



Appeal Decision

Site visit made on 18 August 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th August 2020

Appeal Ref: APP/D3830/W/20/3252786

13 Kings House, Cantelupe Road, East Grinstead, RH19 3BE

- 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 Mark Bright of Lodgecrest Developments Limited against the decision of Mid Sussex District Council.
 - The application Ref: DM/20/0474 dated 3 February 2020, was refused by notice dated 6 April 2020.
 - The development proposed is the construction of a detached office building with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is within the zone of influence of the Ashdown Forest Special Protection Area (SPA), which is also classified as a Special Area of Conservation (SAC), and within the setting of the East Grinstead Conservation Area. I return to these matters below.
3. A previous application for a detached building comprising 4 one-bedroom apartments on the appeal site was refused in July 2019¹ and a subsequent appeal dismissed². I have had regard to this decision in my determination of this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 11d High Street and the ground and first floor flats to the rear of Kings House, with particular regard to outlook.

Reasons

5. The appeal site is located between Kings House, a 4-storey former office building now converted to residential accommodation, and Nos. 11c and 11d High Street, a pair of 2-storey semi-detached dwellings. A number of windows at both first and second floor level in both Kings House and 11d High Street face the appeal site directly, although the outlook from the ground floor windows of No. 11d is partially restricted by an existing boundary wall.

¹ DM/19/1664

² APP/D3830/W/19/3236125

6. The proposed building would be further away from both Kings House and No. 11d and, from the appellant's evidence, smaller in scale, form and height, than the previous proposal dismissed on appeal, although still of a broadly similar overall height to that of No. 11d. However, it would present a substantial vertical elevation to No. 11d over both storeys.
7. For both properties the proposed building would be unacceptably harmful to the outlook from No. 11d and from the ground and first floor apartment windows nearest the development in Kings House due to its height, form, massing and proximity. The solidity and height of the proposed brick wall on the eastern boundary would exacerbate this harm for the occupiers of the nearest apartments in Kings House. The proposal would therefore be detrimental to the living conditions of the occupiers of those properties.
8. Whilst extensive views are not to be expected in town centre locations, this does not justify development that would be harmful due to a loss of existing outlook. The appellant has provided a plan showing the distances between residential buildings in the vicinity of the appeal site, some of which are shorter than that between the proposed development and Kings House and No. 11d. However, I concur with the comment of the Inspector that determined the previous appeal that the existence of these other developments does not justify allowing a harmful proposal such as that before me and I have determined this appeal on its own merits. Furthermore, the lack of space between some of the existing buildings in the area reinforces the desirability of retaining openness.
9. The side elevation of the proposed building facing Kings House would have a first-floor window with a privacy screen whilst the four windows in the side elevation facing No. 11d would have four small obscure-glazed windows. Accordingly, the proposed development would not result in significant overlooking of and consequent loss of privacy for the occupiers of No. 11d or Kings House. Neither would it result in a harmful loss of sunlight or daylight for those occupiers.
10. Nevertheless, I conclude that the proposed development would be significantly harmful to the living conditions of the occupiers of the apartments in Kings House closest to the appeal site and No. 11d due to the loss of outlook. Accordingly, in this respect, the proposal fails to accord with Policy DP26 of the Mid Sussex District Plan 2014-2031 (2018) (MSDP) and Policy EG3 of the East Grinstead Neighbourhood Plan (2016), which seek to protect the living conditions of the occupiers of neighbouring properties amongst other things. Furthermore, the proposal would conflict in this respect with paragraph 127 f) of the National Planning Policy Framework (the Framework), which requires decisions to ensure that developments create places with a high standard of amenity for existing users.

Other Matters

Ashdown Forest

11. Ashdown Forest is an extensive area comprising predominantly lowland heath and woodland. This forms an internationally important habitat classified as a SPA because of the presence of breeding populations of Dartford Warbler and European nightjar. The qualifying features of the SAC are the North Atlantic wet heaths with *Erica tetralix*, the European dry heaths and the presence of Great crested newts.

12. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites from the proposal, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
13. Significant effects on the integrity of the SPA are likely to arise from recreational activity associated with development resulting in a net increase in dwellings within the zone of influence. The SAC is vulnerable to atmospheric pollution from additional vehicles as a consequence of new development. Therefore, had I reached a different conclusion on the main issue, it would have been necessary for me to consider whether such significant effects would be likely to arise from the proposed development. In doing so I would have had regard to the fact that the proposed development would not result in a net increase in dwellings. However, as I am dismissing the appeal for another reasons, this has not been necessary.

East Grinstead Conservation Area

14. The appeal site is within the setting of the East Grinstead Conservation Area (the EGCA), which lies immediately to the south and west of the appeal site, encompassing a number of buildings and yards to the rear of the buildings fronting High Street. Paragraphs 193 and 194 of the Framework require great weight to be given the conservation of designated heritage assets with any harm to the significance of such an asset, including from development within its setting, requiring clear and convincing justification.
15. However, from the evidence before me and from my observations during my site visit, the site is not prominent in any significant views to or from the EGCA. In its current condition, the appeal site makes a neutral contribution to the character and appearance of the EGCA. Although of a contemporary design, the proposed development would not be significantly higher than or dominate nearby buildings within the EGCA. I therefore conclude that the proposal would not be harmful to either the character or the appearance of the EGCA. In this respect therefore, the proposed development is compliant with Policy DP35 of the MSDP and the Framework.

Other considerations

16. The appellant refers to the need for new office accommodation within East Grinstead, but no evidence has been provided to demonstrate this need. In any event, notwithstanding the Framework's support for economic development, the two offices proposed would be a very minor contribution to the district's supply of employment land. The future contribution to the local economy by occupiers of the offices would also be limited and the economic benefits of the construction of the development would be temporary.
17. From the evidence before me and my observations during my site visit the site appears to be previously developed land, the use of which is encouraged by the Framework. I acknowledge that the site has good access to facilities and services. The Design and Access Statement refers to the upgrading of the carriageway and the formation of a pedestrian footpath, although I have no details or mechanism before me to secure these improvements. However, even with these limitations, these matters all weigh in favour of the proposal.

18. I find that, notwithstanding East Grinstead Town Council's view that the proposed building is of poor design, in itself the design is acceptable given the mixed design of buildings in the area. I also consider the proposal to be acceptable as regards highway safety, sustainability and drainage. However, these represent an absence of planning harm rather than benefits of the proposals and I therefore give them neutral weight in my decision.

Conclusion

19. The proposal would provide some economic and other benefits. However, even in combination, these benefits do not outweigh the conflict with the development plan and Framework in respect of the harm to the living conditions of the occupiers of the apartments in Kings House closest to the appeal site and No. 11d that I have identified above.

20. Therefore, for the reasons given above, and having regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR