



Appeal Decision

Site visit made on 19 May 2020

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2020

Appeal Ref: APP/C3810/W/20/3245781

Elm Lodge, Tamarisk Way, Ferring, Worthing, West Sussex 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/141/19/PL, dated 13 November 2019, was refused by notice dated 21 January 2020.
 - The development proposed is the erection of a detached chalet-style dwelling with integral garage and demolition of existing conservatory and porches and the erection of a single storey side extension and part single/part two storey side extension to Elm Lodge.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached chalet-style dwelling with integral garage and demolition of existing conservatory and porches and the erection of a single storey side extension and part single/part two storey side extension to Elm Lodge at Elm Lodge, Tamarisk Way, Ferring, Worthing, West Sussex BN12 5ER in accordance with the terms of the application, Ref FG/141/19/PL, dated 13 November 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed dwelling on the living conditions of occupiers of Elm Lodge and Magalia, having particular regard to matters of outlook and privacy.

Reasons

3. Elm Lodge is a detached chalet bungalow that occupies a corner plot, at the junction of Tamarisk Way and Sea Lane. A majority of the existing garden is to the side of the bungalow, towards Sea Lane. This would be the site of the proposed detached chalet bungalow. Magalia, which is also a chalet bungalow, faces Elm Lodge on the opposite side of Tamarisk Way. The proposed dwelling is similar to that previously refused by the Council and later dismissed at appeal.¹ The current appeal application includes amendments seeking to overcome the previous Inspector's reasons for dismissing that appeal. It also includes alterations to Elm which have already been granted planning

¹ Appeal Ref APP/C3810/W/19/3231473, 22 October 2019 and Council Ref FG/220/18/PL, 30 May 2019.

permission by the Council.² The only changes to this extant permission in this appeal are to demolish the existing conservatory and remove all existing windows in the side elevation facing the proposed dwelling.³

4. The proposed dwelling would be sited relatively close to Elm Lodge, though not dissimilar to the proximity of some other dwellings in Tamarisk Way and in the immediate vicinity. Furthermore, once the proposed development was completed there would be no windows in Elm Lodge facing towards the new chalet bungalow. There would be a new rooflight over part of the living room in Elm Lodge but even if the proposed dwelling could be observed, the view would be angled and towards the receding main roof slope. Accordingly, there would be no loss of outlook from Elm Lodge.
5. The proposed dwelling would project only a short distance past the rear elevation of Elm Lodge and slightly beyond one front corner. Furthermore, its height and scale would be alleviated by the sloping roof design and relatively low eaves and main ridge, which at the front would be a hipped roof with a dormer instead of a previously proposed vertical gable. A satisfactory rear garden space for Elm Lodge would be retained and be comparable in dimensions, area and proximity to the proposed dwelling as are some other gardens to other dwellings in Tamarisk Way and in the immediate vicinity. Accordingly, there would be no loss of outlook from the retained garden at Elm Lodge.
6. The proposed dwelling would include two first floor dormer windows instead of previously proposed French doors and Juliet balconies. These windows would face directly towards Magalia's rear garden, which is not currently overlooked. However, both windows would be for ensuite bathrooms and be obscured glazed and non-openable up to 1.7 metres from internal finished floor level – only the top narrow fanlight part would open. This would be an acceptable and a usual means to retain satisfactory privacy in residential areas. Furthermore, even if there was some outlook from the fan light windows these views would be very limited and even at the nearest approach of the garden to these windows, there would be sufficient separation to avoid any acute downward view at close quarters. Accordingly, there would be no unacceptable loss of privacy to the occupiers of Magalia.
7. Consequently, there would be no material harm to the living conditions of the occupiers of Elm Lodge or Magalia. The proposed development would therefore accord with Policy D DM1(3) of the Arun Local Plan, July 2018 and Policy 1A of the Ferring Parish Neighbourhood Plan, November 2014. These policies seek to ensure that development in urban areas has minimal impact on users and occupiers of nearby property, including by avoiding significant loss of privacy and outlook. The development would also accord with the National Planning Policy Framework 2019, paragraph 127(f), which seeks to ensure a high standard of amenity for future occupiers.

Other Matters

8. As explained further below, I have addressed third party concerns regarding surface water drainage by imposing a drainage condition. Additionally, the Council has not previously objected to the proposed development for reasons

² Application Ref FG/186/18/HH, 5 December 2018.

³ Appellant's statement of case, paragraph 2.1 and Council's officer report, page 3.

of the principle of the development or its effect on the character and appearance of the area, including visual impact in the street scene; nor were these main issues or matters in dispute between the main parties in the previous appeal, nor are they in the current appeal.

9. Despite the previous appeal decision, the appellant is entitled to seek planning permission for revised proposals, and I have therefore considered this appeal on its planning merits. Furthermore, whether or not the appellant is in residence at Elm Lodge is not material to my determination of this appeal and, in any event, I have considered the effect of the proposed development on the living conditions of future occupiers of Elm Lodge in the main issues above.
10. I appreciate that the proposed development would result in a limited increase in car traffic permanently in Tamarisk Way and also temporarily during construction works, including vans and lorries. I saw that Sea Lane and Tamarisk Way are relatively narrow and that Sea Lane has no immediately adjoining pavement. However, while I also saw that existing visibility sightlines from Tamarisk Way are restricted in both directions, Sea Lane nonetheless is a two way carriageway, has a relatively straight alignment and is subject to a 30mph speed limit. Furthermore, the Highway Authority did not object to the proposed development, including for highway safety and capacity reasons (and there are no recorded injury accidents within the vicinity of the junction). The absence of any material harm in this regard therefore counts in favour of the proposed development.
11. Even if there are many homes already for sale or rent in the local property market, the provision of an additional new home on the appeal site is nonetheless aligned with the Council's and the Government's general planning and housing policies. These seek to deliver new homes to meet identified housing need, having already balanced any environmental benefits and disbenefits, including climate change and temporary disturbance to living conditions during construction works, eg noise and on-street parking (and as explained below, I have imposed an hours of working condition to reasonably limit the impact of construction works).
12. I also appreciate that an owner of Magalia may scrutinise this appeal decision. However, I note for example that the siting and layout of the bungalow on Magalia in relation to its plot size and shape, especially open garden space, is not the same as at Elm Lodge and is also different to other corner plots in the immediate vicinity. This appeal decision would not therefore set a generalised precedent for similar development elsewhere and, in any event, any planning application or appeal would also be considered on its planning merits.

Conditions

13. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans to ensure certainty. These plans contain some details of the proposed external materials, but not all. The Council does not object to these materials and so in the condition I have also referred to the appellant's Design and Access Statement which does contain further details.
14. For the reasons explained above, I have also imposed a condition to ensure that the proposed alterations and extensions to Elm Lodge would be completed prior to the occupation of the proposed dwelling and to prevent new windows in Elm Lodge which would otherwise reinstate outlook towards the proposed

dwelling. Furthermore, I have included a condition to ensure that the dormer windows facing towards Magalia would be permanently obscure glazed with only the top fanlights openable.

15. In addition, as requested by the Council's land drainage engineer, I have included a condition so that satisfactory details of surface water drainage on the site (and, if necessary, off site on public land) are approved by the Council before any development commences. This would ensure that the development would be adequately drained and would not increase flood risk elsewhere.
16. As requested by the Council's environmental health officer (EHO), I have included a condition to control hours of construction to ensure no material harm to the living conditions of occupiers of neighbouring properties due to noise or other disturbance. However, I have omitted the Council's suggestion that working activities that are not 'noisy' could take place on Sunday or Bank/Public Holidays. What constitutes a noisy working activity is not defined by the Council or therefore sufficiently precise or certain. Thus, the condition that I have imposed would in addition restrict all construction and working activity on Sunday or Bank/Public Holidays.
17. As also requested by the EHO, I have imposed a condition to ensure that satisfactory details of external lighting are approved by the Council. This is to ensure light pollution would not cause any material harm to the living conditions of occupiers of the existing and proposed dwellings, or to the character and appearance of the countryside on the far side of Sea Lane. Since the Council would be able to enforce compliance with the approved details, it is not necessary or reasonable to require that the installed scheme be 'fully assessed by a competent individual when operational', as the Council otherwise suggested.
18. The Council has requested a 'model' landscape condition but has not provided any suggested wording for such a condition. The appellant's proposed site plan⁴ already shows existing landscaping that is to be retained and some proposed landscaping, though not any details of the new landscaping. I have therefore imposed a condition to ensure that existing landscaping is retained, other than as required to facilitate the proposed development, and so that details of proposed landscaping can be approved by the Council. This would ensure that the development makes a positive visual contribution to the site, including the living conditions of occupiers, and its surroundings in this regard.
19. Finally, as requested by the Highway Authority (West Sussex County Council) I have included a condition to ensure that satisfactory provision of car parking to serve the proposed development would be provided within the site and thereafter maintained. Tamarisk Way is a relatively narrow road, so this would help to alleviate on street parking from occurring on the highway.

Conclusion

20. For the reasons given, the appeal succeeds.

Robin Buchanan

INSPECTOR

⁴ Drawing number 706/04A.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans (all dated November 2019):

Existing

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| • 706/LOC | Location plan |
| • 706/BLO | Block plan |
| • 706/ELAP | Local area plan |
| • 706/01 | Site plan |
| • 706/02 | Ground and first floor plans (Elm Lodge) |
| • 706/03 | Roof plan and elevations (Elm Lodge) |

Proposed

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| • 706/PRO | Block plan |
| • 706/PLAP | Local area plan |
| • 706/04A | Site plan |
| • 706/05 | Ground and first floor plans (Elm Lodge) |
| • 706/06 | Roof plan and elevations (Elm Lodge) |
| • 706/07 | Ground and first floor plans (new dwelling) |
| • 706/08 | Roof plan and elevations (new dwelling) |
| • 706/09 | Street scene |

including details of external materials as also contained in paragraph 7.1 of the appellant's Design and Access Statement, dated November 2019.

- 3) The development hereby permitted shall not commence until details of a surface water drainage scheme, including any discharge to watercourses or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site, have been submitted to and approved in writing by the local planning authority. No building shall be occupied until the approved surface water drainage system has been implemented and it shall thereafter be maintained in accordance with the approved details.
- 4) Demolition or construction works (including deliveries) shall take place only between 0800 and 1800 (Monday to Friday) and between 0800 and 1300 (Saturday) and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) The new dwelling hereby permitted shall not be occupied until the proposed alterations and extensions to Elm Lodge have been completed in accordance with approved plan numbers 706/05 and 706/06. Thereafter, no windows or other openings shall be inserted into the north east elevation of Elm Lodge, facing the new dwelling.
- 6) The new dwelling hereby permitted shall not be occupied until the ensuite bathroom dormer windows for the master bedroom and bedroom 3 (as shown in the approved plans) have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the rooms in which it is installed shall be capable of being opened. Details

of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscure glazing shall be retained thereafter.

- 7) The development hereby permitted shall not be occupied until details of external lighting have been submitted to and approved in writing by the local planning authority. The approved lighting shall be installed prior to occupation of each dwelling and thereafter maintained in accordance with the approved details.
- 8) Existing landscaping, as shown in proposed site plan drawing number 706/04A, shall be retained during site preparation and construction works and the development hereby permitted shall not be occupied until details of proposed landscaping, including a programme for planting, have been submitted to and approved in writing by the local planning authority. The approved landscaping shall be carried out in accordance with the approved details. The existing and proposed landscaping shall be retained thereafter for a minimum of five years, or other period as may be agreed by the local planning authority in the approved details. If during site preparation or construction works, or within the agreed landscape retention period, any planting is removed, uprooted, destroyed or dies, new planting shall be planted at the same place and shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- 9) No part of the development shall be brought into use until car parking has been constructed in accordance with the approved plans. These spaces shall thereafter be retained at all times for car parking.