The Planning Inspectorate

Appeal Decision

Site visit made on 27 August 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Appeal Ref: APP/D3830/W/19/3224139
Westwick, 45 Lewes Road, Haywards Heath, RH17 7SY

- 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 David William and Lucie Anne Baker against the decision of Mid Sussex District Council.
- The application Ref DM/18/3856, dated 17 September 2018, was refused by notice dated 21 December 2018.
- The development proposed is demolition of existing side garage and construction of a single new dwelling with associated landscaping works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council did not submit an appeal statement. I have considered the appeal based on the decision notice, the officer report and consultation responses, all of which the appellant has had the opportunity of responding to in the course of the appeal.

3. I was able to obtain access to view the site of the proposed development from a neighbouring property on Orchid Park, in the course of my site visit.

Main Issues

4. The effect of the proposal on

   i) The character and appearance of the area, with particular regard to whether the proposal would preserve or enhance the character or appearance of the Lewes Road Conservation Area;

   ii) surface water drainage on and around the site;

   iii) Trees on and around the site; and

   iv) Biodiversity on and around the site.

Reasons

Character and Appearance

5. The site falls within the Lewes Road Conservation Area. This is characterised by low-density built development, generally set in spacious grounds. These buildings, which largely front on to the Lewes Road, are of a variety of ages

and styles. Accordingly, the special character and significance of this Conservation Area is principally derived from the extent of visual space between and around buildings, and the set back of the houses from the road.

6. As a consequence of the large footprint of the proposed building, it would occupy a substantial proportion of its assigned plot. Once the parking and turning area have been discounted, comparatively little space would be provided for a garden. In these respects, the density of built development and associated hardstanding on the new plot would be noticeably greater than other buildings in this part of the Conservation Area, which tend to have considerably larger gardens.

7. Furthermore, a substantial part of the building would rise to two storeys in height and would be set close to the northern boundary of the site, within close proximity to existing residential properties along Orchid Park. Whilst it would be set partially into the ground, because of its width and height, the new building would nonetheless have a monotonous and visually intrusive presence when viewed from these neighbouring properties. The resultant harm to the appearance of the area could not be effectively addressed by a requirement to retain the existing high hedge. Such a planning condition, requiring the maintenance of a natural feature at a specific height, would be unreasonable to impose on future occupants of the new building. It would also be prohibitively difficult for the Council to enforce.

8. In other respects, the new plot would be set significantly back from the rear of the existing residential property at 45 Lewes Road, which would retain a well sized residual garden area, comparable in depth and width to other comparable residential properties along the Lewes Road. The sub-division of this large site would have few visual manifestations in public views to the front of the property, with the new driveway being discreetly located to the side of the existing building. The contemporary appearance of the new building, including the use of render and cladding, would not significantly detract from the Conservation Area given the variety of building styles apparent within it. The harm arises from the bulk, scale, mass and siting of the building in relation to its localised surroundings. This would result in a cramped development, which detracts from the spacious character and appearance of the Lewes Road Conservation Area.

9. The proposal involves the removal of the existing garage to the side of the host property, to make way for an access road to the new dwelling. This garage appeared to be of no architectural merit, and its removal would increase the gap between the main property at 45 Lewes Road and its immediate neighbour. In this respect the spacious character and appearance of the Conservation Area would be slightly enhanced. However, this does not outweigh the more significant harm that would arise to the Conservation Area, due to the incongruous appearance of the proposed building in relation to its new plot.

10. I observed that there are other recent backland developments along the Lewes Road. However, these appear to achieve a much better quality of development than would occur here. In this case there would be unacceptable harm to the character and appearance of the area and the proposal would conflict with policies DP26 of the Mid Sussex District Plan 2014-2031 Adopted March 2018 ("District Plan") and Policy E9 of the Haywards Heath Town Council

Neighbourhood Plan (December 2016) ("Neighbourhood Plan"). These policies seek to, amongst other things, ensure that new development is of a high-quality design. The harm to the Conservation Area would be less than substantial. The National Planning Policy Framework ("The Framework") requires that this harm should be weighed against the public benefits of the proposal. I will return to this matter in the planning balance section.

Drainage

11. The application states that rainwater would drain to a soakaway. However, this is not supported by data relating to ground conditions, including infiltration rates. In the absence of such evidence there is a risk that the soakaway would be ineffective. Whilst there is no significant history of flooding associated with the site, it is important to ensure that provision is made for appropriate drainage. This is to achieve an acceptable standard of development and to prevent the risk of surface water flooding.

12. It would not be reasonable to deal with this matter through a planning condition as the findings of any investigation into infiltration rates could necessitate considerable changes to the drainage strategy and the design of the wider development, potentially making it undeliverable in its current form. Such a condition would therefore fail to meet the policy tests for the use of planning conditions, set out in the Framework and Planning Practice Guidance[1].

13. Accordingly, I am not confident the proposed system of surface water management is achievable. The proposal therefore conflicts with policy DP41 of the District Plan which seeks to ensure that, amongst other things, development does not increase the risk of flooding.

14. The second reason for refusal also raises concern about the system of foul drainage proposed. However, the proposal is to connect the site to the mains sewer, and the evidence before me indicates this would be achievable. The method of foul drainage disposal is therefore appropriate.

Trees

15. The development would not involve the felling of any trees of significant quality. The substantial hedge along the northern boundary of the site primarily appears as a landscaping feature. Its possible future loss would make the development more visible from Orchid Park but would not significantly detract from the verdant character of the site and surrounding area.

16. This is a built-up area where existing trees, which benefit from a degree of protection given the location of the site within a Conservation Area, sit amongst residential development. In these circumstances there is a reasonable expectation that such trees will be managed and pruned back where necessary. On the basis of my site inspection I consider that the new building would be set back far enough from existing mature and protected trees on and around the site to avoid potential future pressure to fell them, were the development to go ahead. Accordingly, there would be no unacceptable harm to trees on and around the site. There is no conflict with policy DP37 of the District Plan, which amongst other things, seeks to ensure that new development supports the protection and enhancement of trees.

[1] Planning Practice Guidance: Paragraph: 005 Reference ID: 21a-005-20190723

Biodiversity

17. The Council argue that insufficient information has been provided on the impact of the development on biodiversity or features of nature conservation importance. However, it provides no supporting evidence on what features could be harmed through development on this site. Whilst interested parties make reference to wildlife in the surrounding area, including protected species, these references are not supported by detailed survey evidence. Accordingly, on the evidence before me the risk of harm to wildlife is low. Planning conditions could be used to ensure that the development resulted in biodiversity enhancement. Subject to this, the proposal would comply with policy DP38 of the District Plan which seeks to ensure that new development protects and enhances biodiversity.

Planning Balance

18. The proposal would provide one additional dwelling in an existing built up area, which would be likely to meet a demand in the local housing market. The living conditions would be good, and the proposal would make efficient use of the land in question. The new building would have a high environmental performance, including good levels of thermal insulation and the inclusion of low carbon technologies. The construction work would generate jobs and economic activity, and the development could lead to a new homes bonus, which is a local finance consideration. In these and other respects, there is support for the proposal in the Framework and other policies in the development plan.

19. These public benefits of the development weigh in its favour. However, they are insufficient to outweigh the less than substantial harm to the Lewes Road Conservation Area, and the other harm identified. Overall the proposal would fail to meet the requirement, set out in the Framework, of achieving well-designed places. I attach significant weight to the harm that would arise in consequence. The proposal could not be made acceptable through the use of planning conditions.

20. The Council previously approved a garden pavilion, to the rear of 45 Lewes Road. However, this is a materially different type of development which would not appear to involve the subdivision of the plot and the creation of a new dwelling, as now proposed. It is therefore of no significance to this decision.

21. There are objections from interested parties, raising other issues to those set out in my reasons above. However, as the appeal is failing, it is not necessary to address these.

Conclusion

22. Whilst the proposal would not lead to unacceptable harm to trees or biodiversity, there would be harm to the character and appearance of the area and a risk of flooding arising from the surface water drainage system proposed. The proposal therefore conflicts with the development plan when considered as a whole and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth INSPECTOR