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## Appeal Decision

Site visit made on 25 September 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 26<sup>th</sup> October 2020.

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**Appeal Ref: APP/D3830/W/20/3252027**

**3 Bruce Close, Haywards Heath RH16 4QE**

- 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 Kevin Smith against the decision of Mid Sussex District Council.
  - The application Ref DM/19/5227, dated 23 December 2019, was refused by notice dated 27 March 2020.
  - The development proposed is described as '3 bedroom detached new dwelling. Two storey extension to host dwelling (to match details approved as part of planning application DM/176/4540)'.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed dwelling on the character and appearance of the area and the living conditions of the occupiers of Nos 33 and 35 Bruce Close in respect of privacy.

### Reasons

#### *Character and appearance*

3. Bruce Close is laid out in a 'U' shape, with different styles of dwellings along its three sections. The first part, which includes the appeal site, is characterised by pairs of dwellings with hipped roofs and bay windows, set back from the road. Spaces between dwellings, and trees and hedging along the southern side give this part of the road a relatively spacious and verdant character. The appeal site is wider than those around it, and the gap between Nos 3 and 5 contributes to this spacious character.
4. The proposed dwelling would extend further back into the site than the existing dwelling, resulting in a higher roof and shallower roof pitch. In combination with the proposed gable roof form, these would result in a dwelling of considerable bulk. The substantial side elevation would be readily appreciated in the gap between the proposed dwelling and No 5. While there are other gable roofs in the Close, they are further up the road, in groups of properties of different design to those around the appeal site. Consequently, introducing a gable roof form of the height and scale proposed into this part of the road, where hipped roofs are prevalent, would be incongruous and out of character with the immediate locality. Accordingly, the scale, height and form of the

proposed dwelling would not fit unobtrusively with the existing buildings and the character of the street scene, despite the use of matching window details and materials.

5. The proposed extension to No 3 would be similar to others in the area, including at No 1, and to a scheme already approved at the appeal site. As such, on its own it would not harm the character and appearance of the area.
6. The proposal would retain a gap between the proposed dwelling and No 5, however if the extension to No 3 were also constructed, there would only be a narrow space between it and the proposed dwelling, which would not respect the spacing between dwellings in this part of the road. Therefore, in combination, the proposed extension and dwelling would detract from the spacious character of the area.
7. The existing single-storey extension and garage of No 3 appear to be of some age but are relatively small and are similar in appearance to others in the area. As such, they do not detract from the character and appearance of the area. Their removal would not therefore result in any significant enhancement of the area and would not outweigh the harmful impacts of the proposed dwelling.
8. Consequently, the proposal would harm the character and appearance of the area, and would conflict with Policy DP26 of the Mid Sussex District Plan (DP) and Policies E9 and H8 of the Haywards Heath Neighbourhood Plan (NP) which, amongst other things, require high quality design that respects and reinforces local character. Furthermore, it would not meet the requirements of paragraph 127 of the National Planning Policy Framework (the Framework) that developments be sympathetic to local character and add to the overall quality of the area.

#### *Living conditions*

9. The proposed dwelling would be closer to the rear boundary of the site than the existing dwelling, with windows at ground and first floor and rooflights in the rear roof slope. Although there is some vegetation along the boundary with No 35, it is relatively low and the first-floor windows and rooflights of the proposed dwelling would offer views down into its garden and rear windows. While a degree of mutual overlooking is not unusual in residential areas, the gap between Nos 3 and 5 and the siting of dwellings on Vale Road on lower ground mean that No 35 is currently subject to little overlooking from its neighbours. Therefore, due to the proximity and elevated position of its windows, the proposed dwelling would result in a substantial increase in overlooking of No 35, and consequently, significant harm to the privacy of the occupiers of that property.
10. This harm could be reduced by requiring the rear rooflights and first floor windows to be fixed and obscure glazed, secured through a planning condition. However, this would significantly reduce the outlook from the proposed loft bedroom, which would only be served by 4 rooflights, and master bedroom, which would have no other windows. Such restrictions would therefore unacceptably compromise the living conditions of the occupiers of the proposed dwelling. As such, a condition to that effect would not be reasonable.
11. Although a rear extension to the existing dwelling has previously been approved, apparently to the same depth as the proposed dwelling, the

evidence before me indicates that it would only be single storey, and as such would not have the same impact on privacy as the appeal proposal. The extant permission does not therefore justify the harm identified.

12. The proposed dwelling would be set at an angle to the rear boundary and as such any views towards No 33 would be at an oblique angle, and not significantly closer than those already achievable from the rear windows of No 5. As such, the proposal would not significantly adversely affect the privacy of the occupiers of No 33. This would be a neutral impact however, and would not outweigh the harm to the occupiers of No 35.
13. Accordingly, the proposed dwelling would result in significant harm to the living conditions of the occupiers of No 35 in respect of privacy. The proposal would therefore conflict with DP Policy DP26 insofar as it requires that development does not cause significant harm to the amenities of existing nearby residents; and NP Policy H8 which, amongst other things, seeks to safeguard the privacy of adjoining residents. Furthermore, it would conflict with Framework paragraph 127f which requires development to create a high standard of amenity for existing and future users.

### **Other Matters**

14. The proposed extension would not result in significant adverse effects on the living conditions of neighbouring properties, However, as the proposals are interlinked, particularly in respect of the proposed changes to access and parking arrangements, I cannot sever the two elements to issue a split decision.
15. The appeal site is outside of the 7km zone of influence of the Ashdown Forest Special Protection Area and Special Area of Conservation. Therefore, the proposed dwelling is not likely to have significant effects on the internationally important features of these European sites, either alone or in combination with other plans or projects.

### **Planning Balance and Conclusion**

16. The proposal would contribute a new accessible and energy efficient family dwelling to the supply and mix of housing in the area and enlarge and improve the accommodation of the existing dwelling. It would make effective use of underutilised land on a small site in an accessible location within a settlement, as supported by the development plan and the Framework. However, in the context of the Council having a Framework compliant supply of housing land, the benefits of one additional dwelling would be limited. Furthermore, the enhancements to the existing dwelling could be achieved by implementing the existing planning permission. These benefits therefore carry limited weight.
17. The proposal would also generate economic benefits through construction and occupation, with additional benefits from further council tax income and a new homes bonus. However, no schemes upon which the bonus would be spent have been identified. In accordance with the Planning Practice Guidance, it would not be appropriate to make a decision based on the potential for the development to raise money for the Council in the absence of evidence to demonstrate how that money would be used to make this particular development acceptable in planning terms. Moreover, the economic benefits of

the proposal would be generic and would arise with any housing development. Consequently, I can only attach limited weight to the economic benefits.

18. The appellant proposes that the new dwelling would be for him and his daughter to live in, with one bedroom serving as a respite for his son, who has special needs. As there is potential for the proposal to impact on a person who shares protected characteristics, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
19. A personal permission is not being sought, and there is no mechanism before me to restrict the ownership or occupancy of the dwelling to the appellant or his family. I therefore cannot be sure that the dwelling would be occupied as the appellant describes. Nor is there evidence before me that the proposed dwelling would be the permanent residence of the appellant's son, or that his son would be without a home should this appeal be dismissed. Consequently, there is no substantive evidence before me that dismissal of this appeal would either negatively impact on a person who shares protected characteristics, or provide any material benefits to that person. Therefore, I afford limited weight to the personal circumstances of the appellant and his family.
20. While the appellant suggests that materials would be locally sourced where possible and site waste would be kept to a minimum, there are no mechanisms before me to secure this and as such I afford these factors minimal weight.
21. The proposed dwelling would not adversely affect European sites or biodiversity, and would not significantly affect light to neighbouring properties. It could be provided with adequate parking, cycle and bin storage and would provide a good standard of accessible internal accommodation for future occupiers, along with adequate outside space. Furthermore, subject to appropriate working methods, construction would not adversely affect the large Yew tree on the appeal site, which contributes positively to the character and appearance of the area. Sustainable construction measures and provision for foul and surface water drainage could be secured by appropriately worded planning conditions. However, the absence of harm in these respects, and consequent lack of objection from technical consultees, is of neutral consequence in the planning balance.
22. While I have found that the proposed dwelling would not have a significant adverse impact on the living conditions of the occupiers of No 33, I have found that it would harm the character and appearance of the area and the living conditions of the occupiers of No 35 in respect of privacy. The limited benefits of the proposal would be comfortably outweighed by the significant harm and associated development plan conflict identified above. Consequently, there are no material considerations that would indicate that the decision should be taken otherwise than in accordance with the development plan. The appeal is therefore dismissed.

*L McKay*

INSPECTOR