
Appeal Decision

Site visit made on 16 June 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal Ref: APP/C1435/W/21/3268700

Heartsease, St Mary in The Fields, Mayfield TN20 6BG

- 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 James Legon against the decision of Wealden District Council.
 - The application Ref WD/2020/1282/F, dated 23 June 2020, was refused by notice dated 21 January 2021.
 - The development proposed is demolition of existing dwelling house & replacement with a new dwelling including new patio area to the front and rear of the property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the Mayfield and Coggins Mill Conservation Area; and
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook and privacy.

Reasons

Conservation area

3. The appeal property forms part of a group of buildings in St Mary in the Fields, which was included within an extension to the Mayfield and Coggins Mill Conservation Area (the CA) in 2017. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
4. The information before me indicates that St Mary in the Fields was originally developed as an orphanage, or children's home, in the 1920's and run by nuns. The field south of South Street was acquired by an Anglo-Catholic Order and the development comprised a chapel and houses sited around a central green square. The appeal site once contained a playroom for the children. The buildings are now used as private housing, and whilst there have been some changes, the original layout, scale and form of the development appears to be largely intact. The development is of historic interest and contributes positively to the significance of the CA. The appeal building is of limited architectural

- merit; however, its modest scale and form is commensurate with the adjacent group of buildings, which are read as a cohesive group and allows its historic significance to be understood.
5. The proposal would replace the existing property with a contemporary part 2 storey, part 3 storey dwelling, which would be set into the ground utilising the topography of the site and the provision of retaining walls. The design of the building consists of a flat roofed form and it would step up in height on the western side. The front elevation would have little fenestration, whereas the rear elevation facing the countryside would feature large glazed units. The flat roof would include eco-friendly features, including a sedum roof and solar collectors & panels. Other design features include brise soleil, Juliet balconies and a roof terrace.
 6. In comparison to the existing dwelling and the adjacent group of buildings, the proposed development would be of a significantly greater scale. It would have an uncharacteristic boxy form and the front elevation would appear particularly stark due to the large amount of unrelieved solid wall. Furthermore, the proposed external materials, including large areas of dark stained timber cladding, would contrast with the adjacent group of buildings, which are mainly finished in render. Taken together, these factors result in a discordant building that would be at odds with the group of properties of which it forms a part. As such, the proposal fails to demonstrate that it would respond to and respect the context of the existing development. I appreciate that the sunken siting of the proposed dwelling would lessen views of the proposal from the north, however this does not obviate the need to achieve good design and preserve the character and appearance of the CA.
 7. The appellant has drawn my attention to other developments in the wider area that have been granted planning permission¹, however full details of the drawings and circumstances that led to approval being granted are not before me. In any event, I am required to assess the proposal on its own merits having regard to the context of the site.
 8. Consequently, I find that the proposal would be harmful to the character and appearance of the CA. Given the small-scale nature of the proposed development, I find that the degree of harm to the CA would be less than substantial. In accordance with paragraph 196 of the National Planning Policy Framework (the Framework), any harm should be weighed against the public benefits.
 9. The proposed building would provide improved energy efficiency, and I particularly note that the design includes passive solar gain; shading; cross ventilation; sedum roof and solar panels. These features are beneficial. Nevertheless, the features proposed are relatively well-known techniques for achieving sustainable construction and there is little before me to show the extent of carbon reductions or the energy saving performance of the proposed dwelling, which limits the weight that I attach to this. The proposal would also provide short-term benefits to the local economy through the construction of the proposed development. Furthermore, there would be a social benefit through the provision of more modern and spacious living accommodation.

¹ Including Harmony House, The Level House, and The Middle House.

10. Paragraph 193 of the Framework states that “great weight should be given to the [designated heritage] asset’s conservation”. I find that the public benefits would not outweigh the harm to the character and appearance of the CA. The proposal would therefore be contrary to the historic environment policies contained within the Framework.
11. For the above reasons, I conclude that the proposed development would fail to preserve or enhance the character and appearance of the CA. The proposal would therefore be contrary to saved Policies EN19 and EN27 of the Wealden Local Plan 1998 (the Local Plan), Policy SPO2 of the Wealden District Core Strategy Local Plan 2013 and guidance contained in the Wealden Design Guide 2008, which, amongst other things, seek to resist proposals in conservation areas which do not preserve or enhance their existing character, scale and visual amenity. The proposal would also be contrary to Chapter 16 of the Framework, which seeks to conserve and enhance the historic environment.

Living conditions

12. The proposed dwelling would be taller than the existing property and it would include large upper floor rear windows with Juliet balconies. Nevertheless, the proposal would be sunk into the ground, which would lessen the relative height of the windows to the neighbouring property at Meadowsweet. Given the oblique relationship of the windows and the screening provided by the mature hedging on the boundary, the proposal would not cause an unacceptable degree of overlooking into the garden of the neighbouring property. The proposed roof terrace would be set in from the side and rear edges of the roof, which, along with the obscure glazed privacy screens, would ensure that views into the garden of Meadowsweet would be restricted. The proposal would not therefore cause a significant loss of privacy to the occupiers of this property.
13. The front windows of the proposed dwelling would be small and serve non-habitable rooms. Given the nature of the windows and the level of separation maintained to The Blue House and Southdene, the proposal would not cause significant overlooking of these properties. The rear windows may enable some oblique views of the end of Southdene’s garden, however there would be no direct views into the main outdoor amenity area adjoining the rear of the property.
14. Regarding the roof terrace, the appeal site is located at a lower land level than The Blue House and Southdene, which reduces the opportunity for elevated views into the neighbouring properties. Furthermore, the roof terrace would be set in from the northern edge of the roof, which, along with the obscure glazed panels, would restrict views from the terrace. Taken together with the separation maintained to the neighbouring properties and the screening provided by the boundary vegetation, the roof terrace would not cause an unacceptable level of overlooking into the neighbouring properties.
15. In respect of outlook, whilst the proposed dwelling would be of a greater scale than the existing dwelling, its sunken siting in relation to The Blue House and Southdene would ensure that it would not appear overbearing or cause a significant loss of outlook. Whilst the proposal may impinge on the view towards the countryside to the south, it is established case law that there is no right to a view over third party land. The proposed dwelling would not extend significantly beyond the rear elevation of Meadowsweet, and the gap maintained between the properties would ensure that it would not appear

overbearing or cause a significant loss of outlook to the occupiers of the neighbouring property.

16. For these reasons, I conclude that the proposed development would not cause significant harm to the living conditions of the occupiers of neighbouring properties with regard to privacy and outlook. In this respect, the proposal would accord with saved Policy EN27 of the Local Plan and guidance contained in the Wealden Design Guide 2008, which, amongst other things, seek to protect the privacy and amenities of adjoining developments and the neighbourhood.

Other Matters

17. The appellant affirms that the Council may not have carried out correct procedures in respect of the designation process of the CA, however there is no substantive evidence before me to support this. I appreciate the appellant's frustrations with respect to the designation of the CA after his purchase of the property. Nevertheless, I am required to determine the appeal on the basis of the current adopted policies and site designations.
18. I have had regard to the effect of the proposal on the High Weald Area of Outstanding Natural Beauty (the AONB). The proposed dwelling would be a minor development that would be viewed in context of the existing buildings in the settlement of Mayfield. Whilst I have found harm with respect to the effect on the CA, I consider that the proposal would conserve the landscape and scenic beauty of the AONB in accordance with Policy EN6 of the Local Plan. However, this consideration would not alter my findings.

Conclusion

19. I have found that the proposal would not cause significant harm to the living conditions of the occupiers of neighbouring properties. Nevertheless, it would fail to preserve or enhance the character and appearance of the CA and this provides a clear reason to dismiss the appeal. Therefore, the presumption in favour of sustainable development does not apply, in accordance with paragraph 11(d)(i) of the Framework.
20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR