



Appeal Decision

Site visit made on 18 May 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/D3830/W/20/3271517

47 Oak Hall Park, Burgess Hill, West Sussex RH15 0DA

- 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 & Mrs David Ripley against the decision of Mid Sussex District Council.
 - The application Ref: DM/20/1871 dated 27 May 2020, was refused by notice dated 22 July 2020.
 - The development proposed is new 3 bedroom detached house and alterations/extension to existing garage at 47 Oak Hall Park, Burgess Hill RH15 0DA.
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Decision

1. The appeal is allowed and planning permission is granted for 3 bedroom detached house and alterations/extension to existing garage at 47 Oak Hall Park, Burgess Hill RH15 0DA at 47 Oak Hall Park, Burgess Hill RH15 0DA in accordance with the terms of the application, Ref DM/20/1871 dated 27 May 2020 subject to the conditions set out in the schedule attached to this decision.

Main Issue

2. The main issues in this appeal is the effect of the proposal on the character and appearance of the local area.

Reasons

3. The appeal property is a detached chalet style property with a double garage to its side, on the east side of Oak Hall Park and on the corner with Hazel Grove. The plot is one of the larger plots in the local area with an area of grass extending beyond the brick wall which runs east to west beyond the house and garage and extends along the boundary of the rear garden to Hazel Grove. There is an attractive area of open space with a pond, opposite the site.
4. The local, predominantly residential, area comprises a mix of houses, chalet styles houses and bungalows. Most of the dwellings follow a regular building line with planted front gardens which contribute to the character and appearance of regularly spaced dwellings within a verdant setting.
5. The proposal would introduce a new dwelling to the north of the existing dwelling with a new access created off Hazel Grove leading to a parking space and garage. The proposed dwelling would follow a similar design style to the existing house with a steeply sloping roof to contain the first floor

accommodation. The proposed dwelling would be marginally taller than its neighbour at No 47.

6. The introduction of the new house would bring built development closer to the junction with Hazel Grove but would still retain a generous amount of open space to that boundary, particularly when compared with other corner plots in the local vicinity. The house would be sited to respect the front building line along Oak Hall Park and would front Oak Hall Park to respect the predominant pattern of development. The retention of the garage for the existing property would also ensure an appropriate spacing between the existing house and the proposed dwelling. The new dwelling would be provided with on-site parking as well as private amenity space and the existing dwelling would also retain parking provision on-site and a good sized private amenity area.
7. As a result of all these factors, I am satisfied that the proposed dwelling would not appear cramped within its plot. It would also respect the general building line and pattern, as well as scale of development in the local area and as a result would not be visually intrusive in the street scene. It would not, therefore, detract from the character and appearance of regularly spaced development within a verdant setting in the locality.
8. The proposal would respect the character and appearance of the local area. There would be no conflict with Policy DP26 of the Mid Sussex District Plan (District Plan) and the National Planning Policy Framework (Framework) and in particular Section 12, all of which amongst other things seek a high quality of development which respects the local context.

Other Considerations

9. Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. In this case, the European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). I am advised that the potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.
10. I have considered the Habitats Regulations Assessment screening report undertaken for the proposed development by the Council at the application stage. I note that the proposed development would be outside of the 7km zone of influence around the Ashford Forest SPA and that as a result no mitigation would be required in respect of recreational disturbance. In respect of atmospheric pollution, the development would be regarded as windfall development and therefore any potential effects have been incorporated into existing assessments which have concluded that there would not be an overall impact on the Ashdown Forest SAC.
11. I consider the screening report undertaken by the Council to have been thorough and robust and no new or different information has been provided to me to indicate that I need reconsider the screening undertaken at the application stage. I am therefore also satisfied that there would be no likely

significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development. I further agree that, as a result of the screening process undertaken, a full HRA of the proposed development is not required.

12. Although the Council can demonstrate a 5 year housing land supply, this does not mean that applications for housing development which accord with the development plan and the Framework should be refused. The site is located within the built up area of Burgess Hill where windfall development is considered appropriate.
13. I consider that the proposal would provide a satisfactory level of parking for the proposed house as well as the existing, and that the imposition of appropriate conditions would ensure an appropriate and safe access with visibility splays. I do not consider that there is any planning reason in terms of highways, access and parking to withhold planning permission. The Council and Highway Authority also raised no concerns in this regard.
14. There is no evidence before me to demonstrate that the construction of one further house, in an existing residential area would have any adverse impact on the area of open space opposite the site. It may be that the new house would impact on the views of some of the neighbours towards the open space, but I do not consider that this would amount to a loss of outlook or harm to their living conditions. An impact on a view is outside of planning control.

Conditions

15. The Council has suggested a number of conditions in the event of planning permission being granted. There is an existing public sewer running across the site and in the interests of sustainability, and in order to ensure that the existing drainage within the local area is properly protected, a condition is required in this respect, together with a condition to ensure appropriate foul and surface drainage for the proposed dwelling.
16. In order to be effective, it is my view that these two conditions relating to drainage matters require to be pre-commencement conditions. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have therefore requested and received the Appellant's written agreement to the imposition of these conditions.
17. I agree that conditions are required in respect of materials and landscaping and boundary treatments to protect the character and appearance of the local area. Conditions to require the access, visibility splays, parking arrangements, including cycle and electric vehicle charging points are required both to ensure highway safety and sustainable transport options. However, I see no need for the electric vehicle charging space to be the subject of the submission and approval of further details.
18. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Similar advice is also set out in the Planning Practice Guidance. In the particular circumstances of this case, I do not consider that such a condition would pass the test of reasonableness or necessity.

19. I shall list the approved plans for the avoidance of doubt and in the interests of good planning.

Conclusion

20. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions (1 – 10 inclusive):

- 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: Location Plan; Location Plan: Proposed; RF19/47OHP/01; RF19/47OHP/02; RF19/47OHP/03; RF19/47OHP/04; RF19/47OHP/05; RF19/47OHP/06 and RF19/47OHP/BP.
- 3) The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, including in terms of the approved programme.
- 4) The development hereby permitted shall not commence unless and until details of the measures to be undertaken, including a programme of works, to divert the existing public sewer have been submitted to and approved in writing by the Local Planning Authority (in conjunction with Southern Water). The development shall be carried out in accordance with the approved details, including in terms of the approved programme.
- 5) No development hereby permitted above ground floor slab level shall commence unless and until a schedule of materials and finishes to be used for the external walls and roofs of the proposed dwelling has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 6) The development hereby permitted shall not be first occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of a hard and soft landscaping scheme including detailed landscape drawings and details of boundary treatments. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting

season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

- 7) No part of the development hereby permitted shall be first occupied until such time as the vehicular access onto Hazel Grove, serving the development has been constructed in accordance with the details shown on the drawing RF 19/47OHP/02. The access shall thereafter be retained for its designated use.
- 8) No part of the development hereby permitted shall be first occupied until visibility splays of 2.4m metres by 27 metres to the north and 43 metres to the south have been provided at the proposed site vehicular access onto Hazel Grove in accordance with the approved block plan numbered RF 19/47OHP/BP. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
- 9) No part of the development hereby permitted shall be first occupied until the car parking and covered and secure cycle spaces within the proposed garage have been constructed in accordance with the approved site plan RF 19/47OHP/02. These spaces shall thereafter be retained at all times for their designated purpose.
- 10) No part of the development hereby permitted shall be first occupied unless and until one of the approved parking spaces as shown on the approved site plan RF 19/47OHP/02 has been laid out as an electric vehicle charging space. This space shall thereafter be retained at all times for its designated purpose.