



Appeal Decision

Site visit made on 4 September 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2019

Appeal Ref: APP/C3810/W/19/3231473

Land adjacent to Elm Lodge, Tamarisk Way, Ferring, BN12 5ER

- 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 and Mrs M Jenkins against the decision of Arun District Council.
 - The application Ref FG/220/18/PL, dated 17 December 2018, was refused by notice dated 30 May 2019.
 - The development proposed is erection of a detached chalet-style dwelling with integral garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of the host property and neighbouring properties, with particular reference to overbearing impact and the effects on light and privacy.

Reasons

3. The appeal site is located on the corner of Sea Lane and Tamarisk Way, on the edge of an established residential area which bounds open agricultural farmland on the opposite side of Sea Lane.
4. Tamarisk Way is a short, no-through road. Signage at the road entrance emphasises that the road is private and there is no on-street parking or turning. There are no pavements either side of the highway, and grass verges or front gardens extend to the highway edge. Accordingly, the road has a tranquil character with a relatively low amount of vehicular traffic using the road.
5. The appeal proposal has the potential to impact on the living conditions of the occupiers of the host property and the detached dwellings north and south of the site at 78 Sea Lane and Magalia, Tamarisk Way.
6. The host property, Elm Lodge, is a detached chalet bungalow with dormer roof extensions. Vehicular access is from Tamarisk Way, and there is a large,

private, enclosed amenity garden area to the side, facing onto Sea Lane, which is the location of the proposed detached chalet bungalow.

7. The west elevation wall of the new dwelling would be sited within roughly 4 to 6 metres of the east elevation wall of the host property. It would extend roughly a similar depth to that of the host property, with a height of approximately 6.6 metres, and with a deep pitched roof, which would be gabled at both ends. The combination of the proposed building height, mass, and proximity to the host property means that it would have an overbearing impact on the primary habitable room windows on its east elevation, which include ground and first floor bedroom windows and ground floor conservatory windows, or in the case of the removal of the conservatory, living room windows.
8. The appellant has advised that the appeal proposal is intended to be constructed alongside approval FG/186/18/HH ('the extant permission'), granted on 5 December 2018 for the remodelling of the property and the erection of single and two storey extensions.
9. For the avoidance of doubt, whilst the planning application drawings include street scenes and visualisations incorporating the extant permission, these alterations and extensions are not included within the appeal proposal description of development. The principal alteration to the host dwelling which is included within the appeal proposal is the removal of the existing conservatory, as indicated on drawings 696/01 and 696/02A. I have therefore dealt with the appeal accordingly.
10. The appellant states that the host property is currently unoccupied and in a poor condition, and that habitable rooms with principal windows will only become habitable upon completion of the extant permission, which will only incorporate non-principal windows on its east elevation. However, there is no guarantee that this will be the case. Therefore, this does not alter the overbearing impact on the host property, since this decision should be based upon the existing site circumstances, having regard to the appeal proposal description of development.
11. The appellant has provided daylighting studies to demonstrate that there will be no significant overshadowing or daylight obstruction to the host property. The Council has not produced any evidence to dispute these studies. I note that the appellant's study is based on the host property as extended under the extant permission. Notwithstanding the evidence provided by the appellant, I find that given the position of the proposed dwelling directly to the northeast/east of the host property, and the proposed steeply pitched roof which would slope away from the host property, there will be no materially harmful loss of light to the primary habitable room windows on the east elevation of the existing property.
12. The gable-ended rear elevation of the new dwelling would be sited within approximately 13 – 14 metres of the south side wall of 78 Sea Lane, which contains the entrance door and a number of windows, including primary bedroom and dining room bay windows at ground floor and a primary bedroom rooflight window at first floor. This elevation is separated from the appeal site by a narrow side garden and mature boundary hedge.

13. I have had regard to the appellant's daylight and sunlight assessment, based on the 2011 BRE guidance, the methodology of which has not been disputed by the Council. I have also noted the position of the south elevation primary ground floor windows in the rear half of the wall, not directly opposite the proposed new dwelling, and the rooflight nature of the first floor bedroom window which is angled upwards. I also note the presence of mature hedging along the southern boundary of no.78. Having regard to these factors, the appeal proposal would not result in a materially harmful loss of light to, or overbearing impact on, the primary habitable room windows on the south elevation of no.78.
14. The front, south-facing, elevation of the proposed dwelling would directly face the main external amenity garden area of Magalia, Tamarisk Way. Whilst being sited to the side of the property and having two road frontages, the garden of that property has, nevertheless, a tranquil and private nature. Due to a combination of circumstances, including the raised ground level of the garden relative to street level, the presence of mature landscaping and fencing around the garden boundary, and the private road status of Tamarisk Way with no highway pavements, the garden has a secluded character. On my site visit I observed that it is well-maintained and appears to be well-used as evidenced by the layout and positioning of garden furniture. It is not currently directly overlooked by any first floor windows of Elm Lodge.
15. The appellant cites the host property extant permission which includes first floor French doors with Juliet balcony facing Magalia from a similar distance. I find the circumstances in that case to differ significantly from that of the appeal proposal. The extant permission building is sited further west, opposite the dwelling of Magalia and its driveway, which is the part of the site more openly visible from the public realm. The appeal proposal, however, would directly face the main garden which is currently not overlooked and is more private in views from the street scene.
16. The new dwelling would be sited sufficiently distant from Magalia so as not to have a materially harmful overbearing impact on that property's main garden and east and north facing elevations. However, the proposed front elevation would include first floor large floor-to-ceiling glazing serving Juliet balcony doors and French doors onto a balcony, both of which would serve primary bedroom windows, taking the opportunity to benefit from the south-facing orientation. These would directly face the main private garden area of Magalia. This would result in materially harmful perceived overlooking into what is currently a tranquil, private and well-used garden.
17. With regard to the impact of the first floor south elevation rooflight bedroom window of no.78 upon the privacy of the occupants of the appeal proposal, the window is set relatively high up on the roof slope. Whilst, accepting that views over the appeal site are possible from this window, these would be restricted to occupants of a certain height. Also, this window already overlooks the private garden area and rear elevation of Elm Lodge. Given the use of the room as a bedroom, and the relatively small size and partially upward facing nature of the window, the impact of this window is not considered to be so materially harmful to the privacy of the occupants of the new dwelling and its rear amenity area to warrant refusal of the appeal scheme.

18. For the above reasons, I conclude that the appeal proposal would result in a harmful overbearing impact on the occupiers of the host property and harmful loss of privacy to the occupiers of Magalia, Tamarisk Way. As such the proposal would be contrary to Policy D DM1 of the Arun Local Plan 2011 – 2031, which, amongst other objectives, aims to protect residential amenity. This is generally consistent with the Policies of the National Planning Policy Framework (the Framework), which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (paragraph 127).

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR