
Appeal Decision

Site visit made on 26 September 2017

by N A Holdsworth MCD MRTPI

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

Decision date: 24th October 2017

Appeal Ref: APP/U1430/D/17/3181445

"Alborada", Farley Way, Fairlight, East Sussex, TN35 4AS

- 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 Ashley Paine against the decision of Rother District Council.
 - The application Ref RR/2017/794/P, dated 20 March 2017, was refused by notice dated 11 May 2017.
 - The development proposed is first floor extension to form attic bedrooms.
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Procedural Matter

1. I have used the shortened description of development used by the Council on its decision notice as it is more concise. I also note that this is the description of development used by the appellant on the appeal form.

Decision

2. The appeal is allowed and planning permission is granted for a first floor extension to form attic bedrooms at "Alborada", Farley Way, Fairlight, East Sussex TN35 4AS in accordance with the terms of the application, Ref RR/2017/794/P, dated 20 March 2017, subject to the following conditions:
 - 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 following approved plans: 1635[80]- 1, 1635 [80] - 5.

Main Issue

3. The effect of the development on the living conditions of the occupants of neighbouring residential buildings with particular regard to whether the development would result in an overbearing effect.

Reasons

4. The proposal involves the reconstruction and enlargement of the roof to create habitable living accommodation at first floor level. In consequence, the eaves to each side of the building would be raised by around 1.5 metres with the overall height of the property increasing. The Council are concerned that the additional bulk would have an overbearing effect on the side and rear elevations of the property directly to the east of the site known as "Annandale".

5. I observed that Annandale has windows on three of its elevations. Its west facing side elevation is already compromised in terms of its outlook as it faces directly on to the equivalent side elevation of the appeal building across a low boundary. The additional bulk of the extended roof would be visible from windows within this elevation when viewed from certain angles. However, given the existing constrained outlook, any consequential loss of light or outlook to the respective internal areas of Annandale would not be significant. It would retain an open and unobstructed outlook to both the front and the rear, which I consider to be its principal elevations.
6. The increase in height and bulk would also be apparent from the gap between the side elevation of Annandale and the boundary with the appeal site. This area appeared to be used as a footpath to access the rear garden from the front and side of Annandale. The outlook from this path is already constrained by buildings to either side and the enlargement of the neighbouring building would not diminish the functionality of this footpath. The total increase in bulk and height would be modest, and the equivalent existing gap between the boundary and the appeal building would remain, which would soften the effect of the additional bulk at roof level. In consequence, there would be no significant overbearing effect on this area.
7. The appeal building is stepped back from Annandale as the building line follows a curve in Farley Way. The upward extension would also be visible from the rear garden area of Annandale and in particular the patio area to the immediate rear of Annandale. However, the existing gap between the appeal building and the common boundary would remain. Any overshadowing would only affect a very small part of the neighbouring garden area. The overall bulk of the extended building would be generally consistent with other residential buildings within the surrounding area and would not, in my view, be of a scale that is unduly overbearing in views from neighbouring residential garden.
8. As such, I find that whilst the extended building would be visible from the side and rear of Annandale, no harm through an overbearing effect would occur to the living conditions of its occupants. There is no conflict with policy OSS4 (ii) of the Rother Local Plan Core Strategy (Adopted September 2014) nor policy HG8 of the Rother District Local Plan (Adopted July 2006) which, amongst other things, require that new development must not unreasonably harm the amenities of adjoining properties. The proposal would comply with the relevant parts of the National Planning Policy Framework which require new development to provide a good standard of amenity for existing and future occupants of land and buildings.

Other Matters

9. The Council's reason for refusal does not relate to concerns about overlooking arising from the proposed development to the respective neighbouring garden areas. I consider that any overlooking arising from the proposal would be indirect and would not harm the living conditions of the occupants of neighbouring properties. The Council also conclude that the proposed development would be acceptable in terms of its effect on the character and appearance of the area and I have no reason to disagree with this assessment.

Conclusion

10. For the reasons given above and having regard to all matters raised the appeal should succeed and planning permission is granted subject to conditions that are necessary to comply with statutory requirements [1] and in the interests of certainty [2].

Neil Holdsworth

INSPECTOR