



Appeal Decision

Site visit made on 5 December 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 12th December 2017.

Appeal Ref: APP/D3830/W/17/3180783

Land to the rear of 14 & 16 Dellney Avenue, Haywards Heath RH16 3ND

- 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 Beaver Construction (SE) Limited against the decision of Mid Sussex District Council.
 - The application Ref DM/17/1259, dated 17 March 2017, was refused by the Council by notice dated 5 June 2017.
 - The development proposed is construction of 1no residential (C3) unit, access, car parking and associated works.
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Decision

1. I allow the appeal and grant planning permission for construction of 1no residential (C3) unit, access, car parking and associated works at Land to the rear of 14 & 16 Dellney Avenue, Haywards Heath RH16 3ND in accordance with the terms of the application, Ref DM/17/1259, dated 17 March 2017, subject to conditions 1) to 14) on the attached schedule.

Main Issue

2. This is the effect of the proposed development on the character and appearance of the Dellney Avenue and Oakdale Road area of Haywards Heath.

Reasons

Main Issue, Character and Appearance

3. There had been a previous appeal into the Council's refusal of an application for a pair of semi-detached dwellings (Ref; APP/D3830/W/15/3140526, dated 26 May 2016) and the findings of that previous Inspector are of significant weight. In particular, harm was identified to the character and appearance of the area due to the location of the building on the plot, the location of parking and a resulting reduction in the level of spaciousness on Oakdale Road, contrary to Policies B1 and H3 of the Local Plan. No significant harm was found to the living conditions of neighbouring occupiers such that Policy B3 was satisfied, although the limited amenity space available to the prospective residents was found to conflict with Policy H3.
4. The present appeal proposal is for a single dwelling and the location on the site is now proposed to be aligned satisfactorily with the neighbouring chalet bungalow, and the car parking would be in front of the blank wall of the front entrance. There would remain limited space to the rear but the amenity space for the single house would be more to the side and no objection is raised by the

Council with regard to the amount of space now available. The location on the plot and the proximity to the rear boundary would still be seen from properties on Dellney Avenue, but the more spacious arrangement generally would militate against this appearing harmful. The proximity of the boundaries would not be obvious from public viewpoints and would have no material effect on the character and appearance of the area.

5. The present plot forms part of the rear garden to numbers 14 and 16 Dellney Avenue, and the pair across Oakdale Road are set similarly close to that side road. The result is a visually constrained entry into the road, with limited wide views of the appeal site and hence any proposed development on it. The proposed house would appear as a further extension of the built form on Oakdale Road, and the significantly different form of the bungalow *Glen Roy* when compared with the semi-detached pairs further into the road and along Dellney Avenue allow the proposed house to be assimilated into the character and appearance of the area.
6. The roof-scape would respect the hip-end style of much of the nearby development and would not appear out-of-place against the gable ended form of the neighbouring building. It was noted that another house in Dellney Avenue was having a substantial roof extension that would add further variety to the area.
7. In conclusion, the amended proposal now the subject of this appeal has overcome the failures identified by the Inspector writing in 2016, such that the effect on the character and appearance of the area would be acceptable. The local character would be protected as sought in Policy E9 of the Haywards Heath Neighbourhood Plan, meeting the criteria in that policy and those in Policy H8 of the same Plan. The requirements of Local Plan Policies B1 and H3 would be accorded with, and the proposal meets the standard sought in the National Planning Policy Framework with regard to the standard of design.
8. There is emerging policy in the Mid Sussex District Plan 2014 – 2031 but as this is subject to significant modifications, limited weight attaches and the saved policies of the Local Plan along with the Neighbourhood Plan provide the framework for determining this Appeal.
9. In conclusion on this main issue, the proposal should be regarded as sustainable development, being in an accessible location, making better use of urban land and adding to the supply of housing. In this last respect, it is noted that the Council are unable to demonstrate a 5 year supply of housing land, and whilst not relied upon, since the proposal accords with Development Plan policies, and Policy H3 is not out of date, as confirmed by the previous Inspector, this failure adds weight the argument in favour of allowing the appeal.

Other Considerations

10. Whilst there is reference to an extension to number 12, and this could move the regular use of that garden further from the house, the relationship would not be harmful in planning terms, as determined by the Council. The nearest window to bedroom 1 is shown on the drawings as being obscure glazing, but the suggested condition from the Council does not refer to that, being concerned only with the *en-suite* facilities to that bedroom. It would be

reasonable to allow clear glass above 1.7m and the ability to open the window above that floor height, and a condition could be used to that effect.

11. The proposed house would be to the north-east of the garden to number 12 and lower even numbers, and south-east of those to numbers 14 and 16. The effect on sunlight and daylight would be acceptable, due to the separation distances to the latter pair, and there would be no adverse effect on dwellings elsewhere.
12. The previous Inspector referred to the concerns expressed by local people over parking, among other matters, but did not comment further in view of the conclusions of his main issues that the proposed 2 houses would be unacceptable for other reasons. There was some pressure on parking, seen at the site inspection, although whether this is due to the proximity to a hospital or the town centre is unclear. The parking on Oakdale Road was on the north-west side only, and the swept path analysis for the appeal proposal shows the ability to enter the parking spaces of the new house with such parking in place. The house would provide an acceptable level of parking on-site, and would not bring about the removal of existing parking provision.
13. Reference has been made to neighbour's rights to respect for home and the peaceful enjoyment of property, a reference to Article 8 and Article 1 of the first Protocol of the Human Rights Act 1998. These are however both qualified rights where interference may be permissible where there is a clear legal basis for that interference and the action is proportionate. In this case, the Planning Acts along with the Development Plan provide for acceptable development to be permitted and the reasoning to this Decision has set out the proportionate approach to determining that the effect would be reasonable and acceptable. There would therefore be no violation of those rights.

Conditions

14. The Council suggested conditions covering hard and soft landscaping, drainage, visibility splays, car parking and cycle storage, and these are necessary to ensure the standard of development and to avoid undue effects on the highway and the character and appearance generally. As previously referred to, a condition is required to ensure the provision and retention of obscure glazing to 2 windows. The removal of permitted development rights is justified in this case, not necessarily to prevent any further works to the building, but to allow the Council to exercise control.
15. The condition seeking samples of materials needs to have an implementation clause added, but is otherwise necessary to be able to control the appearance of the development. There is however no need for an implementation clause as suggested for the condition seeking a landscaping scheme as that is contained in a subsequent condition.
16. In view of the location and comments from local residents about the construction phase and possible disruption, it is reasonable to seek a site set-up scheme, and to control working hours. Lastly, a condition is required detailing the drawings to which this permission relates, for the avoidance of doubt and in the interests of the proper planning of the area.

Conclusions

17. The findings of a previous Inspector when considering, and dismissing, an appeal for a pair of houses, carry significant weight in the present considerations. The development of a single house with changes to the amenity space and parking, among other matters, results in an acceptable scheme that provides an additional dwelling in a sustainable location, within the built-up area. Conditions are necessary and reasonable to ensure control over the quality of the development, which would satisfy the Development Plan policies previously referred to with regard to the character and appearance of the area and other matters as set out above. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

Schedule of 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: Block Plan 519/100 B 17.05.2017 Proposed Floor Plans 519/101 A 17.03.2017 Proposed Elevations 519/102 B 17.03.2017 Street Scene 519/103 C 17.05.2017 Location Plan 519/104 C 17.05.2017.
- 3) No development shall be carried out unless and until samples of materials and finishes to be used for the external walls and roofs of the proposed dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using only the approved materials.
- 4) No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development and details of the boundary treatments and hard surfaces.
- 5) Hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development 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 the Local Planning Authority gives written consent to any variation.
- 6) The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of

disposal have been submitted to and approved in writing by the local planning authority. The building shall not be occupied until all the approved drainage works have been carried out in accordance with the approved details.

- 7) No work for the implementation of the development hereby permitted shall be undertaken on the site on Public and Bank Holidays or on Sundays, or at any other time except between the hours of 0800 and 1800 on Mondays to Fridays and between 0900 and 1300 on Saturdays.
- 8) No part of the development shall be first occupied until provision has been made within the site in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority to prevent surface water draining onto the public highway.
- 9) No part of the development shall be first occupied until pedestrian visibility splays of 2m by 2m have been provided either side of the proposed site vehicular access onto Oakdale Road in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. These visibility splays shall thereafter be kept free of all obstructions over a height of 0.6m above adjoining carriageway level or as otherwise agreed.
- 10) No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.
- 11) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.
- 12) No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for all temporary contractor's buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.
- 13) The first floor side window serving the *en-suite* to bedroom 1 and the rear facing window to bedroom 1 shall be fitted with obscured glass up to a level of 1.7m off the finished floor level of those rooms. The windows shall be non-opening unless the parts of the window which can be opened are more than 1.7m above that floor level.
- 14) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended in the future, no enlargement, improvement or other alteration of the dwelling house, whether or not consisting of an addition or alteration to its roof, nor any other alteration to its roof, shall be carried out, (nor shall any building or enclosure, swimming or other pool be provided within the curtilage of the dwelling house) without the specific grant of planning permission from the Local Planning Authority.