



Appeal Decision

Site visit made on 28 May 2019

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Appeal Ref: APP/U1430/W/19/3225293 55A Barnhorn Road, Bexhill TN39 4QB

- 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 Mrs Lisa Partridge against the decision of Rother District Council.
 - The application Ref RR/2018/2201/P, dated 31 August 2018, was refused by notice dated 25 October 2018.
 - The development proposed is a proposed new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including its effect on a protected oak tree; and
 - The effect of the proposed development on the living conditions of existing and future residents, with reference to overlooking, loss of privacy and outlook.

Reasons

Character and appearance and effect on the protected oak tree

3. The site is located to the south of Barnhorn Road (A259). It is accessed down a long existing drive between Nos 57 and 53 Barnhorn Road which also serves 55A and 55B. Properties in the immediate area are mainly two storey dwellings of a variety of styles and sizes. The properties to either side of the access are large detached dwellings set within generous and elongated plots.
4. The land slopes down from the main road towards the open countryside to the rear of the site. An oak tree protected by a tree Preservation Order (TPO) No. 175 (1998) lies to the south of the proposed dwelling.
5. Immediately to the west of the appeal site is No 55B, a large detached dwelling which is still under construction. Slightly further to the west is No 55A another large detached dwelling. Both dwellings are sited fairly centrally within their plots and have a spacious open aspect. Views to the open countryside beyond add to this sense of space. Although the garden for No 55B is not yet formally defined, these two existing substantial dwellings appear to sit appropriately

within this pleasant back land space. They therefore make a positive contribution to the character and appearance of the area.

6. The proposed scheme would introduce a third substantial detached dwelling into this space. The dwelling would be part single and part two storey and would be sited some 1.5 metres from the rear boundaries of Nos 49 to 53 Barnhorn Road.
7. The central two storey section would have a ridge height of approximately 26.63 metres, it would then step down to some 24.59 metres to the garage to the west, and approximately 23.17 metres, to the eastern single storey element. Although this design would give it a stepped appearance, it is nonetheless some 31 metres long and would almost extend right across the rear boundaries of the adjacent properties. Overall the scale, height and siting of the proposed dwelling, would make it appear incongruous, when compared with Nos 55A and 55B.
8. The existing two properties sit comfortably with each other, within this generous space. However, the constraints of the other dwellings and the protected oak tree, means that the amenity space for the new dwelling, has to be provided to the front, with the rear of the building sited very close to the boundary. This relationship would appear awkward, resulting in the proposed development appearing as an afterthought, rather than as an integral part of a larger and more cohesive scheme.
9. The protected oak tree is located some 13 metres to the south of the proposed dwelling. From my site visit, I could see that it has been subject to significant pruning works. Nonetheless, it appears to be an attractive mature specimen that still makes a valuable contribution to the visual amenity of the area, as recognised by its inclusion in the TPO.
10. Section 197 of the Town and Country Planning Act 1990, places a duty on decision makers to ensure, whenever it is appropriate, that in granting planning permission for any development, adequate provision is made, by the imposition of conditions, for the preservation and planting of trees. This applies equally at the appeal stage.
11. The Appellant provided an arboricultural report (RW Green Limited) where the trees on site were surveyed and assessed. They conclude that there is limited potential for the tree to recover and reach its full potential in the future. The Council however consider that the tree could recover if allowed to and could grow much larger in the future. Whether or not the tree increases in size, the close proximity of the tree to the proposed dwelling, in this relatively constrained plot, is likely to lead to future pressure to lop, top, or fell the tree.
12. Whilst I accept that this would need permission, given the continued significance of the tree, and its position relative to the garden of the proposed dwelling, I find that the potential for overshadowing, safety and maintenance would be likely to lead to pressure to cut back or remove the tree in the longer term. The loss or work detrimental to the appearance of the tree, would further harm the character and appearance of the area.
13. Overall, I conclude that the scale, height and siting of the proposed dwelling would be overly dominant and an incongruous form of development. The subdivision of the land to provide garden space, would further result in the

dwelling appearing overly cramped in the context of the site. Moreover, pressure to carry out works, or fell the protected tree would, further result in harm to the character and appearance of the area. It would therefore conflict with Policies OSS4, EN3 and EN5 of the Rother Local Plan Core Strategy (2014). These policies seek to ensure that all new development contributes positively to, and does not detract from, the character of the site and surroundings.

Living conditions

14. The rear gardens of Nos 51, and 55 Barnhorn Road, currently have a relatively open aspect to the rear. There is an existing timber outbuilding sited to the rear boundary to No 53, which would be removed as part of this scheme.
15. The proposed new dwelling would extend almost across the full width of the rear boundaries to Nos 51, through to No 55, in very close proximity to their respective rear boundaries. It would therefore appear as an extended largely blank wall. Accordingly, I find that the extensive side elevation and roof of the proposed dwelling, within such close proximity to the rear gardens would appear uncompromising and overbearing. Accordingly, this would lead to a greater loss of outlook than currently exists. I acknowledge that planting is proposed between the new dwelling and the boundary. However, whilst a condition could be imposed to protect such screening for several years, there is no guarantee that it would remain permanently. Moreover, screening does not adequately mitigate the harm identified to the outlook for these properties.
16. The proposed dwelling would be almost 15 metres from the property at No 55B which is set at a slight angle within the site. This might mitigate some of the direct views between the buildings. However, people do not necessarily look only in one direction, so the relationship between the dwellings means that there would still be the potential for loss of privacy for both properties. The topography of the site means that the proposed dwelling would be set at a higher level to No 55B. This means that any loss of privacy would be more noticeable at first floor level.
17. From my site visit I saw that the first floor windows that would potentially be affected, serve two secondary bedrooms and a bathroom. I acknowledge that the main bedrooms are located to the rear of the property. Nonetheless, the proximity of the proposed dwelling to these windows, would lead to a loss of privacy to the future occupiers of No 55B and the proposed dwelling.
18. The main useable garden for the proposed dwelling would be to the south and in the area close to the protected oak tree. It is recognised that additional hedge planting is to be provided to provide some privacy. However, even with planting, the close relationship with No 55B would mean that most of this amenity space would be still subject to overlooking from first floor windows, with a resultant lack of privacy.
19. I therefore find that the proposed development would harm the living conditions of existing and future occupiers in respect of privacy and outlook. The proposed development is therefore in conflict with policy OSS4 of the Rother Local Plan Core Strategy (2014). This policy requires that all new development must not unreasonably harm the amenities of adjoining properties.

Other matters

20. My attention has been drawn to other similar examples of dwellings and extensions in the area. These are at 26 Barnhorn Road, 63-65 Cooden Sea Road and 214 Cooden Sea Road. However, I have insufficient evidence before me to confirm the full planning history or circumstances for any of these sites. In any event, I have to determine this appeal on its own planning merits, and their presence would not justify granting this appeal.
21. I recognise the benefits of providing accommodation for elderly relatives or a home that would be appropriate for all stages of life. Nonetheless, this is not sufficient to outweigh the harm I have already identified.

Conclusion

22. Overall, I conclude that the proposed development would cause unacceptable and significant harm to the character and appearance of the area and would harm the living conditions of the occupiers of Nos 51, 53, 55 and 55B Barnhorn Road and the future occupiers of the new dwelling.
23. The proposal would make a limited contribution to the supply of housing. However, the benefit of providing one dwelling is limited and would not outweigh the significant harm I have already identified. Therefore, the appeal should be dismissed.

Hilary Orr

INSPECTOR