



Appeal Decision

Site visit made on 13 September 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 28 February 2020

Appeal Ref: APP/U1430/W/19/3231689

81 Cooden Drive, Bexhill TN39 3AN

- 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 Philip Smith of Anomoly Consultants against the decision of Rother District Council.
 - The application Ref: RR/2019/752/P, dated 20 March 2019, was refused by notice dated 3 June 2019.
 - The development proposed is demolition of an existing bungalow and erection of seven apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Rother District Council Development and Site Allocations Local Plan (DaSA) was adopted on the 16 December 2019. Accordingly, I attribute full weight to the policies contained therein. The parties have commented upon the relevance of the DaSA within their statements of case.

Main Issues

3. The main issues are the effect of the proposal on:
 - i) the character and appearance of the surrounding area;
 - ii) the living conditions of neighbouring occupiers with particular regard to outlook, privacy and noise and disturbance;
 - iii) whether the future occupiers of the proposal would have satisfactory living conditions having particular regard to the layout and size of the dwelling; and
 - iv) whether the proposal would result in an unacceptable loss of a family sized dwelling.

Reasons

Character and appearance

4. The appeal site is located on the corner of Cooden Drive with its junction with Pages Avenue. With the exception of Colwall Court, the surrounding area is typically characterised by a mix of detached, one and two storey dwellings set within spacious plots with wide frontages defined by low boundary walls and hedging. Dwellings generally follow a common build line and sit away from

their front boundary. The appeal site shares these characteristics and consequently I find that it makes a positive contribution to the attractive character and appearance of the surrounding area.

5. The proposal would introduce a substantial sized L-shaped building accommodating apartments, including accommodation space within the roof structure. Whilst the proposal would be of a lesser scale and mass to Colwall Court, the neighbouring building is not typical of the prevailing character and appearance of the surrounding area. By reason of the proposal's prolonged width fronting Cooden Drive together with the extensive rearward projection, the proposal would appear greater in scale and mass than the majority of other neighbouring dwellings.
6. Albeit steeply pitched roofs are a feature common to the area and the ridge and eaves height would be broadly similar to the adjoining neighbour at No 79, by reason of the roof structure's unrelieved and prolonged width, height and depth together with the inclusion of a number of flat roof dormers, the proposed roof structure would appear bulky and unduly dominant. I have had regard to the appellant's three-dimensional views. In addition, I have had regard to efforts to break up the mass of the building with design features and the setting of windows at lower levels. Nonetheless, overall, I consider that the proposal would appear as a strident, dominant and incongruous addition which would not be characteristic of the locality.
7. The proposal would utilise some matching materials and detailing common to neighbouring dwellings. However, the inclusion of large amounts of glazing would contribute to a contemporary appearance. In addition, I observed that terraced balconies are not a common feature within the area and as such, notwithstanding its recessed position, it would appear at odds with the surrounding character. This effect would be particularly conspicuous given its corner position at the junction of the highway and due to it being located within a densely populated residential area. To my mind, this effect would not be mitigated to any significant extent by existing and additional planting within the appeal site. Whilst the appellant has suggested replacing the proposed terrace, there is no detail before me relating to the substitute dormer window nor a revised layout to accommodate the living area towards Colwall Court. As such, any consideration of these matters and any impacts arising from them is not possible.
8. Accordingly, I conclude that the proposal would have a significant adverse effect that would erode the established character and appearance of development within the surrounding area. Therefore, the proposal would conflict with Policies OSS4(iii), BX1 and EN3 of the Rother Local Plan Core Strategy (2014)(CS) insofar as these policies require high quality development which contributes positively to the character of the site and surroundings. In addition, the proposal would conflict with the aims of the National Planning Policy Framework (the Framework) which seeks to achieve well-designed places that are sympathetic to local character.

Living conditions – neighbouring occupiers

9. No 79 Cooden Drive and the appeal site have rear build lines that broadly align with each other and each benefit from a generous sized rear garden that slopes upwards away from their dwellings. Substantial fencing and mature vegetation separate the appeal site from No 79.

10. I note that the appellant has sought to overcome the concerns of the Council by reducing the depth of the rearward projection. Nonetheless, it would result in a sizeable depth of rearward projection positioned approximately 12 metres from the existing common boundary with No 79. Notwithstanding the height and position of the existing common side boundary and the appellant's intention to provide a scheme of planting, given the unrelenting depth, height and mass of the rearward projection, the proposal would be readily visible from within the neighbouring dwelling and its garden. To my mind, it would be likely to result in an oppressive sense of enclosure and overwhelm and appear unacceptably dominant and overbearing to the occupiers of No 79. This would be harmful to their outlook and would materially compromise their living conditions.
11. Albeit the rear garden of No 79 faces in a southern direction, the proposal would limit sunlight and increase overshadowing for part of the day. As such, the proposal would lead to an unacceptably harmful loss of daylight and overshadowing in areas closest to the common boundary of the neighbouring dwelling.
12. A vehicular parking area together with two private areas of garden and outdoor amenity space would be positioned to the side of the common boundary. Vehicle movements associated with four allocated parking spaces would be fairly limited. However, there would be general noise and disturbance linked with the use of the private gardens and more particularly from vehicles passing and manoeuvring in very close proximity to the amenity space of No 79. This effect would be amplified during the winter months when foliage is less dense. As a result, this would lead to an unacceptable standard of living conditions for occupiers of No 79.
13. The appellant has drawn my attention to the presence of car parking for Colwall Court adjacent to the rear boundary of No 79. However, the availability of similar car parking arrangements elsewhere and an absence of objections from the residents of Colwall Court does not justify the harm I have identified above.
14. I accept that by reason of the distances between the appeal site and the dwellings on the opposite side of Cooden Drive there would be no significant impact of overlooking. Notwithstanding the distances involved and the intervening highway, the proposal would introduce a terraced balcony area at second floor level. By reason of the height and position of the terrace together with the prolonged width fronting Cooden Drive together with its bulky roof structure, the proposal would appear unduly prominent and overbearing to the occupiers of Nos 112 and 114 Cooden Drive.
15. The Council refer to a loss of privacy to the occupiers of No 79. Whilst the loss of vegetation along the common boundary may allow for some views from the parking areas and rear gardens of the proposal towards No 79, this would be reduced by the intervening fencing and new planting once it had become established. Windows within the rearward projecting elevation facing No 79 serve stairs, hallway, toilet and a bathroom. As such, any views would likely be infrequent and obscured. Within the main rear elevation, they would serve a hallway, bedroom, bathroom and a kitchen at second floor height, any instances of overlooking would be brief. On the basis of the evidence before me, I am not persuaded that there would be any significant adverse impact by way of overlooking towards the neighbouring dwelling.

16. Overall, I find that the proposal would significantly harm the living conditions of the occupiers of No 79 with particular regard to outlook, loss of light, noise and disturbance. In addition, the living conditions of occupiers at Nos 112 and 114 Cooden Drive would be materially harmed with regard to their outlook. Thus, the proposal would be contrary to CS Policy OSS4(ii) insofar as it requires development not to unreasonably harm the amenities of adjoining properties. Likewise, the proposal would fail to accord with the aims of the Framework which, among other things, seeks to create places which promote health and well-being with a high standard of amenity for future users.

