
Appeal Decision

Site visit made on 15 December 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 6 January 2021

Appeal Ref: APP/P1425/W/20/3253947

92 Allington Road, Newick BN8 4ND

- 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 Pavilion Homes (Sussex) Ltd against the decision of Lewes District Council.
 - The application Ref LW/19/0911, dated 11 December 2019, was refused by notice dated 22 April 2020.
 - The development proposed is erection of detached dwelling and extension to existing dwelling and associated parking.
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Decision

1. I allow the appeal and grant planning permission for the erection of detached dwelling and extension to existing dwelling and associated parking at 92 Allington Road, Newick BN8 4ND in accordance with the terms of the application Ref LW/19/0911, dated 11 December 2019 and subject to conditions 1) to 10) on the attached schedule.

Main Issues

2. These are;
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on the Ashdown Forest Special Protection Area and Special Area of Conservation.
 - Other matters including Human Rights.

Reasons

Character and Appearance

3. Policies DM25 of the Local Plan Part 2 concerns design and contains various criteria including that the siting, layout, density, orientation and landscape treatment respond sympathetically to the characteristics of the development site, the relationship with the immediate surroundings and, where appropriate, views into, over or out of the site; and that the scale, form, height, massing, and proportions are compatible with existing buildings, building lines, roofscapes and skylines, among other things.
4. The Newick Neighbourhood Plan was 'made' in 2015 and is part of the Development Plan for the area in which the site is located. Policy EN1 states that new developments should respect the local landscape character and be

designed to blend well with the existing built environment, with the Conservation Areas being respected. Policy HO1.1 requires all new housing, whether built on sites identified in this Neighbourhood Plan or on other sites within the Parish, to be of designs that respect the established sense of place and local character of the existing buildings in the area of the development and the surrounding countryside. Adequate off-road parking is to be provided under Policy HO1.5 while the construction of additional homes in the gardens of existing homes is not supported as stated in Policy HO1.6.

5. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
6. The Council has not raised objection to the extension at the back of the existing number 90, nor the minor alterations proposed, which are either acceptable as complying with the relevant Development Plan policies, or not subject to planning control. Regardless of the findings on the merits of the proposed new dwelling, permission can be granted for the extension since it is separable from the new dwelling.
7. On matters of principle with regard to the proposed dwelling, limited weight attaches to the previous grant of permission on 8 September 2008 as that predated the present Development Plan and the Framework, but policies concerning the effect on the street-scene would likely have been in force. Nevertheless, the Officer's Report makes clear that there is no in-principle objection to an additional dwelling within the planning boundary, and what is regarded as a sustainable location, subject to the effects.
8. Similar considerations should apply with regard to Neighbourhood Plan Policy HO1.6 on the use of garden land; the Officer's Report expresses the view that the aim was to prevent tandem development, one behind the other; while an Inspector writing in December 2019 with regard to number 104 identified sources for the view that 'not supporting' this type of development does not mean that it should be prevented if the proposal represents sustainable development. The supporting text refers to Policy HO1.6 being in line with national policy, but paragraph 70 of the Framework makes clear that the need to avoid inappropriate development, for example where it would cause harm to the local area, rather than being an outright prevention.
9. The Council's Reason for Refusal is that the combination of the siting, massing, and spacing between buildings plot boundaries would be out of keeping with the general appearance of the area. An inspection of that area revealed a considerable variation in plot width, as well as the size, design and disposition of buildings on the plot. Within a short distance of the appeal site there are single and 2-storey terraces, large detached bungalows, chalets and full 2-storey houses as well as the significant buildings of the school. Architectural design is generally traditional with masonry wall and pitched roofs, although numbers 96 and 100 Allington Road display more contemporary themes.
10. The Officer has expressed the view that joining the proposed dwelling to numbers 90 and 92 to form a terrace might be acceptable, but they are not a feature of this part of the road and the latest proposed placement on the site at 1.4m separation would suitably relieve the terracing effect whilst allowing the new dwelling to share a visual affinity across the group. The similar height and

frontage line to the existing semi-detached pair, together with the siting alongside them allows the new development to sit well within the street-scene and not appear out of place adjacent to the different scale and design of the low building at number 94. The sloping roof to that adjoining dwelling and the diverging plot boundary towards the rear would retain a feeling of openness which would allow the 2 different architectural forms to sit comfortably alongside each other.

11. The Reason for Refusal refers to the 'general appearance of the surrounding properties' while it is the variety in that appearance and siting, within a limited palette of materials and architectural treatment, that allows the appeal proposal to be assimilated into the character and appearance of the area, through the use of the same range of materials and detailing.
12. To conclude, whilst this would be an additional home in the garden of existing home, no real visual harm would occur and both dwellings would have a remaining garden area that falls within the range of sizes locally; the Council do not assert harm in that regard. This is an example of an infill that causes no harm to the street-scene and the wider character and appearance and would accord with the aims of Policies DM25, EN1 and Policy HO1.1, while Policy HO1.5 can be addressed by condition, with parking on the frontage not being an unusual or harmful situation. The proposal is of the standard of design sought in the Framework.

Ashdown Forest

13. Core Policy 10 of the Lewes Local Plan Part 1 seeks to conserve and enhance the natural environment, with protection of the Ashdown Forest Special Area of Conservation and Special Protection Area mentioned in particular. The site is within 7km of the protected area and as the proposal represents a net increase in dwellings within that zone, contributions are required towards the provision of Suitable Alternative Greenspaces and the implementation of a Strategic Access Management and Monitoring Strategy.
14. The Inspector is the Competent Authority at appeal and a Habitats Regulation Assessment is required. The proposal is not directly connected with or necessary to the management of the protected site, and the proposal is likely to have a significant effect on the interest features of the site, alone or in combination through recreational visits and use.
15. In view of these findings, an Appropriate Assessment needs to be carried out. The risks could be satisfactorily mitigated through a mechanism to secure contributions towards those items identified above, and the appellant has provided a completed Planning Obligation dated 21 October 2020 that has been agreed with the Council. As a result, there is no need to continue with the Assessment.
16. The Council has given details of the measures put in place at Reedens Meadow, Jackies Lane, Newick and this is described as being fully operational. The contribution towards mitigation is necessary to make the development acceptable and would be fairly and reasonably related to the scale and nature of the proposed development. As a result, the proposal would not adversely affect the integrity of the Special Area of Conservation or the Special Protection Area and would accord with Core Policy 10.

Other Matters and Human Rights

17. Whilst not supported by the Council, a number of other matters have been raised by the Parish Council and local residents, and each have been addressed by the appellant. There is no adverse comment from the Highway Authority sufficient to prompt a Reason for Refusal and whilst there was significant kerbside parking along Allington Road at the time of the site inspection, provision has been made for off-road parking and a condition could ensure that it is put in place and retained thereafter. The Policy HO1.5 preference for parking to be located inconspicuously to the rear is not a requirement.
18. There have been a number of other appeals referred to, but some are outside the planning boundary and would have been subject to significantly different considerations. Those within the boundary would have been considered on their merits, subject to the effects and the compliance or otherwise with the Development Plan. That exercise has been carried out in the present appeal and the conclusion is that the proposal accords with the Development Plan.
19. With regard to concerns over privacy, the plot is lengthy to the rear with limited risk of harmful overlooking in that direction, the relationship with number 94 is acceptable due to the built form intervening, and whilst there is a claim with regard to number 90, the relationship along the back of the dwellings is not more harmful than would be expected with frontage development in a built-up area with respect to overlooking, noise or disturbance.
20. There has been a claim that the proposal would impact on the peaceful enjoyment of the home at number 90 Allington Road. That phrase is part of Article 1 of the First Protocol to the Human Rights Act 1998, but is a qualified right and the finding that there would be no unwarranted adverse effect on the living conditions of that occupier leads to the conclusion that the degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.

Conditions

21. The Council did not tick item 24.j of the Appeal Questionnaire, indicating that a comprehensive list of conditions was not attached. The expectation stated on that Form was that such a list would follow with the Appeal Statement but that did not occur. However, the appellant has supplied the Planning Permission for the September 2008 scheme on the site and the conditions attached then give a starting point for those now required. In view of the introduction of sections 100ZA(5) and (6) of the 1990 Act in the meantime, pre-commencement conditions can be re-worded in order to avoid delay in implementation.
22. On that basis, it is reasonable and necessary to attached conditions seeking further detail of materials, hard and soft landscaping and boundary treatment, while the provision and retention of the refuse and recycling facilities, cycle storage and vehicle parking should be secured by condition to ensure that these facilities are provided at the right time. In view of the nature of the site and works proposed, it is reasonable in this case to withdraw certain permitted development rights, in order to allow the Council to consider the impact, and for similar reasons, a restriction on the hours of construction work would safeguard the local residential environment. A condition naming the 'as proposed' drawings is required for the avoidance of doubt.

Conclusions

23. There is no 'in principle' objection to the proposal for an additional dwelling in this accessible location within the planning boundary, and the use of garden land would not cause harm. With conditions controlling landscaping, boundary treatment, materials and parking, the proposal would not harm the character and appearance of the area and the Planning Obligation ensures that the Ashdown Forest Special Protection Area and Special Area of Conservation would not be adversely affected by the additional residents. For the reasons given above, including considerations of privacy and Human Rights, it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

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: (08)05B, 06B, 07C, 08B, 09B, 10B and 11.
- 3) Before either part of the development hereby approved proceeds above ground floor slab level, details/samples of all external materials shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out only in accordance with that consent.
- 4) Before either part of the development hereby approved proceeds above ground floor slab level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the first occupation or in accordance with a programme approved in writing with the Local Planning Authority.
- 5) Before either part of the development hereby approved proceeds above ground floor slab level, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed prior to first occupation or in accordance with a timetable agreed in writing with the Local Planning Authority.
- 6) The new dwelling hereby approved shall not be occupied until refuse and recycling storage facilities have been provided in accordance with drawing (08)05B and shall thereafter be retained.
- 7) The new dwelling hereby approved shall not be occupied until cycle storage facilities have been provided in accordance with drawing (08)05B and shall thereafter be retained.

- 8) The new dwelling hereby approved shall not be occupied until vehicle parking provision and access have been provided in accordance with drawings (08)05B and 11 (or as otherwise required by the Highway Authority) and shall thereafter be retained solely for that use.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development described in Part 1, Classes A-E of Schedule 2, other than hereby permitted, shall be undertaken unless the Local Planning Authority otherwise agrees in writing.
- 10) Construction work shall be restricted to the hours of 0800 to 1800 Monday to Fridays and 0830 to 1300 on Saturdays and works shall not be carried out at any time on Sundays or Bank/Public Holidays.