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# 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: 31 January 2022**

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**Appeal Ref: APP/U1430/W/21/3278085**

**Land adjacent to 81 Peartree Lane, Bexhill TN39 4NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Martin De Vere against the decision of Rother District Council.
  - The application Ref RR/2021/484/P, dated 24 February 2021, was refused by notice dated 30 June 2021.
  - The development proposed is: "Subdivision of plot and erection of self build starter home".
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application is made in outline with all matters reserved apart from access. The plans show the proposed access to the appeal site, but do not show the existing access to 81 Peartree Lane which the appellant has confirmed would be retained. I saw the existing access and am satisfied that sufficient information has been provided for me to assess the proposal in this regard.
3. An amended proposed site plan<sup>1</sup> has been submitted as part of the appeal. Compared to the original plan<sup>2</sup> on which the Council based its decision, the amended plan shows a different garden layout to serve the proposed dwelling. The whole of 81 Peartree Lane forms the application site, as shown edged in red on both the amended and original plans, which are marked as being for illustrative purposes only. As the application is made in outline with all matters reserved apart from access, the layout of the proposed dwelling, including the precise positioning of its curtilage boundaries, would be a reserved matter. I am therefore satisfied that I can proceed to assess the appeal based on the amended plan without causing injustice to any parties.

## Main Issues

4. The main issues are: i) the effect of the proposed development on the character and appearance of the area; ii) whether the proposed development would provide adequate garden space; and iii) the effect of the proposed development on highway safety.

## Reasons

### *Character and Appearance*

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<sup>1</sup> Project number: 238, Drawing number: 03, Revision: E

<sup>2</sup> Project number: 238, Drawing number: 03, Revision: D

5. The appeal site is a wide plot occupied by a detached house with two garden areas. Both garden areas front the highway; one to the north and one to the south of the existing house. It is located in a suburban area characterised by a mix of detached houses of modest and large sizes. It is proposed to erect a house with a garden and off-street parking and to create a new access.
6. The position of the proposed access indicates the proposed dwelling would be located within the northern garden of the appeal site. The northern garden lacks sufficient depth and width to accommodate a dwelling proportionate in size to its plot and reflective of the prevailing character of the area. The proposed dwelling would have to be considerably smaller than other houses in the local area to physically fit within the appeal site and provide the necessary facilities for appropriate standards of living.
7. The proposed site plan includes an illustrative layout which shows there would be a lack of space to erect a dwelling that would sit comfortably in the street scene, notwithstanding the need for details concerning the proposal's appearance, landscaping, layout and scale to be approved at Reserved Matters stage. It demonstrates that even a small bungalow within the appeal site would have to be constructed very close to the front and rear boundaries with little space either side.
8. There are examples of other houses in the locality which have been erected close to the highway on shallow plots, but none of those plots would appear to be as small as that which would be available within the appeal site. The proposed dwelling would therefore be substantially smaller than neighbouring dwellings and would create a cramped and contrived arrangement alongside the existing dwelling at 81 Peartree Avenue, harmful to the character and appearance of the area.
9. The Council have referred to the lack of space that would be available for planting to soften the appearance of the proposed dwelling, but the existing dwelling at 81 Peartree Lane directly abuts the highway and many other dwellings in the local area are not shielded from the highway by planting. Although space for planting along the front boundary would help soften the impact of any building, in this location I do not consider boundary planting would be essential if the plot was of sufficient size to comfortably accommodate a dwelling of sympathetic scale to its surroundings.
10. The eastern boundary of the appeal site is currently enclosed by tall closeboard fencing. Details of any boundary treatment surrounding the curtilage of the proposed dwelling could be required to be approved at Reserved Matters stage, but I do not consider it possible that any such details could mitigate the harm that the proposed development would cause to the character and appearance of the area on account of the shallow depth and overall limited size of the plot along the highway.
11. The proposal would therefore fail to accord with Policies OSS4 and EN3 of the Council's Local Plan Core Strategy (2014) (CS) and Policy DEN1 of the Council's Development and Site Allocations Local Plan (2019) (DSALP). These require, amongst other things, development to be of high quality design which respects and does not detract from the character and appearance of the locality, including the built landscape character of the area.

12. The Council has referred to Policy BX1 of the CS, which refers to an overall strategy for Bexhill and seeks to conserve and enhance the town's distinct and independent character and residential function, amongst other things. Although I have found the proposal would cause harm to the character and appearance of the area, it would not affect the town's distinct and independent character and residential function or conflict with Policy BX1 in any other regard.

### *Garden Space*

13. The amended site plan shows a small, irregularly shaped proposed garden area for illustrative purposes. The appellant has suggested this could be increased in size through removing one unnecessary parking space and providing an 'L-shaped' dwelling instead of that shown on the illustrative plan. Any garden space would need to be enclosed by tall boundary treatment to ensure appropriate privacy from the highway and the existing dwelling at 81 Peartree Lane. The positioning of any boundary treatment would need to take account of access visibility, which I shall address below, but the small size of the plot would mean any garden space with a reasonable degree of privacy would be severely enclosed with a contrived layout, restricting its value to future occupants.
14. Even in the case of an 'L-shaped' dwelling with parking for one vehicle, there would remain a lack of space to provide a meaningful private outside area for future occupants, proportionate to the dwelling. The illustrative layouts show any garden space would measure less than 10m in depth, and it is not clear whether this would change with a different layout. The proposal would therefore fail to accord with Policy DHG7 of the DSALP, which requires appropriate and proportionate levels of private garden space of at least 10m in length to be provided for new dwellings, amongst other things.
15. The Council has referred to Policy DHG3 of the DSALP, which relates to nationally-described space standards. The appellant has clarified that the illustrative proposed site plan shows a 2 bedroom 3 person dwelling which would accord with those standards. The proposal would not therefore conflict with Policy DHG3, subject to further details of the layout of the proposed dwelling to be approved at Reserved Matters stage.

### *Highway Safety*

16. The proposed access would create a new vehicle crossover between the existing accesses to 81 and 83 Peartree Lane. The amended illustrative proposed site plan shows two parking spaces in tandem, although the appellant's final comments suggest only one would be required. The visibility splay plan<sup>3</sup> shows 45m visibility in both directions from the proposed access.
17. No turning area is shown on the illustrative plans and East Sussex County Council (ESCC), acting as the Highway Authority has confirmed that reversing onto the classified 'C' road is common in this location. Although the Highway Authority has not commented on the appeal scheme, they raised no objection to a similar proposal at the appeal site, and their advice was that the open frontage of the site should be retained to assist driver inter-visibility.
18. The appeal site is located on a slight curve in the road, but I saw good levels of visibility in both directions. The proposed access would be close to existing

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<sup>3</sup> Project number: 238, Drawing number: 09, Revision: A

accesses, but the arrangement would not be too different to other driveways along much of Peartree Lane, where drivers would be aware of the potential for vehicles entering and exiting residential properties. I am therefore satisfied that the proposed access would not unreasonably interfere with the free flow of traffic or conditions of general safety along this part of Peartree Lane.

19. Guidance<sup>4</sup> issued by ESCC specifies that a usable car parking space adjacent to a wall or fence should measure 2.5m wide by 5m wide plus an additional 0.5m to either or both dimensions where the space is adjacent to a wall or fence. The layout of the proposal is for illustrative purposes only and the Council claim the proposed parking spaces would fail to comply with the relevant standards by 0.5m in both dimensions.
20. The appellant has referred to the ESCC guidance which specifies that only one parking space would be required for a two bedroom dwelling as shown on the illustrative plans. I am satisfied that the appeal site is of sufficient depth to allow one parking space, details of which could be approved at Reserved Matters stage. Similarly, conditions could be used to control the front boundary treatment of the appeal site to assist driver inter-visibility.
21. The proposed development would therefore provide adequate access and parking arrangements, in accordance with Policies CO6 and TR4 of the CS. These seek to achieve a safe environment by ensuring all development avoids prejudice to road and/or pedestrian safety and provides appropriate off-street parking, amongst other things.

## **Other Matters**

22. The Council is unable to demonstrate a five year housing land supply. In cases such as this, Paragraph 11 of the Framework advises that the 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. I have identified harm that the proposed development would cause to the character and appearance of the area and through the lack of appropriate garden space that would be provided for future occupants. This would be significant and long lasting harm to which I attach substantial weight.
23. The proposal would provide a single dwelling which the appellant suggests would be suitable for people seeking to downsize their property or first-time buyers in a sustainable location, which is claimed to be deliverable within three years. The Government has published the 2021 Housing Delivery Test results since the Council issued its decision which show the delivery of housing in the district was substantially below the housing requirement over the previous three years, but in that context the provision of a single dwelling would only represent a modest benefit. I note the appellant's claim that such an argument is an aggravating factor towards the low rate of housing delivery within the district, but the significant shortfall in this instance does not suggest greater than moderate weight should be assigned to the modest benefit resulting from the provision of a single new dwelling.

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<sup>4</sup> Minor Planning Application Guidance: Proposed Development comprising 5 dwellings or less (or equivalent) by East Sussex County Council acting as Highway Authority (undated)

24. The appellant has alluded to economic benefits associated with the proposal without explaining what they may comprise, but it is clear there would be short-term economic benefits from employment opportunities created throughout the construction phase of the proposal and longer-term economic benefits to local services resulting from an additional household in the area. These are modest benefits to which I attach moderate weight. The description of the proposed development refers to a self-build starter home, but no details have been provided to show how this would secure any additional benefits of significant weight.
25. Paragraph 60 of the Framework states it is important that a sufficient amount and variety of land can come forward where it is needed to help support the Government's objective of significantly boosting the supply of homes. The Framework also states that good design is a key aspect of sustainable development and offers support for the provision of residential development on windfall sites where they are well located and designed, and where they will be visually attractive, sympathetic to local character, and function well and add to the overall quality of the area. It is therefore sufficiently clear that the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.

### **Conclusion**

26. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*L Douglas*

INSPECTOR