Living conditions – future occupants

17. The Nationally Described Space Standards (NDSS) prescribes the minimum amount of space within new dwellings. It is the Council's case that proposed flat numbers 3, 4, 6 and 7 fail to achieve the standard required by the NDSS. Similarly, Policy DHG3 requires all new dwellings to provide adequate minimum internal space in line with the Government's nationally-described space standard.
18. The aforementioned bedrooms are shown as double bedrooms within the accompanying plans. I accept that it is recognised that furnished layouts are not required to demonstrate compliance with the NDSS. The appellant asserts that in some instances it would be more appropriate to describe these as single bedrooms, which would consequently concur with the minimum standards of the NDSS. However, it is unclear as to whether this would apply to all of the aforementioned units, and if not all, to which specific units it would apply to.
19. However, even if I were minded to accept that the minimum standard would be achieved for all units, having regard to the layout of flat No 7, the narrow L-shape dwelling proposes a corridor style arrangement. Whilst I accept that no habitable room has to be accessed from another, to my mind the layout would not be a convenient, efficient and useable layout. Additionally, the space is constrained, in particular bedroom 2 which requires circulation space to access the ensuite bathroom. I note that the appellant proposes to occupy flat No 7 and that it has been designed with his specific requirements in mind. However, this does not justify an unconventional layout and a poor standard of living conditions for future occupiers.
20. In reaching my decision, I note the appellant's comments that an adjustment of the internal layout of these dwellings, or the removal of the ensuite shower room from flat 7, would increase the overall sizes of the second bedrooms. However, there are no plans or details before me to demonstrate how this would be achieved, nor whether it could be carried out without adversely affecting the measurements of other rooms or other apartments within the scheme.
21. The quality of space should afford future occupiers an acceptable standard of living conditions. Whilst I am mindful that the proposal provides communal outdoor amenity space of sufficient useable size for apartment living and makes adequate provision for appropriate means of access for disabled users, these benefits are insufficient as a substitute for an acceptable standard of space within the proposal.
22. Accordingly, I conclude that future occupiers of the proposed dwellings would not have satisfactory living conditions having particular regard to layout and

size. As such, it would be contrary to CS Policy OSS4(i) and DaSA Policy DHG3 insofar as these policies require development to meet the needs of future occupiers including providing appropriate amenities.

23. Within the reason for refusal concerning living conditions of future occupiers, the Council cites a conflict with CS Policy LNH1(iii). This policy is concerned with the mix of housing within Bexhill, which is considered separately below.

Housing mix

24. CS Policy LHN1 sets out the Council's strategy regarding the district's size, mix and type of housing. Among other things, in order to support mixed, balanced and sustainable communities, housing should reflect both current and projected housing needs within the district and locally and, within Bexhill, contribute to increased provision of family dwellings unless site circumstances make it inappropriate. Furthermore, in larger developments of six or more units, developments should provide housing for a range of differing household types.
25. The proposal would involve the loss of the existing bungalow and its replacement with one and two bedroomed apartments. I accept that the size of the private outdoor amenity space would concur with the requirements for garden space within apartment complexes. In addition, I note the appellant's view that one garden within the scheme would satisfy the minimum standard for the provision of outdoor amenity space for a family dwelling. However, for the most part, the apartments either have access only to a communal outdoor amenity space or where private amenity space is provided, this is small. Moreover, the individual dwellings would be relatively small and provide open plan living, which to my mind, would fail to meet the normal everyday needs of a family household, including single parent families and couples with their first child.
26. The proposal would provide dwellings suitable for occupation by disabled users. This would go some way towards providing housing for a range of differing household types. However, even if I were to accept that flat No 3 was a family dwelling, it would replace the lost family unit of the bungalow. Given that I consider that the remaining dwellings would not constitute units of accommodation that would be readily occupied by families, the proposal would not increase the provision of family housing within Bexhill. Therefore, the proposal would be contrary to CS Policy LHN1, the requirements of which are set out above.

Other Matters

27. My attention has been drawn to the presence of development on corner sites within the locality. I have limited information relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
28. The appeal site is accessibly located within the development boundary. The proposal makes adequate provision for parking and waste and recycling provision. Furthermore, the Council have not identified any adverse highway safety impacts. However, the absence of harm is a neutral factor that weighs neither for nor against a proposal.

29. There would be some economic uplift during construction through short-term employment and the purchase of building materials. However, such benefits would be modest and temporary. In addition, the proposal would provide seven dwellings together with the associated social benefits arising from this. These are benefits that weigh in favour of the proposal, however, they do not outweigh the harm I have identified above.
30. The proposal would result in the removal of the existing vegetation along the common boundary with Colwall Court. This would improve maintenance of Colwall Court and reduce overshadowing of neighbouring rear gardens, however, this matter does not justify the harm I have identified above.

Conclusion

31. Accordingly, for the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR