The Planning Inspectorate

Appeal Decision

Site visit made on 20 January 2022

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2022

Appeal Ref: APP/P1425/W/21/3277416
Land rear of 6-12 Tarring Close, South Heighton, Newhaven, BN9 0QU

- 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 Richard Penaluna against the decision of Lewes District Council.
- The application Ref LW/20/0659, dated 29 September 2020, was refused by notice dated 12 March 2021.
- The development proposed the demolition of existing double garage and erection of 1 x two-bedroom dwelling with associated landscaping, off-road car parking and cycle parking.

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs has been made by the Appellant against the Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposal on living conditions for neighbours.

Reasons

Living conditions

4. The appeal site comprises a single-storey, flat-roof double garage block, a grass verge and a small area of hardstanding lying within a residential housing estate. Dwellings locally are of relatively consistent form and tend to be semi-detached homes with traditional garden arrangements. The appeal site has the appearance of being part of a wider parking area and, on slightly lower ground, abuts the south side of the end of the rear gardens of a short row of dwellings (6-12 Tarring Close). The proposal is as described above with the 2 storey home being designed in a flat roofed modern style.

5. A key factor in this case is the fact that the scheme would lie to the south of the neighbouring dwellings referred to above and would effectively be right at the end of their gardens. There would be an appreciable length of walling on part of the northern boundary of the site at some 4.8 metres in height. Largely set in from this, to a modest degree, would be a higher part of the planned

building at about 6.2m. I am in no doubt that the impacts in terms of daylight and sunlight would be marked and unreasonable for the nearest householders. The gardens in question are not large and the residents would reasonably expect to retain a good quality environment within them. I appreciate the findings of the 'Overshadowing to Gardens and Open Spaces Test'. However, the approach used in the report, whilst informative to a degree, is neither planning policy nor mandatory and should not be determining factor in every case. Furthermore, the absence of shadow plots, appreciating their flaws, is regrettable in my opinion. The orientation, height, and proximity of the structure planned would run contrary to protecting the amenity of the nearby householders who enjoy a long-standing degree of south facing openness and hence sunlight and daylight levels.

6. The Council uses the words *overdevelopment* and *dominance* in its refusal reason but with the phraseology used it seemingly ties these characteristics to impacts on daylight and sunlight. However, a number of neighbours use the words and descriptions in separate contexts. I have to say that these factors in their own right add weight to my concerns. The ambitious scale of the development relative to the awkward shaped plot; the bulky proximity to boundaries, neighbouring dwellings and gardens; and its consequent dominance would all lead to a scheme which would be most uncomfortable for neighbours. It would be best described, as some do, as a dwelling which would be unacceptably overbearing.

7. In terms of relevant planning policies, the Lewes District Local Plan 2020 - Part Two embodies policies DM25 and DM30. These policies, taken together and amongst other matters, seek to safeguard residential amenity enjoyed from within existing homes and gardens. I conclude that the appeal proposal would run contrary to these policies.

Other matters

8. I do understand the Appellant's wish to more fully utilise the site and there would be some gains in providing an additional home of a reasonable standard, with energy efficient credentials and planned such that it would meet parking standards and would not unduly overlook neighbours. There has clearly been considerable design flair and ingenuity utilised here. Nevertheless, to my mind the merits do not outweigh the concerns I express above.

9. I have reviewed the 'comparable development' at Fort Road drawn to my attention but found significant differences in terms of location, design, orientation and relationship to other properties. Similarly, the relationships referred to on the existing estate close to the appeal site are not directly comparable to the case in hand given orientation, ground levels, and the fact that those buildings were seemingly constructed as a comprehensive scheme. In any event I must determine the case before me on its own merits.

10. I have carefully considered all the points raised by the Appellant but these matters do not outweigh the concerns which I have in relation to the main issue identified above.

11. I confirm that policies in the National Planning Policy Framework have been considered and the development plan policies which I cite mirror relevant objectives within that document.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would have unacceptable effects on the living conditions for neighbours. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR