



Appeal Decision

Site visit made on 19 June 2019

by N Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/D3830/W/19/3224719
8 Blackstone Way, Burgess Hill, RH15 8SF

- 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 Gordon Andrews against the decision of Mid Sussex District Council.
 - The application Ref DM/18/3602, dated 30 August 2018, was refused by notice dated 24 October 2018.
 - The development proposed is new one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the effect of the development on living conditions for occupiers at neighbouring properties would be acceptable, with regard to outlook and enclosure; and
 - Whether the effect of the development on the character and appearance of the area would be acceptable.

Reasons

Living conditions

3. The appeal proposal would see the removal of a single storey double detached garage from the site and its replacement with a two storey dwelling. The proposed house would be built in close proximity to the boundary with its neighbour to the west and would be very prominent from rear facing windows and the fairly narrow rear garden of that property.
4. Despite a change in levels between the two sites, and the hipped roof design of the appeal scheme, it was clear to me on my visit that the dwelling would represent a significant built presence at the end of the neighbouring garden. Given its height and proximity and when taken together with the modest depth of the neighbouring garden, it would result in an overbearing and enclosing impact from rear facing windows at the bungalow, and particularly from the garden. The resulting harm would result in a material and unacceptable reduction in living conditions for occupiers at that property. Whilst I note that

no objection was received from residents there, that does not mean that the impacts would be acceptable.

5. The appellant has highlighted that in some ways, the relationship between the two sites would be improved because the existing garage would be removed. I do not, however, think that the impacts are properly comparable because the garage is single, rather than two storey and is located in the southwest corner of the site, rather than at around the centre point of the neighbouring garden. The appellant describes that outlook for some windows that currently directly face the garage may be improved, but views from those windows would clearly be impacted by the proposal, which would be significantly taller than the garage, albeit in a different location.
6. I note that the addition of the dwelling to the side of No 8 could have a positive effect in terms of overlooking because no windows are proposed in the side wall, but that does render the overall effects on living conditions acceptable. I also note that a line taken at a 45-degree angle from the centre point of rear facing windows would not be intercepted by the proposed house, but such assessments are an indicator, rather than the final word on the acceptability of a relationship between sites. In any event, no such analysis is provided of the impacts on the rear garden, which I consider would be significant.
7. The appellant has described that the neighbouring property is used as sheltered accommodation, where residents have access to other facilities nearby. Be that as it may, I do not think that residents living in such accommodation are necessarily less likely to spend time at home or in their garden than those who live in other types of housing. In any event, that a resident might use their home and garden less frequently should not justify a development that would cause the types and scale of harm that I have described.
8. Whilst the site is in an urban area, there is nothing before me to demonstrate that such relationships are a typical characteristic of this area and I saw no such examples on my visit.
9. For the reasons that I have described, the proposal would cause harm to living conditions for occupiers at the neighbouring property through a loss of outlook and a sense of enclosure, contrary to Policy DP26 of the Mid Sussex District Plan 2018 (MSDP) and Policy H2 of the Burgess Hill Neighbourhood Plan 2015 (BHNP), in so far as they require development to protect the living conditions of neighbours.

Character and appearance

10. The Council's primary concern is that the appeal scheme would result in the closure of visual gap between buildings that it sees as important, with the result being a cramped appearance. On my visit, I noted a number of open areas at the end of terraces around the appeal site that I thought contributed to the overall character of the area.
11. The appeal site is different to those open areas because it is located away from the road, in an area where there is limited public visibility. The site is in a more discreet location than other gaps between buildings and does not provide the same visual function. Views from Blackstone Way would include the space between the side of the proposed dwelling and the rear wall of the neighbour to

the west. The area to the south of the site appears to be semi-private and used for the parking of cars and to the north, views across the site from a footpath are screened to a large degree by mature trees.

12. There would be some space left around the building on the plot and the open space to the north would provide for a sense of openness around the site. Notwithstanding my concerns over the relationship between the proposed house and the neighbour to the west in terms of living conditions, there would be an area of garden between them, which would ensure a satisfactory visual relationship in the context of the location of the site and the limited views of it.
13. Overall, I am satisfied that the proposal would be compatible with the character and appearance of the area and that the development would not appear cramped, in accordance with Policy DP26 of the MSDP and Policy H2 of the BHNP, in so far as they require development to be of an appropriate character and design.

Other Matters

14. The Council has advised me that it does not consider that the appeal development would have a significant combination effect on the Ashdown Forest Special Area of Conservation. The appellant agrees with that assessment. Given the nature, scale and location on the proposal, I too am satisfied that this would be the case.
15. In reaching this decision I have paid careful attention to the benefits associated with the proposal, including providing a small, lower cost home, for which the appellant has articulated a need in the area, on a small site and in a sustainable location in a 'Category 1 Settlement'. I have also given positive weight in favour of the proposal to the acceptable design of the building. These factors do not, however, outweigh the harm that I have identified to living conditions of neighbours of the site, and I find that there would be a conflict with the Development Plan as a whole.

Conclusions

16. Accordingly, the appeal is dismissed.

N Smith

INSPECTOR