
Appeal Decision

Site visit made on 15 October 2019 by Emma Worby BSc (Hons)

Decision by Andrew Owen BA (Hons) MA MRTPI

appointed by the Secretary of State

Decision date: 15th November 2019

Appeal Ref: APP/C1435/W/19/3233813

Little Marshfoot, Mill Road, Hailsham BN27 2SJ

- 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 Ms K Dewhurst against the decision of Wealden District Council.
 - The application Ref WD/2019/0383/F, dated 19 February 2019, was refused by notice dated 20 June 2019.
 - The development proposed is the removal of existing holiday accommodation/residential building and construction of two-storey dwellinghouse.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms K Dewhurst against Wealden District Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues in the appeal are:
 - the impact of the proposed development on the character and appearance of the area.
 - the impact of the proposed development on the living conditions of the occupier of the neighbouring dwelling, with regard to privacy.

Reasons for the Recommendation

Character and Appearance

4. The appeal site is occupied by a large single-storey timber annexe and a detached double garage adjacent to the host property. The proposed development seeks to replace this annexe outbuilding with a two storey dwellinghouse.
5. The proposed dwelling would occupy a similar position on the site to the existing annexe building, however it would be somewhat larger and would also have a second storey. The proposal's front elevation would be approximately in line with the rear elevation of the existing dwelling and it would be in close proximity to the rear boundary of the site. Although it is noted that the positioning of the proposed dwelling is intended to provide a more useable

garden space to its front than the previous proposal¹ for a dwelling located in the middle of the site; the location of this large two-storey dwelling at the rear of the site would appear cramped up against the boundary and at odds with the position of the main dwelling. The Council did not consider that the rear garden in the previous scheme was unreasonably sized or overshadowed and this does not need to be reassessed within this appeal.

6. Through another previous planning permission, the change of use of the annexe from holiday accommodation to a separate dwelling has been granted. However, it is not considered that such a large two-storey dwelling in place of the existing timber outbuilding, which has an informal and temporary appearance, could be considered directly comparable in terms of its impact on the character and appearance of its setting. In any case, the Council advise, and the appellant does not dispute, that that permission has expired and therefore it cannot be given any significant weight.
7. The Council and the appellant make reference to an outline planning permission which has been granted for a strategic residential development to the rear of the appeal site. As the approval is outline only, the plans provided are for illustrative purposes only and may be amended during the reserved matters application. I therefore give these plans limited weight and do not consider therefore that the proposal would necessarily have a poor relationship with the development of that land. Nonetheless, for the reasons given above, the position of the proposal would contrast harmfully with the existing property.
8. For the reasons above I consider that the proposed development would be harmful to the character and appearance of the area and therefore would be contrary to Policies SPO13 and WCS14 of the Wealden Core Strategy Local Plan (2013), saved Policy EN27 of the Wealden Local Plan (1998) and Policy BED1 of the Emerging Wealden Local Plan (2019) which, amongst other things, all collectively seek to provide a high standard of design and layout which respects the character of the adjoining development, and the design objectives of the National Planning Policy Framework. The proposed development would also be contrary to the SPD 'Wealden Design Guide' (2008) which states that new development should respect the established setting and character of both neighbouring buildings and the locality.

Living Conditions

9. As part of the reason for refusal the Council have highlighted concerns relating to a Juliette balcony proposed on the side elevation of the proposed dwelling which would face the garden of the existing property. This would serve bedroom 3 and, as the only other window serving this room would be a high-level window, it would not be reasonable to request that this balcony window is obscurely glazed. Indeed, as this window would provide access to a Juliette balcony, it is specifically design to be opened and therefore overlooking would not be prevented by obscure glazing.
10. Due to the positioning of the proposal in relation to the main property the Juliette balcony would overlook the rear garden and would result in a loss of privacy for the occupiers of this neighbouring dwelling. There are several trees and other foliage between the two sites, however it is not considered that this

¹ Granted planning permission (Ref WD/2018/1779/F)

is dense enough to fully screen the view from the proposed Juliette balcony and therefore would not sufficiently protect privacy. The appellant has stated that they would be willing to amend this elevation to overcome the concerns raised by the Council. However, no amended plans have been provided as part of this appeal and it is not considered appropriate to further amend the scheme through a planning condition.

11. The proposed development would harm the living conditions of the occupiers of the existing property. Therefore, it would be contrary to the saved Policy EN27 of the Wealden Local Plan (1998) and Policy BED1 of the Emerging Wealden Local Plan (2019) which, amongst other things, seeks to protect the privacy of adjoining developments and avoid unacceptable harm to the amenity of occupiers of nearby properties. As previously, the proposed development would also be contrary to the SPD 'Wealden Design Guide' (2008) which states that the impact of a building on adjoining properties with particular regard to overshadowing and overlooking will be a material consideration.

Conclusions and Recommendation

12. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeals Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR