



Appeal Decision

Site visit made on 11 July 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2019

Appeal Ref: APP/U1430/W/19/3227046

155 Peartree Lane, Bexhill-on-Sea, TN39 4NR.

- 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 & Mrs G Norris against the decision of Rother District Council.
 - The application Ref RR/2019/90/P, dated 15 January 2019, was refused by notice dated 6 March 2019.
 - The development proposed is described as erection of single storey dwelling and associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling and associated landscaping at 155 Peartree Lane, Bexhill-on-Sea, TN39 4NR in accordance with the terms of the application, Ref RR/2019/90/P, dated 15 January 2019, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Main Issues

2. The first main issue is the effect of the proposal on the character and appearance of the locality. The second main issue is the effect of the proposal on the living conditions of the occupiers of 155 Peartree Lane (No.155), 8 Beech Close (No.8) and 6 Wealden Way (No.6), with particular regard to privacy, noise and disturbance

Reasons

Character and appearance

3. Within the area where the appeal site is located are a diverse range of houses and bungalows occupying various sized plots and including a number of 'backland' developments to the rear of Peartree Lane, on both sides of the road. This together with the curved alignment of Peartree Lane; staggered building lines: mature landscaping within the gardens and the abundance of trees within the surrounding countryside, contributes to the informal and verdant suburban character and appearance of the locality.
4. The appeal site is significantly larger than most plots along this stretch of Peartree Lane. The existing dwelling is diagonally positioned in the front half of the site and has mature landscaped gardens on three sides and mature planting adjacent to its boundaries. The rear garden has two distinct levels,

which follow the slope of the land between the side boundaries and there is a slight incline that runs towards the rear of the site.

5. With the proposal the front and rear sections of the appeal site would be separated and a modest sized two bedroom bungalow would be constructed within the rear section of the appeal site. Access to the bungalow would be off the existing driveway, which would be extended, and would entail the demolition of the existing detached garage located towards the front of the appeal site. The driveway would be sited close to the adjacent side boundary of the site, which abuts a public footpath and the boundaries with the rear gardens the adjacent dwellings. Two parking spaces and a turning area would be provided at the rear of the site to serve the new dwelling and two new on-site parking spaces would be provided adjacent to the existing dwelling.
6. Collectively and amongst other things Policies OSS4 (iii) (iv) (v), BX1 (i) (ix) and EN3 (i) & (ii) of the Rother Local Plan Core Strategy 2014 (Core Strategy), seek to conserve and enhance the towns distinct and independent character, whilst providing for housing growth through development opportunities in the urban area and through the development of strategic sites. New development should be of a high quality design and should respect and contribute positively to the character of the site and its surroundings. It should be compatible with the existing uses, take account of the previous use of the site and be of a density and design appropriate to it's context.
7. With the proposal, both the proposed and existing dwellings would occupy plots that would be comparable in size to other dwellings within this part of Peartree Lane, Wealden Way and Beech Close. In addition, the rear boundary line to the retained dwelling would be comparable to that of the adjacent dwellings at 157 to 165 Peartree Lane. There would be generous sized gaps between the proposed dwelling and all of the adjacent dwellings as well as good sized gaps between the proposed dwelling and three of its site boundaries.
8. The rear garden to the proposed bungalow would exceed 10 metres in depth and the room sizes would comply with the Technical Housing Standards – nationally described space standard 2015, published by the Department for Communities and Local Government, as required by policies DHG3 and DHG7 of the Rother Development and Site Allocations Local Plan – Proposed submission 2018 (Proposed DSA).
9. The proposal would result in the loss of some shrubs and small trees within the site, including in the vicinity of the proposed driveway. However, the dense planting within the retained garden area to No.155 could be fully retained, as well as a many of the existing shrubs and trees adjacent to the proposed boundaries of the appeal property. As a result, the level of planting that could be retained/provided on-site would respect the character and appearance of the immediate and wider area.
10. The proposed dwelling would be modest in size, form and height and would respect and reflect the modest and uncluttered form and appearance of other bungalows in Peartree Lane and the surrounding area. It would be extremely well screened from the street scene by the existing dwelling at No.155 and the retained planting within the appeal site. The proposed parking area would be sited beyond the proposed dwelling and would similarly be screened from the street scene.

11. The existing crossover would be widened and this could be achieved without affecting the integrity of the existing boundary wall and fence. At the same time it would reduce the hard lines and sense of enclosure created by the existing boundary wall and fence. As a result, the proposed crossover would respect and reinforce the character and appearance of the street scene. It would also improve pedestrian visibility at the entrance to the site and ensure that there are good levels of vehicular visibility in both directions along Peartree Lane. The proposal would therefore comply with Policies DHG11 and DHG12 of the proposed DSA.
12. Any views of the appeal site from the street would be restricted to the widened vehicular crossover and would be up the driveway towards the retained trees and shrubs around the edge of the existing and proposed plots. Although one of the parking spaces to serve the existing dwelling would be clearly visible from the street scene, currently the existing garage and main parking area which serves the existing dwelling are clearly visible from the existing crossover.
13. With the proposal some of the boundary planting between the appeal site and the public footpath would be retained and could be supplemented as required. Views from the footpath would be through the shrubs towards the frontage to No.155, which would be little different to frontage views of other dwellings from the street scene. Views towards the proposed dwelling and parking area would be restricted by existing retained planting and the garden to 8 Beech Close. For these reasons I find that the proposed dwelling and associated driveway and parking area would respect and would not detract from the character and appearance of the street scene or the public footpath.
14. The Council has expressed concern that occupiers of the proposed bungalow could look to extend it, which could potentially result in the whole development appearing cramped and out of keeping with its setting. Whilst I share these concerns, as suggested by the Council, a condition which removed permitted development rights relating to enlargements, improvements, additions and alterations to the dwelling could be imposed. This would enable the Council to fully assess the impact of any such additions or alterations on the character and appearance of the locality and its impact on the living conditions of local residents. I consider that this condition would satisfactorily address the above concerns and is both necessary and reasonable.
15. Similarly, the conditions suggested by the Council relating to hard and soft landscaping and the protection of existing trees during the construction period are necessary to ensure the development respects the character and appearance of the locality. Subject to these conditions and for the reasons stated above I consider that the proposal would be readily assimilated into its surroundings.
16. I conclude on the first main issue that the proposal would respect and reflect the character and appearance of the locality. It would therefore comply with Policies OSS4 (iii) (iv) (v), BX1 (i) (ix) & EN3 (i) & (ii) of the Core Strategy and policies DHG11 & DHG12 of the proposed DSA. It would also comply with paragraphs 117, 122, 123, 124 and 127 of the National Planning Policy Framework 2019 (Framework), which, amongst other things, seek to ensure that new development is visually attractive, sympathetic to local character,

functions well, adds to the overall quality of the area and makes effective use of land

Living conditions

17. The proposed driveway would be in close proximity to the front of the retained dwelling at No.155. Despite this, the juxtaposition and distance between the driveway and the retained dwelling would be unexceptional and comparable to many houses with modest front gardens that face towards public highways and private drives. In addition, the proposal is for a modest sized two bedroom bungalow and so would be highly unlikely to generate a material level of traffic. However, the use of gravel as a surface material for the driveway could result in some noise and disturbance for the occupiers of No.155. To address this, the appellant has stated that the driveway and parking area would not need to be surfaced with gravel and that an alternative solid surface could be secured through the imposition of a condition. Subject to such a condition, the use of the proposed driveway should not result in a level of noise or disturbance that would have a materially harmful impact on the living conditions of the occupiers of No.155.
18. The proposed driveway and parking area would both be located close to the boundaries with the rear gardens to No.6 and No.8. The dwellings and gardens at No.6 and No.8 sit at a higher level to the appeal site and would be partially screened from the appeal site by existing trees and vegetation. In addition, the proposed driveway and parking spaces would be at least 10 metres from the dwelling at No.8 and even further from the dwelling at No.6. For these reasons and subject to the use of a solid surfacing material, the traffic and associated noise, fumes and disturbance likely to be generated by a modest sized two bedroom bungalow would be highly unlikely to have a materially adverse impact on the living conditions of the occupiers of No.6 and No.8.
19. The proposed bungalow would have no windows in the side elevation facing No.6 and the windows in the front elevation of the proposed bungalow would not be orientated towards the dwelling at No.8. Due to the lower ground level, boundary fencing along the side boundary of No.8 and the retention of boundary planting, the outlook from the proposed dwelling would not result in a material loss of privacy for the occupiers of No.6 or No.8. In reaching this view it is noted that no finished levels are provided for the parking area, driveway and dwelling. Having regard to the varying ground levels across the site, it is important that the finished levels of the proposed dwelling and external areas are not elevated to a point where they would have the potential to result in loss of privacy for the occupiers of No.6, No.8 or 152 Peartree Lane. I am satisfied that this is a matter that could be adequately dealt with by condition.
20. For the same reason and subject to additional screening by way of a fence or evergreen shrub planting along the boundary with the rear garden of No.6, the use of the proposed garden area, driveway and parking area should not result in a material loss of privacy for the occupiers of No.6. This additional screening could be secured through soft and hard landscaping conditions and would also serve to screen the proposed cycle and refuse storage areas.

21. I conclude on the second main issue that the proposal would not have a materially harmful impact on the living conditions of the occupiers of 155 Peartree Lane (No.155), 8 Beech Close (No.8) and 6 Wealden Way (No.6), due to loss of privacy, or noise and disturbance. Accordingly, the proposal would comply with Policies OSS4 (i) (ii) and EN3 (i) of the Core Strategy and paragraphs 122 and 124 of the Framework. Together and amongst other things they seek to ensure that new development respects its surroundings and does not unreasonably harm the living conditions of the occupiers of adjoining properties.

Other matters

22. Regarding wildlife and ecology, no protected species, habitats or tree preservation orders have been brought to my attention and a significant proportion of the trees and shrubs within the appeal site could be retained with the proposal. At the same time the intensity of the resultant development would be consistent with other dwellings in the locality. As such this is not a factor which weighs against the proposal.
23. Representations were made to the effect that the rights of an adjoining occupier, under the Human Rights Act 1998, Article 1 of the First Protocol, would be violated if the appeal were allowed. I do not consider this argument to be well-founded, because I have found that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of any neighbouring properties. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.
24. In addition to the conditions referred to above, the Council has suggested the imposition of conditions relating to the protection of trees and other planting during the construction of the proposed dwelling; and adherence to the submitted drawings. These conditions are both necessary to protect the character and appearance of the locality; in the interests of highway safety and in the interests of certainty.

Conclusion

25. Having regard to my conclusions on the main issues and all other matters I find that the proposal complies with the relevant policies in the development plan, as outlined above and amounts to sustainable development. The proposal also complies with the policies referred to in the Proposed DSA, to which, I give a moderate amount of weight. Accordingly, in accordance with paragraph 11 c) of the Framework the Appeal is allowed.

Elizabeth Lawrence

INSPECTOR

Conditions Schedule

- 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: 66/17/100, 66/17/101 Revision B, 66/17/102 Revision B and 1777-02.
- 3) The development hereby permitted shall not commence until full details, including method of construction and surfacing materials for any hard surfaces, (no dig surfaces, patios, driveway paths and parking spaces including curbs) together with a programme of works for their implementation have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed dwelling, in relation to existing ground levels have been submitted to and approved by the local planning authority. The works shall be carried out in accordance with the approved levels.
- 5) No development shall take place until the full details of all proposed boundary fencing have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until the full details of all trees, shrubs and other soft planting to be retained together with details of all proposed new soft planting have been submitted to and approved in writing by the local planning authority. The details shall include:
 - a) Proposed planting plans;
 - b) Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - c) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
 - d) An Implementation programme.
- 7) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved Retention & Protection Plan (1777-02) and in particular before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed for the site. Also:
 - a) Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered (other than as agreed in condition 4 of this decision), nor shall any excavation be made, without the written consent of the local planning authority.
 - b) No fire shall be lit within 10 metres from the outside crown spread of any tree that is to be retained.
 - c) No equipment, machinery or structure shall be attached to or supported by a retained tree.

- d) No mixing of cement or use of other contaminating materials or substances shall take place within or close enough to a root protection area that seepage or displacement could cause them to enter a root protection area.
 - e) No alterations or variations to the approved works or tree protection schemes shall be made without the prior written consent of the local planning authority.
- 8) The dwelling hereby permitted shall not be first occupied until the parking areas to serve both the retained and proposed dwellings have been provided in accordance with approved drawing 66/17/102 Revision B and the parking areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order, with or without modification), no enlargement, improvement, addition or other alteration, as defined within Classes A, B and C of Part 1 of the Schedule 2 of the Order, shall be carried out to the dwelling hereby permitted, other than in accordance with a planning permission granted by the local planning authority.