1 and H3 of the Mid Sussex Local Plan that seek to respect the character of the locality, amongst other matters. The proposal would also conflict with paragraphs 17, 53, 56, 60 and 61 of the National Planning Policy Framework (the Framework) that require new development to take account of the character of different areas, seek to establish a strong sense of place and to resist inappropriate development of residential gardens.

Trees

7. There are trees within the garden of the appeal property, a number of which would be removed as part of this proposal. Section 197 of the 1990 Act as amended imposes a duty on the decision-maker to ensure that adequate provision is made for the preservation of trees.
8. The most prominent trees are located at the western side of the rear garden, noted as Pine (193) and Birch (194). They are of considerable size, height and have wide crown spreads, particularly that of the Pine. Their amenity value to the setting of the rear garden is considerable and they contribute to the verdant feel of the area. They are clearly visible to surrounding occupiers, including those at Ockley Way, and their canopies can be seen over the roof tops of houses in Grand Avenue.
9. A Pine (195) is positioned toward the end of the garden adjacent the existing parking area. This tree is lower in height but is visible in public views from Ockley Road as the canopy can be seen above the boundary fence. The other trees at the appeal site comprise two Cypress (196 and 197) and an unspecified tree (198). Overall, these trees have a moderate amenity value although some are not visible from outside the appeal site.
10. Collectively the trees contribute to the verdant character of the rear garden. For this reason the trees are worthy of retaining, whether or not commendable for protection by a Tree Preservation Order.
11. The dwelling is proposed close to the existing Pine and Birch trees (193 and 194) within the site. The dwelling has been orientated with the front elevation facing west and toward these trees. The trees, given their proximity to the proposed dwelling, would have canopies that would shadow the garden, patios and habitable rooms of the proposed dwelling. The living accommodation of the dwelling would be gloomier as a result and the garden would be heavily shaded over the course of the day. Future occupiers would have the perception of being dominated by these tall trees.

12. For these reasons these two trees are likely to be subject to increased pressure from occupiers of the proposed dwelling to significantly reduce their canopies or to be removed to eliminate shading and improve light for enhanced enjoyment of their home and garden. This would escalate the pressure to remove the tree. This pressure would not be so immediate if the garden were to remain undeveloped.
13. Notwithstanding the above, I do not consider the Cypress tree (248) adjacent to the appeal site to be at risk. It is located close to the existing parking area and where the proposed parking would be, therefore, there would not be a significant change in circumstances.
14. For those reasons set out further above, I conclude that the proposal would be harmful to trees on site and their loss or significant crown reduction would be harmful to the character and appearance of the area. The proposed development would be contrary to Policies B1, B7 and H3 of the Mid Sussex Local Plan that seek to resist development that would result in the loss of trees of significant public amenity value and that aim to respect the character of the locality and landscaping, amongst other matters. The proposal would also conflict with paragraphs 17, 53, 56, 60 and 61 of the Framework that seek to conserve the natural environment and that resist inappropriate development of residential gardens where development would cause harm to the local area.

Living conditions of future occupiers

15. The proposed dwelling would be constructed at a lower level than that of the existing garden and would be positioned in close proximity to the north and east boundaries of the appeal site.
16. Outlook from the bedrooms and bathrooms would be very limited, particularly to the east where there would be a hedge between the dwelling and the boundary. The bedrooms are rooms in which the occupiers could reasonably spend a significant proportion of their time. The proximity of the dwelling to the boundaries and retaining walls, along with the hedge, would significantly restrict the outlook from, and light into, these rooms. Despite the rooms having large windows, the proposal would create an oppressive and gloomy living environment for future occupiers and would not, in my opinion, provide satisfactory living conditions.
17. The appellant highlights that flatted developments have no, or minimal, private open space for their occupants. However, flatted developments are a different type of development to that proposed here. Such considerations therefore do not justify the proposed development or outweigh the harm that I have identified above.
18. For these reasons I conclude that the proposal would be harmful to the living conditions of future occupiers. The proposed development would be contrary to Policy H3 of the Mid Sussex Local Plan that requires a high quality environment for prospective occupiers, amongst other matters. The proposal would also conflict with paragraph 17 of the Framework that seeks to secure a good standard of amenity for future occupants of land and buildings.

Other Matters

19. I note that policies of the Mid Sussex Local Plan pre-date the Framework by some years. Notwithstanding this, I consider these policies to be consistent

with the Framework, particularly in respect of taking account of the different roles and characters of different areas and to securing a good standard of amenity for future occupiers. Furthermore, these policies do not relate to housing land supply. For these reasons I give them significant weight.

20. The Council has referred to policies of the emerging Mid Sussex District and Hassocks Neighbourhood Plans within their decision notice. The Council has confirmed that limited weight should be afforded to the policies in the emerging District Plan. This Plan, and the Neighbourhood Plan, although advancing, are at an early stage and remain to be fully scrutinised and tested through the adoption process. As a consequence I give little weight to these emerging Plans.
21. The Council confirms that they do not have a 5-year supply of housing in place. Paragraph 14 of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. The proposal development would create a new dwelling within the urban area in a sustainable location of an acceptable design. The appellant considers this would improve his living conditions and those of his partner and mother and would free up an existing home elsewhere and reduce the maintenance burden of the existing garden. It would also enable the appellant to live closer to his mother. I acknowledge that the proposed development would not adversely impact the living conditions of adjoining occupiers. I note the proposal is acceptable to the Council in terms of highway matters and accommodation space standards. The proposal would provide employment during construction. These are benefits of the proposed scheme.
23. When the Framework is considered as a whole, I find the scheme does not constitute sustainable development. This is because the positive social and economic benefits set out above are significantly and demonstrably outweighed by the specific environmental harm identified. This harm would be permanent and is not outweighed by the appellant's particular circumstances. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.
24. A number of residents close by have raised other concerns in relation to the proposal but in view of my conclusion on the main issues, there is no need for me to address these in the current decision.

Conclusions

25. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR