



Appeal Decision

Site visit made on 5 November 2019

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020.

Appeal Ref: APP/Y9507/W/19/3233891

9 Nevill Crescent, Lewes BN7 1ND

- 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 W Wilkinson against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/02057/FUL, dated 26 April 2019, was refused by notice dated 21 June 2019.
 - The development proposed is a three bedroom detached house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time the application was made the South Downs Local Plan (2014 – 33) (LP) had not yet been adopted. However, as the plan was in its final stages the Authority afforded the policies within the LP significant weight and made reference to them in the Decision Notice. The LP was formally adopted on 2 July 2019 prior to this appeal being lodged. The parties have had the opportunity to comment on the policies within the LP during the course of this appeal and, as such, I have determined this appeal on the basis of these policies.

Main Issues

3. The main issues are:
 - whether or not the proposal would provide satisfactory living conditions for future occupiers with particular regard to amenity space; and
 - the effect of the proposal on the living conditions of the occupiers of No 9 Nevill Crescent with particular regard to amenity space, outlook and light; and
 - the effect of the proposal on the occupiers of No 10 Nevill Crescent with particular regard to privacy; and
 - the effect of the development on highway safety; and
 - whether or not the development would provide the requisite electrical vehicle charging points.

Reasons

4. The appeal property, No 9 Nevill Crescent is a two storey dwelling which occupies a corner plot at the junction between Nevill Crescent and Middle Way. The rear garden of No 9 is fairly long and has a rear boundary with the side of No 2 Middle Way. The garden contains a number of mature trees and other vegetation along with several outbuildings, including a shed and a greenhouse.
5. The proposal is for the creation of a new two storey, three bedroom, dwelling in the rear garden area of No 9 with vehicular and pedestrian access from Middle Way.

Living conditions for future occupiers

6. The proposal would sub-divide the site which No 9 occupies and create two smaller plots. The proposed dwelling would have three bedrooms and could therefore be reasonably expected to be occupied as a family home. The proposed dwelling would have a small, irregularly shaped rear garden area with a small patio area, a bicycle shed and a space for the storage of bins.
7. I acknowledge that the Authority do not have any specific adopted space standards, however, Policy SD5 of the LP sets out the requirements for development to provide high quality outdoor amenity space appropriate to the needs of its occupiers.
8. In this instance, the proposed garden area for the new dwelling would not be large enough to meet the typical requirements for gardens as might reasonably be expected based on the size of the dwelling and the likely accompanying character and scale of its occupation. As such, the level of amenity would not be appropriate.

Living conditions at No 9

9. The dwelling at No 9 would retain a small rear garden area but would have the additional benefit of an area of garden to the side which would also be enclosed.
10. The retained garden area at No 9 would seem to be marginally larger than that allocated to the proposed dwelling given the additional space to the side of the property. However, the plans do not indicate the boundaries or full extent and layout of this garden area. Based on my observations on site and the plans before me, I am not convinced that the garden would be large enough to provide an appropriate level of amenity for its occupiers.
11. Furthermore, the side elevation of the proposed dwelling would face the rear garden area to be retained by No 9. This elevation would be a two-storey, blank wall and would appear as a dominant feature when viewed from the rear of No 9. The overbearing nature of the building would lead to a strong sense of enclosure and an oppressive atmosphere in the rear garden area of No 9. Additionally, the introduction of a building where previously there was none will have an effect on the levels of light reaching the rear of No 9. Whilst, due to the orientation of the dwellings this would be limited to the latter part of the day, the reduction in light reaching the rear garden area would further erode the quality of the amenity space.

12. Consequently, in my view, the remaining amenity space at No 9 would be of a poor quality. The poor quality of the garden area would, in combination with its limited size, lead to an unsatisfactory standard of amenity space for the residents of No 9.

Living conditions at No 10

13. The rear elevation of the proposed dwelling would face the rear garden of No 10 Nevill Crescent, the other half of the semi-detached pair of which No 9 is part. Two upper floor windows would offer direct views into the rear garden of No 10 and, due to the limited length of the proposed rear garden of the new dwelling, this would be at fairly close proximity. Whilst I note that, in urban contexts such as this, some mutual overlooking is commonplace, this does not appear to typically be the case in the area surrounding the appeal site. Moreover, overlooking to the degree which would be possible in this instance would have a detrimental effect on the privacy of the occupiers of No 10 and would cause undue harm to the living conditions at that property.
14. I note the Authority's concerns regarding the views offered by the proposed dwelling towards the rear windows of No 10. However, in my view, these views would be at an oblique angle and any occupiers of the proposed dwelling would need to make a concerted effort to look in that direction. As such I do not consider that there would be harm to the living conditions of the occupiers of No 10 in this regard.

Conclusion on Living Conditions

15. I acknowledge the appellant's suggestion that many people do not want or need large gardens. However, in my view, due to the poor quality of the garden space which would be provided at No 9 and the size of the proposed dwellings and their potential use as family homes this is likely not to be the case in this instance. In any event, the planning system has a duty to ensure that the homes it delivers provide a certain standard of amenity. This duty is reflected by the LP and the National Planning Policy Framework (The Framework).
16. Whilst the appellant makes reference to the existence of other properties with similarly sized or smaller gardens no specific details surrounding the planning history or specific sizes of these examples have been provided. Each case must be determined on its individual merits and the planning circumstances of each case are likely to be different.
17. For the reasons set out above, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers of the proposed dwelling with particular regard to amenity space. The proposed development would also have an adverse effect on the living conditions of the occupiers of No 9 Nevill Crescent with particular regard to amenity space, outlook and light and the occupiers of No 10 Nevill Crescent with particular regard to privacy.
18. As such, the proposal would conflict with Policy SD5 of the LP. This policy, amongst other things, seeks to ensure that development provides high quality amenity space appropriate to the needs of its occupiers and has regard to avoiding harmful impact upon any surrounding uses or amenities.

19. The proposal would also fall short of the expectations of The Framework which states that developments should create a high standard of amenity for existing and future users.

Highway safety and the provision of electrical vehicle charging points

20. I note the submission of a revised plan (drawing No 050419/03 Rev A) dated 17 July 2019. This plan was submitted following the Authority's refusal of the application and has the aim of overcoming the Authority's concerns with regards to highway safety and electrical vehicle charging points.
21. However, I have not received any formal assessment of these changes from the Council and nor am I aware if the plan has been formally publicised and interested third parties have been similarly afforded the opportunity to comment. Therefore, in the interests of fairness and the need to ensure a full and proper assessment, I am not in a position to accept the drawing as a formal application document.
22. The proposal as originally submitted would provide two off-street car parking spaces in front of the proposed dwelling. These spaces would be accessed from Middle Way. The Authority outline a requirement for the provision of electrical vehicle charging points and, in my view, this detailed provision could, in principle, be secured by a suitably worded planning condition had the development otherwise been acceptable.
23. Vehicle speeds along Middle Way appear to be fairly slow and the road did not seem to be highly trafficked. The speeds of those vehicles approaching the appeal site are further reduced due to the proximity to the junction with Nevill Crescent. However, on the basis of the evidence before me and the particular submission considered by the Authority, I am not satisfied that sufficient visibility splays to ensure safe access to the property would be achieved. I acknowledge the appellant's view that these concerns could potentially be addressed through amendments to the scheme, revised plans and planning conditions and that remains to be assessed. Given that I have found the proposal to be unacceptable for other main reasons as set out above, these highway concerns are not in themselves a determining factor of this appeal.

Other Matters

24. I note the concerns raised by the occupiers of No 2 Middle Way. The proposed dwelling would be sited in fairly close proximity alongside the side elevation of No 2. The Authority considered the effect on No 2 would be mitigated by the fact that the upstairs room which would be affected has dual aspect windows and also stated that the windows facing the new development downstairs serve a WC and kitchen and are consequently not habitable rooms. However, in my view there are indeed possible implications in respect of the kitchen of No 2; such rooms are widely used as family spaces and are well lived in. Whilst I acknowledge the potential for the development to cause harm in this respect, I do not propose to examine these issues in any greater detail as I have found the proposal to be unacceptable for other reasons.
25. I acknowledge that the appellant has approached the design of the proposal carefully with the aim of preventing any harm to neighbouring residents and ensuring that the dwelling would sit well within its context. However, in my

view the design in this case would not be sufficient to avoid the harm I have identified above.

26. I acknowledge that the dwelling would be in a location well served by existing facilities and infrastructure. I also note that the proposal would provide some benefits as outlined by the appellant. These benefits would include adding vitality to the local community and economy, the addition of a medium sized family dwelling house and maximising the site's development potential. These benefits are, however, limited by the small scale of the proposal and must be considered in that context. They would not, therefore, outweigh the harm to living conditions I have identified above.
27. I also recognise the appellant's frustration that they considered initial discussions with the Authority to be positive and believed that, subject to some amendments to the initial design which were subsequently made, Authority Officers were likely to recommend approval. However, such advice and discussion is generally given without prejudice and my decision is based upon the merits of the specific evidence as before me.
28. I have noted a number of issues raised by neighbouring residents; including the effect on the character and appearance of the area, the effect on parking and the effect on trees and protected species amongst others. However, as this proposal has been found to be unacceptable for other reasons and the other concerns expressed do not have a direct bearing on the main issues or my overall decision, it is not necessary for these to be explored further as part of this appeal.
29. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached on the main issues.

Conclusion

30. For the reasons set out above, I dismiss the appeal.

L J O'Brien

INSPECTOR