



Appeal Decision

Site Visit made on 14 September 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2021.

Appeal Ref: APP/D3830/W/20/3271531

47 Wivelsfield Road, Haywards Heath, RH16 4EN

- 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 John Baxter against the decision of Mid Sussex District Council.
 - The application Ref DM/20/1924, dated 6 June 2020, was refused by notice dated 10 August 2020.
 - The development proposed is construction of new 3 bed dwelling with associated landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the concern raised by an interested party over the accuracy of the submitted plans. However, the Council has not raised this as a concern and, with my site visit, I am satisfied that I have adequate information with which to determine this appeal.
3. The Planning Officer's Report refers to a "belt of trees (not protected) associated with a communal car park serving Rowan House and Aspen Lodge". However, I noted during my site visit that this belt of trees had been removed and the fence to the rear of Rowan House realigned to enlarge the car park. The main parties were afforded the opportunity to comment on the implications of the removal of the trees for this appeal.

Main Issues

4. From the evidence provided to me, including the representations of interested parties, and my observations on my site visit, the main issues are:
 - i) the effect of the proposed development on the living conditions of the occupiers of neighbouring properties;
 - ii) the effect of the proposed development on the character and appearance of the area; and
 - iii) whether the proposed development would provide satisfactory living conditions for the future occupiers of the proposed dwelling with regard to outlook and garden area.

Reasons

Living conditions of the occupiers of neighbouring dwellings

5. The proposed dwelling would be very close to the rear boundaries of Nos 51 and 53 Wivelsfield Road and extend across a substantial proportion of their full width. Notwithstanding its restricted height and that the roof would slope away from the gardens of Nos 51 and 53, the dwelling would be prominent from these gardens and in plain view along the gardens from the rear elevations of these properties. Whilst the majority of the gardens would retain an open outlook given their length, the proximity of the proposed dwelling to the rear boundary, its elevated position and blank façade at first floor level would be oppressive and overbearing for the occupiers of Nos 51 and 53.
6. The ground floor windows in the western elevation of the proposed dwelling would look out onto the fence on the boundary with Nos 51 and 53 and the cill heights of the rooflights are shown on the sectional drawing as being 1.8 m above floor level. Consequently, due to the position and angle of these rooflights the proposed dwelling would not result in an unacceptable increase in overlooking or loss of privacy to the garden areas or rooms to the rear of Nos 51 and 53.
7. However, the southern elevation of the proposed dwelling would consist of a large area of glazing almost the full height and width of the elevation. This elevation would be close to the southern boundary of the plot. Even if the removal of the trees / bushes associated with the car park for Rowan House and Aspen Lodge has not significantly changed the opportunities for views from the appeal site as contended by the appellant, there would be a clear view beyond the site from the first floor of the proposed dwelling. With the realigned fence to the rear of Rowan House, the direct line of sight would be over the car park. The rear elevations of Rowan House and Aspen Lodge would be sufficiently distant from the proposed dwelling and, these properties being single storey, the angle of view such that there would not be an unacceptable loss of privacy from views into any windows in the rear elevation of the properties.
8. However, there would also be a clear view over the rear garden / recreation area of Rowan House from the elevated position of the proposed dwelling. The residents of this property have a reasonable expectation of privacy. The degree of overlooking from the proposed dwelling given its proximity, elevation and the extent of the glazing would be greater than to be expected in a built-up area and would lead to an unacceptable loss of that privacy. There would be limited room for new planting to obscure this view and such planting would take time to mature and negate the benefit of the elevation being south-facing. A condition requiring such planting would therefore not be reasonable.
9. Therefore, whilst not reasons for the refusal of the planning application by the Council, I conclude that the proposed development would be harmful to the living conditions of the occupiers of Nos 51 and 53 and of the residents of Rowan House. Accordingly, in this respect, the proposed development would conflict with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 (2018) (MSDP). It would also be contrary to Policy H8 of the Haywards Heath Neighbourhood Plan (2016) (HHNP), to which the main parties refer. These policies, amongst other things, protect the living conditions of existing nearby residents.

Character and appearance

10. The appeal site is located within a built up area with dwellings of varying ages, forms and designs. The site currently forms part of the garden of No 47 Wivelsfield Road which is a backland plot with an access from the highway between Nos 45 and 49 Wivelsfield Road. The land rises from the road to the eastern boundary of the site so that the site is at a higher level than Nos 51 and 53 to the west and is itself on different levels.
11. No 47 is to the north of the appeal site with the rear boundaries of Nos 51 and 53 to the west. To the south, at a lower level, is the car park for Rowan House and Aspen Lodge and on the eastern boundary is a belt of tall mature deciduous trees protected by Tree Preservation Order (TPO) HH/08/TPO/88, with the rear gardens of two properties on St Francis Close beyond.
12. The proposed plot and the remaining plot for No 47 would be smaller than the majority of the plots of the properties on Wivelsfield Road and St John's Road in the vicinity but is comparable to the plots of the older properties of St Ann's Cottages and Mercedes Cottages on St John's Road. They would also be comparable in size to the plots on the more recent development of St Francis Close although these have open frontages giving that development a more spacious feel. Whilst backland development is not a characteristic of the area, it is not without precedent as both No 47 and St Ann's Cottages are set back from their respective roads.
13. The proposed dwelling has been reduced in scale and reorientated from a previous proposal that the Council considered, among other concerns, would constitute a cramped form of development and for which it refused permission¹. Even with the reduction, the dwelling now proposed would be very tight to the northern and western boundaries of the plot and tight to the southern boundary. It would also be close to the tall trees on the eastern boundary of the garden.
14. However, this proximity to the boundaries would not itself be uncharacteristic of the pattern of development in the area, which includes semi-detached and terraced properties tight to or on their plot boundaries. There would be adequate functional space around the proposed dwelling. Overall, given the variety of plots in the locality the proposal would not result in a harmful degree of variation to the character of the area.
15. From my observations during my site visit the proposed dwelling would not be visible from Wivelsfield Road between Nos 45 and 49 due to the rear projection to No 49 and the angle of view. There would potentially be a limited view of the proposed dwelling between Nos 49 and 51 but the dwelling would be constructed at the level of the lower part of the site and be of a relatively low eaves and ridge height.
16. Therefore in views from Wivelsfield Road the dwelling would not totally obscure the protected trees on the eastern boundary of the site. It would be seen against those trees and in the context of existing dwellings. From Colwell Road the dwelling would be seen in the context of No 47 and other dwellings. It would thus not be obtrusive. Furthermore, No 47 is visible from Wivelsfield

¹ DM/20/0146

Road such that the location of the proposed dwelling to the rear of the properties fronting Wivelsfield Road would not be incongruous.

17. The protected trees make a significant contribution to the character and appearance of the area. The proposed dwelling would utilise an existing retaining wall on the site and would not encroach into the root protection areas of these trees. The proximity of the dwelling to these trees might result in a need for regular pruning, but I am satisfied that the TPO would provide adequate control over any such works.
18. The projection of the first floor and eaves over the ground floor is modest. I do not find the effect of this on the entrance to the proposed dwelling, even with the proximity to the western boundary, to be harmful to the character and appearance of the area. Three rooflights in the eastern roofslope and two in the western roofslope would not be excessive and would not be out of character given the rooflights to be found on other properties in the area, including Nos 49 and 51. Materials could be the subject of a condition were planning permission to be granted.
19. I therefore conclude that the proposed development would not be unacceptably harmful to the character and appearance of the area. Accordingly, in this respect, the proposal would comply with Policy DP26 of the MSDP and Policies E9 and E13 of the HHNP. Amongst other things, these policies protect local character. The proposal would also accord in this respect with Policy H8 of the HHNP which allows development within the built-up area boundary subject to, amongst other things, it fits in unobtrusively with existing buildings.

Living conditions of future occupiers

20. To address another of the Council's concerns with the previous proposal regarding overlooking, two of the three proposed bedrooms would be lit solely by high level rooflights. Whilst these would be above normal eye level, I have not been referred to any local or national policy that sets out that such an arrangement would necessarily be unacceptable. The rooflights would provide adequate light and outlook for these rooms relative to their size.
21. The useable area of the proposed rear garden would be restricted and dominated by the tall, protected trees on the eastern boundary and dominated by No 47 to the north. The garden would be shaded by the trees during the morning and by the proposed dwelling in the late evening. However, it would be of a reasonable size and useable configuration overall with a reasonably open aspect to the south. There would be an additional smaller garden area to the south side of the proposed dwelling. These garden areas would provide adequate space for sitting out, drying washing and play for a property of the size proposed.
22. I therefore conclude that the proposed development would provide satisfactory living conditions for the future occupiers of the proposed dwelling with regard to outlook and garden area. Accordingly, in this respect, the development would accord with Policy DP26 of the MSDP and Policy E13 of the HHNP which, amongst other things, seek to ensure adequate living conditions for future occupiers and require residential development to provide good quality outdoor space appropriate to the proposal.

Other Matters

Benefits of the proposed development

23. The appeal site is within the built-up area of Haywards Heath and has good accessibility to facilities and services such that the principle of the proposed development is acceptable. The National Planning Policy Framework (the Framework) promotes the effective use of land in meeting the need for homes. The development would add a family home to the housing stock of the district and contribute to the local economy through the construction and expenditure by future occupiers. However, as a single dwelling, these benefits would be minimal and insufficient to outweigh the harm I have found above.

"Old Nurseries"

24. "Old Nurseries", to which the appellant draws my attention, is a Grade II listed building on the corner of Wivelsfield Road and Edward Road opposite the access to the appeal site. In assessing the effects of the proposal before me I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preserving the setting of a listed building. The Framework sets out that great weight should be given to the conservation of designated heritage assets and that development within the setting of a heritage asset can be harmful to its significance.
25. However, the setting of "Old Nurseries" beyond its garden comprises mainly residential properties, such as is proposed in the scheme before me. The proposed dwelling would not impinge on any public views of the listed building nor significantly in any views from it. The proposed development would not affect the significance of this heritage asset nor diminish the ability to appreciate that significance. Consequently, the proposal would preserve the setting of the listed building. This matter carries neutral weight in my decision.

Ashdown Forest

26. Ashdown Forest is an extensive area designated as a Special Protection Area and a Special Area of Conservation for its habitats and the bird species they support. The designated site is vulnerable to recreational pressure and atmospheric pollution from additional vehicle movements. Therefore, had the proposed development been acceptable in all other respects, it would have been necessary for me to consider whether it would have any likely significant effects, either alone or in combination with other plans and projects, on the integrity of this designated habitats site in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). However, as I am dismissing this appeal for other reasons, this has not been necessary.

Conclusion

27. I have concluded above that the proposed development would be contrary to the development plan taken as a whole. The limited benefits of an additional dwelling do not outweigh this conflict and there are no other considerations that indicate that a decision should be made other than in accordance with the development plan. For this reason, the appeal is dismissed.

Martin Small INSPECTOR