
Appeal Decision

Site visit made on 24 February 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2022

Appeal Ref: APP/U1430/W/21/3282611

142 Pebsham Lane, Bexhill-on-Sea TN40 2RY

- 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 Balwinder Khaira against the decision of Rother District Council.
 - The application Ref RR/2021/732/P, dated 25 March 2021, was refused by notice dated 25 August 2021.
 - The development proposed is demolition of the existing dwelling and construction of two storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development is described as 'demolition of the existing building and construction of a bungalow' on the application form. Since it is apparent from the submitted plans that the proposed dwelling is over two storeys, I have used the description on the Council's decision notice as being more accurate.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of future occupants, with regard to outlook and daylight; and
 - the living conditions of neighbouring occupants, with regard to daylight, privacy and dominance.

Reasons

Character and appearance

4. The site is a domestic plot containing a modest sized bungalow which slopes steeply down from Pebsham Lane to the south and less steeply to the east. It forms part of a residential area whose character and appearance is defined by domestic dwellings set back from and fronting Pebsham Lane, those on the upper side being mainly semi-detached houses, and those on the lower side being a mixture of detached houses and bungalows. At the bottom of the site there is a more recent development of terraced houses in Mistley Close.

5. The proposed house would span across the majority of the plot leaving only narrow gaps to either side. The size of the plot and comparative size of dwellings in the neighbourhood suggest that in principle a larger replacement building than the existing bungalow could be accommodated on the site. However, because of its excessive width the building as proposed would appear cramped and pinched between its side boundaries. There are examples in the neighbourhood where dwellings stand close to a boundary but in most cases that is compensated for by having wider space on the other side, or a lower structure such as a garage or side extension. That is particularly so with the detached dwellings along the lower side of Pebsham Lane, where a greater degree of spacing between buildings is the norm.
6. I conclude that because of the limited space to either side, the proposed dwelling would appear cramped and therefore harmful to the character and appearance of the area. It would as a result conflict with Policies OSS4 and EN3 of the Rother Local Plan Core Strategy 2014 (the 'Core Strategy'), which require new development to respect its locality and contribute positively to the character of the site and its surroundings.

Living conditions of future occupants

7. Because of the sloping nature of the site and the design of the proposed house, the front of the ground floor would be below ground level. Light to a bedroom would be gained via a bay window set within a lightwell.
8. The window would be wholly below ground level with only reflected daylight coming from the lightwell. Its outlook would be the blank wall of the lightwell and, notwithstanding the bay window design, would result in limited light levels in the bedroom, which is not only a habitable room but I note from the plans is intended to be the master bedroom. Such an arrangement would result in a gloomy and oppressive outlook for future occupants of the room.
9. I acknowledge that in certain circumstances, for example built up urban locations, habitable space in the basements or semi-basements of buildings can be found. However, in a suburban location such as the appeal site this arrangement is not common and would result in a comparably poorer standard of accommodation that is found in the locality or which could be expected to be achieved on the site.
10. I conclude that the poor outlook and lack of adequate daylight to the front ground floor bedroom would result in unacceptable living conditions for future occupants. The development would therefore conflict with Policies OSS4 and EN3 of the Core Strategy, which require new development to meet the needs of future occupiers.

Living conditions of neighbouring occupants

11. 140 Pebsham Lane is a part single, part 2 storey dwelling adjacent to the site on a sloping plot similar to the appeal site. It has 2 side facing windows and a part glazed door on its upper floor. The proposed house would have its first floor at approximately the same level as the existing bungalow, which sits a little below that of the upper floor of 140 Pebsham Lane. The side by side relationship of dwellings is not unusual in a residential area and also taking into account the slight difference in height I do not consider that any reduction in daylight to the flank elevation of the neighbouring property would be harmful.

However, I am concerned that the combination of the increased bulk of building and in particular its close proximity to the side boundary would have an overbearing effect on the outlook from the neighbouring property, such that it would appear oppressive and harmful to their living conditions.

12. The proposed house would have 4 side facing windows looking towards the flank elevation of 140 Pebsham Lane. Because of the sloping nature of the site none other than perhaps the forwardmost of these windows could be screened by fencing or planting, meaning that habitable room windows would be directly facing one another at a close distance. I note however that the 4 windows would all be secondary sources of light to their respective rooms, and it would therefore be possible to avoid overlooking by requiring them to be obscured glazed and fixed shut.
13. That solution could not however be applied to the balcony on the rear elevation of the proposed house. While views of neighbouring gardens at 140 Pebsham Lane and 34 Mistley Close could be obtained from windows in the rear elevation, these views would be normal in a suburban situation and are to be expected. In contrast, someone using the rear balcony would have a much more open view of neighbouring gardens and would themselves be more visible. Consequently, the degree of overlooking and the perception of being overlooked would be stronger, to the point where I consider it would be harmful to the privacy of adjoining occupants.
14. I conclude that because of its proximity to the boundary, the proposed building would have an overbearing effect on the living conditions of occupants of 140 Pebsham Lane, and the rear balcony would cause an unacceptable degree of overlooking and loss of privacy to 140 Pebsham Lane and 34 Mistley Close. The development would as a result conflict with Policy OSS4 of the Core Strategy, which requires that new development does not unreasonably harm the amenities of adjoining properties.

Conclusion

15. The Council acknowledges that it cannot demonstrate an adequate housing land supply. In such circumstances, paragraph 11 of the Framework says that planning permission should be granted unless, amongst other criteria, 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.
16. Although the proposal would replace the existing bungalow with a larger dwelling, it would not increase the overall housing supply. I consider the harm identified to the character and appearance of the area and the living conditions of future and neighbouring occupants would significantly and demonstrably outweigh the modest benefit arising from a larger dwelling.
17. The proposal would conflict with the development plan when taken as a whole. Because the degree of harm outweighs the benefits of the proposal the presumption in favour of sustainable development set out in paragraph 11 of the Framework is not engaged. Consequently, I conclude that the appeal should be dismissed.

Guy Davies INSPECTOR