



Appeal Decision

Site visit made on 5 January 2022

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2022

Appeal Ref: APP/Y9507/D/21/3285346

Malling Edge, Mill Road, Lewes BN7 2RT

- 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 Nigel Phillips, against the decision of the South Downs National Park Authority.
 - The application Ref SDNP/20/05495/HOUS, dated 7 December 2020, was refused by notice dated 30 July 2021.
 - The development proposed is described on the planning application form as: "two wooden platforms 3 X 3m and 2 X 2m and raised beds by the east fence which is at the top of a steep bank to provide a 'wilderness' play area".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect on the living conditions of the occupiers of adjacent dwellings in Mill Road with regard to overlooking.
 - The effect on the character and appearance of the locality, which is located within the South Downs National Park.

Reasons

3. The land on which the development the subject of this appeal has taken place comprises rising ground behind the detached bungalow at Malling Edge. The Appellant indicates that this area enabled overlooking of the back of properties in Mill Road prior to this, as well as itself being subject to overlooking from these adjacent houses.
4. However, the structures have been erected on a relatively steep slope and for this reason alone the land does not appear to have been somewhere that residents could easily or comfortably spend significant time. The elevated flat surfaces of the platforms, on the other hand, provide a significantly better opportunity for users of the space to remain in this position for an appreciable period of time enjoying the attractive long-distance views available. They can do so at a noticeably more elevated level than previously possible in these positions due to the structures rising significantly above ground levels. The

platforms are at an appreciably greater height than the adjacent gardens and easily allow views into the rear windows and gardens of the adjacent properties in Mill Road.

5. The development has therefore resulted in an unacceptably greater degree of overlooking of an appreciably more intrusive nature than that which might previously have occurred. Moreover, the presence of the platforms, as the Appellant suggests, has increased the awareness of neighbours that they are subject to such overlooking. This resultant perception caused by the development that has taken place further exacerbates the impact and increases the harm arising from the actual overlooking.
6. During my site visit I saw the boundary bamboo fencing that has been erected to attempt to screen the platforms from adjacent dwellings. I also observed the new planting detailed by the Appellant. While the new trees, together with existing vegetation, may in time have a greater impact, at present neither they nor the bamboo fencing prevent overlooking of the rear gardens and back windows of the adjacent dwellings.
7. Moreover, the planting would not be a sound reason for accepting the development even if it might at some point in the future effectively prevent overlooking. This is because it may simply die or be removed by future occupiers in any event and cannot therefore be relied on, while it does not currently prevent unacceptable overlooking anyway.
8. In these circumstances the development has caused harm to the living conditions of the adjacent occupiers. As a result, there is conflict with South Downs Local Plan (SDLP) Policy SD5, which among other things, seeks to prevent such detrimental effects.
9. The horizontal surfaces of the platforms and raised beds abruptly contrast with the slope of the land on which they are located. The wooden rails and posts, as well as the height, depth and width of the structures has resulted in them having a relatively bulky appearance. They are also a fairly unusual feature in the landscape at their particularly elevated position, projecting above the slope and natural ground contours. In consequence, they comprise a visually intrusive and discordant presence. This adverse effect can be appreciated from the adjacent properties in Mill Road.
10. For similar reasons to those given above, the new and proposed planting would not prevent this detrimental effect. Moreover, the Authority indicates that the development has resulted in the removal of trees and these would have reflected the wooded character of this elevated land and adjacent areas. This has not been disputed by the Appellant and at my site visit I saw a number of tree stumps in the immediate vicinity. The proposal has therefore also unacceptably detracted from and diminished the sylvan character of the surroundings.
11. For these reasons, the character and appearance of the locality has been harmed. SDLP Policies SD4, SD5, SD6 and Lewes Town Council Neighbourhood Plan Policy PL2 are concerned with matters such as intending that development integrates with and respects local character, as well as conserving and enhancing landscape character and not overpowering it, preserving the visual integrity of the National Park and being of a high standard of design. Due to the above factors, the development is contrary to these policies.

12. There is no technical evidence to show that significant soil erosion has taken place, to show what adverse effects, if any, this might have and that the structures the subject of this appeal are an appropriate and effective response rather than any other potentially less harmful solutions. There is no expert evidence demonstrating any meaningful benefit in respect of nature conservation matters. I note the use of locally sourced wood in the structures and the hedges planted that comprise native species. However, none of the above, or any other matter raised would justify accepting the development given the harmful effects that have arisen.
13. It is therefore determined that the appeal fails.

M Evans

INSPECTOR