



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/19/3227379

13 Abbots Close, Battle, East Sussex, TN33 0BZ.

- 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 J Philpott against the decision of Rother District Council.
 - The application Ref RR/2018/2462/P, dated 27 September 2018, was refused by notice dated 3 January 2019.
 - The development proposed is described as demolition of existing garage. Erection of 1No. 2 bed dwelling and erection of new detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage. Erection of 1No. 2 bed dwelling and erection of new detached garage at 13 Abbots Close, Battle, East Sussex, TN33 0BZ in accordance with the terms of the application, Ref RR/2018/2462/P, dated 27 September 2018, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Preliminary matter

2. Since the planning application was refused the National Planning Policy Framework 2018 has been replaced by the National Planning Policy Framework 2019. However, as this was before the appeal was lodged all parties have had the opportunity to comment on any changes.

Main Issues

3. The first main issue is the effect of the proposal on the character and appearance of the locality. The second main issue is whether the proposal would provide satisfactory living conditions for the occupiers of the proposed dwelling with particular regard to private outdoor space.

Reasons

Character and appearance

4. The appeal site is located in an accessible residential area within the built up area of Battle. The locality in which it is situated is primarily characterised by a range of older and modern detached, semi-detached and terraced houses, whose varied sized plots slope down in a northerly direction. Some of the dwellings have open plan front gardens and others are enclosed by hedges,

walls and fences. This, together with the trees and hedges within the gardens and surrounding countryside and the narrow width of the lanes, contributes to the informal and suburban character and strong sense of enclosure in the locality.

5. The appeal property comprises a detached modern dwelling, which occupies a particularly generous sized plot. Whilst the surrounding modern dwellings have open plan front gardens, the appeal site is enclosed by a mature hedge and other planting. It also occupies a prominent position adjacent to the junction of Abbots Close and Kingsdale Close.
6. The dwellings at Nos.1–12 Abbots Close face towards the street, the existing dwelling on the appeal site is accessed off Abbots Close but sits at right angles to the road. In addition, there is a large gap between the existing dwelling on the appeal site and the dwelling at 13 Abbots Close. As a result, the existing dwelling is quite distinct from the linear form of housing that exists elsewhere in Abbots Close.
7. Amongst other things Policy OSS4 of the Rother Local Plan Core Strategy (CS) and saved Policy EN3 of the Rother Local Plan 2006 (LP) require new development to respect and contribute positively to the character and appearance of the locality. It should be of a density and design that is appropriate to its context; be compatible with the existing use of adjacent land and not unreasonably harm the living conditions of the occupiers of neighbouring properties. Consistent with this, the Framework states that new development should be sympathetic to local character, maintain a strong sense of place and add to the overall quality of the area.
8. In relation to density paragraph 70 of the Framework states that Plans should consider the case for setting out policies to resist inappropriate development of residential gardens. Paragraph 122, 123 and 127 of the Framework state that policies and decisions should support development that make efficient use of land, having regard to the desirability of maintaining an area's prevailing character and setting, including residential gardens. At the same time, plans should contain policies to optimise the use of land and the potential of sites.
9. The proposed dwelling would respect the orientation, front and rear building lines, general appearance and would sit at a slightly lower level to the existing dwelling on the appeal site. The proposed dwelling would similarly respect the form and design of other dwellings in the immediate area and would be sited a similar distance from the back edge of the pavement as other dwellings within Abbots Close.
10. The width of the gap between the existing and proposed dwellings would be narrower at first floor level than the gaps between other nearby dwellings and the density of the proposed plot would be greater than that of the nearby dwellings. However, the existing dwelling on the appeal site is not located within a row of dwellings and the gaps between dwellings within the area vary considerably. The two dwellings would sit comfortably alongside each other and both would be separated from the adjacent dwelling in Abbots Close and the street scene in Kingsdale Close by gardens. As a result, the proposal would benefit from a spacious setting and the proposed buildings would be partially screened from the street scene by existing planting within and around the appeal site.

11. The proposed crossovers and associated driveways would be comparable in width and form to other crossovers and driveways within the road and in the locality in general. Although the proposed crossover would involve the loss of some of the existing hedge, as shown on drawing No. 1819/01 Revision C, the majority of the hedge would be retained and would continue to make a valuable contribution to the character and appearance of the locality.
12. The design of the proposed replacement garage to serve the retained dwelling would respect and be subservient to the host dwelling and other dwellings in the immediate area. Although the proposed garage would occupy a prominent position adjacent to the road junction, it would be set into the slope of the land and the lower part of the garage would be screened by the existing boundary hedge. The upper part and roof of the proposed garage would be seen against the backcloth of trees within the appeal site and the existing and proposed dwellings.
13. For these reasons the proposed development would blend in with the overall character and appearance of the street scene and the area. It would optimise the potential of the appeal site and make a modest contribution to the supply of homes in the District.
14. I conclude on the first main issue that the proposal would be readily assimilated into the street scene and would respect the character and appearance of the locality. It would therefore comply with Policy OSS4 of the CS and Policy EN3 of the LP. It would also comply with paragraphs 70, 122, 123 and 127 of the Framework.

Living conditions

15. The rear garden to the proposed house would be irregularly shaped and would vary in depth, with a maximum depth of some 7 metres. However, the appellant has pointed out that the private garden exceeds 11 metres at its widest point and would extend to some 113 square metres. The private garden area would wrap around two sides of the dwelling and would benefit from good levels of sunlight. At the same time the proposed dwelling is modest in size and would have just two bedrooms.
16. As a result of these factors, although the proposed garden would not be 10 metres in depth, it would be appropriate and proportionate in size, form and function in relation to the site and its surroundings. As such, it complies with policy OSS4 (i) which requires new developments to meet the needs of future occupiers, including appropriate amenities. The proposal would also comply with the objectives of Policy DHG7 of the Development and Site Allocations Local Plan – Proposed submission 2018, (DSALP – PS), which advocates an integrated approach to the provision, layout and treatment of external areas to dwellings in accordance with relevant Core Strategy policies. It goes on to state that appropriate and proportionate usable private garden areas should be provided. Also, that normally rear gardens should be 10 metres in depth.
17. In applying Policy DHG7 (i) it is noted that 10 metre minimum rear gardens are not required in every instance. Also, objections have been raised to this part of Policy DHG7 and that the Inspector dealing with the DSALP – PS Examination has specifically asked whether the requirement for a minimum rear garden length of 10 metres is justified by the evidence and if it would be effective in

securing the objectives of the CS. In view of this I give only a modest amount of weight to this part of policy DHG7 in relation to this appeal.

18. I conclude on the second main issue that the proposal would provide satisfactory living conditions for its occupiers, including an adequate and proportionate area of private garden area. It would comply with Policy OSS4 (i) of the CS and the objectives of Policy DHG7 of the DSALP-PS.

Other matters

19. Concern has been expressed that the proposal would add to the level of traffic and compound the demand for on-street parking within the area, due both to the addition of a further dwelling and the loss of on-street parking in Abbots Close. However, the proposal is for a small dwelling and its occupation would be highly unlikely to have a noticeable impact on traffic levels in the locality. Two off-site parking spaces would be provided to serve the new dwelling and on-site parking for at least 3 cars would be provided for the retained dwelling. Whilst it is noted that the proposal would result in the loss of an area that could be used for on-site parking, the appellant has confirmed that Abbots Close is privately owned and that the appellants own the area of road affected by the proposal. The occupiers of the existing and proposed dwellings would still be able to park across the entrance to their driveways if found necessary.
20. As a result of these factors I find that the proposal would not have a material impact on the free flow of traffic and the availability of on-street parking in the locality.
21. The Council has suggested the imposition of conditions relating to external materials, the provision of the proposed parking areas and adherence to the submitted drawings. These conditions are necessary to ensure the development respects the character and appearance of the locality, in the interests of highway safety and convenience and in the interests of certainty.
22. I also consider that conditions are necessary in relation to ground levels and ground floor levels and the protection of the existing hedges and trees within the appeal site that are to be retained. This is to ensure that the development respects the character and appearance of the locality.

Conclusion

23. Having regard to the conclusions on the main issues and all other matters, I find that the proposal amounts to sustainable development and in accordance with paragraph 11 c) of the Framework the appeal is allowed.

Elizabeth Lawrence

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: 1819/01 Revision C and 1819/02.
- 3) No development above ground level shall take place until details/samples of the materials to be used in the construction of the external surfaces of the dwelling, replacement garage, and the driveway/hard-standing hereby permitted 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.
- 4) Prior to the first occupation of the dwelling hereby permitted, the parking and turning arrangements for vehicles shall be provided in accordance with drawing no. 1819/01 Revision C. Thereafter those areas shall be retained for that use only.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed dwelling and garage, 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.
- 6) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees, hedges and shrubs on the land within 20 metres of the proposed dwelling, garage and hard-standings, identify those to be retained and set out measures for their protection throughout the course of the development.