



Appeal Decision

Site visit made on 30 July 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: Friday, 30 August 2019

Appeal Ref: APP/P1425/W/19/3229364

45 Cliff Gardens, Telscombe Cliffs BN10 7BX

- 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 S Fenn against the decision of Lewes District Council.
 - The application Ref LW/19/0065, dated 7 February 2019, was refused by notice dated 18 March 2019.
 - The development proposed is erection of a one bed house.
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Decision

1. The appeal is allowed and planning permission granted for the erection of a one bed house at 45 Cliff Gardens, Telscombe BN10 7BX in accordance with the terms of the application, Ref LW/19/0065, dated 7 February 2019, subject to the conditions set out in the attached schedule.

Procedural Matter

2. Whilst not referenced in the reasons for refusal the Council's officer report states that the development "*would create a significant adverse impact to the visual amenity of the neighbouring properties*". I have interpreted this as relating to the effect of the development on the character and appearance of the area and have therefore included this as a main issue. In regard to this issue, I have taken the Council's officer report and the appellant's comments in relation to character and appearance into account as part of the determination of this appeal.

Main Issues

3. The Council's refusal notice refers to the effect of the development on highway safety. It also refers to the effect of the development on the "*residential amenity of the neighbouring properties and future occupiers*". In respect of the latter issue, it is clear from reading the Council's officer report that this relates to the privacy of the occupiers of neighbouring properties in Cliff Gardens, noise and disturbance for future occupiers and occupiers of neighbouring properties, and the provision of outside private space for future occupiers of the proposed dwelling.
4. Therefore, the main issues are:
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties in Cliff Gardens with regard to privacy, the living conditions of the occupiers of neighbouring properties and occupiers of the

proposed dwelling with regard to noise and disturbance, and whether adequate living conditions would be provided for future occupiers of the proposed dwelling in terms of outside private space;

- The effect of the proposed parking arrangement on highway safety in Grassmere Avenue; and
- The effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

5. No 45 Cliff Gardens is a semi-detached two-storey dwelling located on the corner of Cliff Gardens and Grassmere Avenue within a quiet residential area of the town. The proposed three-storey dwelling would be positioned in the rear garden of No 45 with its front elevation facing towards Grassmere Avenue. The dwelling would be set on ground approximately 0.5 metre lower than the existing ground level and approximately 1.0 metre away from the boundary with No 43 Cliff Gardens. The windows above ground floor level on the rear (south) elevation of the proposed dwelling would look towards the rear elevation windows of Nos 43 and 41a Cliff Gardens, although the view would be oblique due to the offset position of the proposed dwelling relative to these properties. Notwithstanding that the view would be oblique the appellant has agreed to a condition for all windows above ground floor level on the rear elevation of the proposed dwelling to be obscurely glazed. Thus, the proposal would not significantly alter the level of privacy currently experienced by the occupiers of Nos 43 and 41a Cliff Gardens.
6. The proposed dwelling would be approximately 1.0 metre from the close board fence forming the boundary with No 21 Grassmere Avenue. Moreover, the car parking area would be in front of the proposed dwelling adjacent to the pavement. Taking into account the position of the proposed dwelling and parking area relative to No 21 and the host dwelling (No 45), any noise or disturbance associated with a single dwelling and its car parking area would not be so significant so as to be harmful given the residential surroundings of the site.
7. The development would sub-divide the garden area of the host property, leaving it with a smaller rear garden and its existing front garden adjacent to the car parking area. Excluding the parking and bin storage area the garden area of the proposed dwelling would be approximately 78 square metres. Although it would be positioned in front of the proposed dwelling, the existing fence along the boundary with Grassmere Avenue would be extended within the plot to enclose the garden area, thereby forming a private outside space of reasonable size, commensurate with the modest size of the proposed dwelling. Thus, I consider adequate outside private space would be provided for future occupiers of the proposed dwelling.
8. Taking all these matters into account, I therefore conclude that no material harm would be caused to the living conditions of the occupiers of neighbouring properties in Cliff Gardens in respect of privacy or the living conditions of future occupiers and occupiers of neighbouring properties in respect of noise and

disturbance. Furthermore, I consider adequate provision of outside private space would be provided for future occupiers of the proposed dwelling.

9. Consequently, I conclude that the proposal would accord with Policies ST3 and ST4 of the Lewes District Local Plan 2003 (LDLP) which, amongst other things, set out to ensure proposals avoid harmful effects upon the living conditions of the occupiers of existing and proposed development.

Highway Safety

10. The proposal would form an opening in the existing fence along the boundary with Grassmere Avenue to provide access to a single car parking area in front of the proposed dwelling. The full width of the pavement and grass verge is approximately 6 metres adjacent to the proposed car parking area: the submitted plan shows a proposed new access drive would be formed across the pavement and grass verge to the street. Therefore, drivers pulling out from the car parking area across the proposed drive and onto the highway would have adequate visibility of oncoming vehicles on Grassmere Avenue to emerge safely.
11. The fence would restrict the drivers' view of pedestrians using the pavement. However, taking into consideration that the pavement is aligned forward of the boundary fence by approximately 1.0 metre, the width of the proposed new access drive crossing the pavement and verge, and the low pedestrian activity in Grassmere Avenue in the vicinity of the site, I do not consider the restricted visibility would lead to unacceptable highway safety impacts.
12. For the reasons outlined above, I conclude that the proposed parking arrangement would not have an unacceptably harmful effect on highway safety. Consequently, the proposal would accord with Policy ST4 of the LDLP which, amongst other things, seeks to ensure that development provides safe and convenient vehicular access. The Council has made reference to Policy ST3 of LDLP in terms of this main issue. However, this is not directly relevant to highway safety issues.

Character and appearance

13. The area is characterised by detached, semi-detached and terraced properties of varying sizes, a mix of single-storey, one-and-a-half storey and two-storey dwellings, of varying architectural styles and constructed of a mixed pallet of external materials.
14. The proposed dwelling would be a detached three-storey dwelling. However, due to the gradient across the site and the proposed lowering of ground levels by approximately 0.5 metre where the dwelling would be positioned, the roof height of the proposed dwelling would be lower than the host dwelling and not exceed that of No 21. Thus, notwithstanding that the front elevation of the proposed dwelling would be forward of the side elevation of the host dwelling and the front elevation of No 21, it would not appear as a discordant feature when viewed from the street.
15. It would be a narrow dwelling and would differ in design and appearance to neighbouring properties. However, taking into account the wide variety of architectural styles and mixed pallet of external materials of properties in the area, overall, the design and scale of the proposed dwelling would not be incongruous when viewed from public areas.

16. For the above reasons, I conclude that the proposal would not cause harm to the character and appearance of the area. Therefore, the proposed development would accord with Policies ST3 and ST4 of the LDLP which, amongst other things, set out to ensure that the design of proposals respect the character and appearance of existing development in the surrounding area.

Other Matters

17. Concern has been raised by a third party that the side elevation dormer windows, which would serve the second floor bedroom of the proposed dwelling, would overlook their side elevation bathroom window. However, the dormer windows would be obscurely glazed and no part of those windows that are less than 1.7 metres above the floor would be capable of being opened, thereby ensuring no significant loss of privacy for the occupiers of the neighbouring dwelling.
18. Other matters raised by third parties include concerns about parking on the street and traffic generation. However, there is no evidence that kerbside parking in Cliff Gardens and Grassmere Avenue is particularly difficult. Furthermore, the proposed single dwelling would be likely to result in only a modest increase in overall traffic movements.
19. I acknowledge the comments raised by third parties regarding the effect of the proposal on the living conditions of the occupiers of neighbouring properties with regard to light and outlook. However, in view of the position of the proposed dwelling relative to neighbouring properties, I do not consider it would have a harmful impact on the living conditions of the occupiers of those properties, having regard to light and outlook.
20. A third party has raised concern that the proposal would result in a loss of view from their landing window to fields beyond Grassmere Avenue. However, the private view from a window is not in itself regarded as a planning matter.
21. I note comments raised by a third party about the possible alternative use of rooms such that the proposal could be a three-bedroom dwelling. However, the proposal is for a one bedroom dwelling and I have determined the appeal on this basis. There is no evidence before me to indicate that it is the appellant's intention to have more bedrooms in the future. Furthermore, use of the property as two separate flats would require planning permission.
22. None of the other matters raised alter or outweigh my overall conclusion that the appeal should be allowed.

Conditions

23. I have considered the Council's suggested planning conditions and where necessary I have amended the wording in the interests of precision and clarity. The appellant was given the opportunity to comment on the Council's suggested planning conditions.
24. I have not imposed the Council's suggested condition removing permitted development rights as a compelling case for its necessity has not been presented to me. I have combined the Council's two suggested conditions in regard to surface water and roof water run-off because the reason for imposing these two necessary conditions is the same, namely to reduce flood risk.

25. Planning permission is granted subject to the standard three-year time limit condition. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of certainty.
26. In the interests of the character and appearance of the area, it is necessary to impose planning conditions relating to materials and the storage and recycling of domestic waste. It is not necessary for the latter condition to be a pre-commencement condition and in this regard, I have made amendments to this suggested condition.
27. In the interests of environmental sustainability, conditions are necessary in respect of ensuring that the development incorporates mitigation and adaption measures to reduce the causes of climate change and in terms of the provision of an electric car charging point.
28. To protect the privacy of the occupiers of adjoining properties, a condition is necessary in respect of the provision of obscured glazing for some windows.

Conclusion

29. For the reasons set out above I conclude that the appeal should be allowed.

Andrew Bremford

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: 1:1250 scale 'Site Location Plan'; 1:500 scale 'Block Plan'; 'Proposed Ground Floor Plan' 02; 'Proposed First Floor Plan, Second Floor Plan and Roof Plan' 03; 'Proposed Elevations as seen from Cliff Gardens and within the Site' 05; 'Proposed Side and Rear Elevations' 08; and 'Proposed Street View' 06.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan Nos 05, 06 and 08.
- 4) No development above ground floor slab level shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
- 5) No development above ground floor slab level shall take place until details of how the development will incorporate measures to reduce carbon energy use, facilitate renewable energy installations, and lower household water consumption have been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented and thereafter retained in operation.
- 6) Details of the siting and design of an external electric car charging point to be provided, shall be submitted to and approved in writing by the Local Authority prior to installation. The works hereby permitted shall be carried out in accordance with the approved details prior to first occupation.
- 7) The development hereby permitted shall not be occupied until the windows above ground floor level on the eastern side and rear elevations have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 8) The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct surface water run-off from the hard surface to a permeable or porous area or surface within the curtilage of the property. All water run-off from the new roof shall be dealt with using rainwater goods installed at the new property and no surface water shall be discharged onto any adjoining property, nor shall the rainwater goods or downpipes encroach on the neighbouring property and thereafter shall be retained as such.