



Appeal Decision

Site visit made on 14 December 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/U1430/W/21/3278069

48 Wickham Avenue, Bexhill TN39 3ER

- 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 Michael Hobbs against the decision of Rother District Council.
 - The application Ref RR/2020/1019/P, dated 26 May 2020, was refused by notice dated 4 February 2021.
 - The development proposed is "New 3 bedroom detached house with associated parking".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: i) the effect of the proposed development on the character and appearance of the area; ii) the effect of the proposed development on the living conditions of neighbouring residents, with particular regard to outlook, privacy and noise; and iii) whether the proposed development would provide an adequate amount of garden space.

Reasons

Character and appearance

3. The surrounding area is made up of a mix of detached, semi-detached, and terraced houses interspersed with small blocks of flats, but the part of Wickham Avenue where the appeal site is located is mainly comprised of large pairs of semi-detached houses with gardens abutting the railway line embankment to the north. Buildings in the locality are generally of traditional Victorian and Edwardian design, but there are examples of more modern architecture locally.
4. The proposed dwelling would be located at the rear of a garden area serving 48 Wickham Avenue. The building at 48 Wickham Avenue has been split into 3 flats, with garden areas serving 2 of those flats located between the building and the appeal site. The proposed dwelling would be nestled within the north-western corner of the rear garden area, facing towards the existing wide driveway between 48 and 50 Wickham Avenue, which would provide parking for the proposed dwelling and existing flats, and afford narrow views of the proposal from the street.
5. The proposed dwelling would be of a modest two storey contemporary design which would include a fully glazed front facing gable end, and solar panels and

roof light to the front catslide roof slope. The contemporary design of the proposed dwelling would be different to most surrounding buildings, but its fully glazed gable end in particular would appear uncharacteristically prominent in its rear garden location.

6. The proposed dwelling would appear as an awkward and cramped addition to the rear of Wickham Avenue on account of it occupying a large proportion of the confined appeal site, directly abutting the railway embankment amongst neighbouring gardens. In this context, its bulk and massing would form an overly dominant and entirely discordant feature amid those private outside spaces, which and would be seen in long views along the rear of Wickham Avenue.
7. Views from the street would be limited, but the contrived layout and appearance of the proposal would remain evident. The bulk and mass of the proposed dwelling would not be sympathetic to its surroundings and the use of a catslide roof on the front elevation would do little to reduce its overall scale close to the appeal site boundaries.
8. The proposal would therefore harm the character and appearance of the area, contrary to Policy OSS4 of the Council's Local Plan Core Strategy (2014) (CS). This requires, amongst other things, development to respect and not detract from the character and appearance of the locality.

Living Conditions

9. The scale and form of the proposed dwelling would be imposing in views from the rear gardens and rear facing windows of 46 – 50 Wickham Avenue. Outlook from the flats within 48 Wickham Avenue would be severely reduced, especially from their rear gardens. The gardens of 46 and 50 Wickham Avenue are larger in size, and the rear facing windows of those dwellings would be located further away from the proposed dwelling, at increased angles. The loss of outlook that would be experienced by the residents of 46 and 50 Wickham Avenue would not therefore be as severe, but it would remain unacceptable.
10. The internal arrangement of the proposed dwelling would avoid creating unacceptable levels of overlooking from the fully glazed gable end. The presence of the fully glazed gable end in this position would create perceived overlooking which would adversely affect the living conditions of residents of the flats within 48 Wickham Avenue. The use of sufficiently obscured glazing would overcome this issue, which could be required by condition.
11. The appeal site is located within a residential area bounded to the north by a raised railway line. The proposed parking area is an existing access drive. The types and levels of noise that would be associated with the proposed dwelling would not be significantly different to the existing situation. Any noise associated with the proposal would not therefore have an unacceptable effect on the living conditions of neighbouring residents.
12. Therefore, the proposed dwelling would not cause unacceptable privacy and noise concerns harmful to the living conditions of neighbouring residents, but it would reduce the outlook of residents of 46 – 50 Wickham Avenue to an extent which would cause unacceptable harm to their living conditions, in conflict with Policy OSS4 of the CS. This policy states, amongst other things, that

development should not unreasonably harm the amenities of adjoining properties.

Garden Space

13. The proposed dwelling would be located a short distance from Egerton Park and served by a garden measuring approximately 9.6m by 5.7m, which would contain proposed bicycle parking facilities. The proposed garden would be enclosed by the tapered raised railway embankment to the north and the two storey proposed dwelling to the west, with fencing bordering neighbouring gardens to the south and east. It would be an uncomfortable, enclosed space and would offer limited benefits to future residents.
14. The proposed garden would be small, but I am satisfied that this size of garden in this particular location would not be a significant issue due to the proximity of public open space. However, notwithstanding the short distance between the appeal site and Egerton Park, the quality of the proposed small garden would be inappropriate for a family sized dwelling on account of its heavily enclosed and contrived arrangement, restricting its aesthetic value and usability.
15. The proposal would therefore fail to accord with Policy OSS4 of the CS and Policy DHG7 of the Council's Development and Site Allocations Local Plan (2019). These require, amongst other things, development to meet the needs of future occupiers, including providing appropriate amenities, and appropriate and proportionate levels of private usable external space of at least 10m in length for new dwellings.

Other Matters

16. The Council is unable to demonstrate a five year supply of deliverable housing sites as referred to by the Framework. In cases such as this, Paragraph 11(d)(ii) explains that the development plan policies which are most important for determining the application should be considered out of date and planning permission should be granted for new housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. I have identified harm which the proposal would cause to the character and appearance of the area and the living conditions of neighbouring residents and I have found the proposed garden to be inappropriate to serve a family sized dwelling. This harm would be significant and long-lasting and I therefore assign substantial weight to that harm.
18. The proposal would contribute 1 family sized dwelling to the Council's supply of deliverable housing sites, in a residential area close to local services, but I have not been referred to any other benefits associated with the proposal. There is a significant shortfall in the Council's supply of deliverable housing sites, with the Council only able to identify a 2.89 year supply. The contribution of a single dwelling to the supply would be small and I therefore assign modest weight to the identified benefits.
19. The Framework states that good design is a key aspect of sustainable development. The Framework offers support for the provision of residential development on windfall sites where they are well located and designed, and where development will be visually attractive, sympathetic to local character, function well and add to the overall quality of the area. Taking all of the above

into account, it is sufficiently clear that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not, therefore, comprise sustainable development for which the presumption in favour applies.

20. The appellant has claimed that Policy OSS4 is out of date because the CS was adopted over 2 years ago. Paragraph 219 of the Framework confirms existing policies should not be considered out of date simply because they pre-date the Framework, and that due weight should be given to policies according to their degree of consistency with the Framework. I have applied parts (i), (ii) and (iii) of Policy OSS4 in my reasoning above, all of which are consistent with the overall aims of the Framework seeking to achieve sustainable development, despite the age of the CS. These parts of Policy OSS4 therefore attract substantial weight.

Conclusion

21. The proposal would harm the character and appearance of the area, the living conditions of neighbouring residents, and would fail to provide appropriate garden space for future residents in conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate my decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

L Douglas

INSPECTOR