



Appeal Decision

Site visit made on 7 June 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2022

Appeal Ref: APP/U1430/W/21/3279903

Newlands, Dixter Lane, Northiam TN31 6PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr A Town against the decision of Rother District Council.
 - The application Ref RR/2021/161/P, dated 27 January 2021, was refused by notice dated 28 May 2021.
 - The application sought planning permission for 'Proposed demolition of existing dwelling. Erection of 3 No. four bed dwellings each with an integral garage' without complying with a condition attached to planning permission Ref RR/2018/2282/P, dated 14 December 2018.
 - The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans and details:
Drawing No. 15.645/01E dated Nov'18
Drawing No.15.645/02D dated Sep '18
Drawing No.15.645/04 dated August 2018.
 - The reason given for the condition is:
For the avoidance of doubt and in the interests of proper planning, as advised in Planning Practice Guidance Paragraph 022: Reference ID: 21a-022-20140306.
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Decision

1. The appeal is allowed and planning permission is granted for 'Proposed demolition of existing dwelling. Erection of 3 No. four bed dwellings each with an integral garage' at Newlands, Dixter Lane, Northiam TN31 6PR without compliance with condition 2 previously imposed on planning permission Ref RR/2018/2282/P, dated 14 December 2018, but subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application that is the subject of this appeal, ref RR/2021/161/P, sought to replace the drawings listed in condition 2 in order to add rear dormer windows to each of the three new dwellings.
3. The development has commenced and the new dwellings on Plots 1 and 3 (as annotated on the supporting plans) are substantially complete. The dwelling on Plot 1 has dormers installed, while none have been installed on Plot 3. Development has not started on Plot 2.

Main Issue

4. The main issue is the effect that varying the condition would have on the character and appearance of the new dwellings, the wider area and the special qualities of the High Weald Area of Outstanding Natural Beauty (the AONB).

Reasons

5. The appeal site lies on the edge of the village and backs on to open countryside to the rear. The new dwellings which have been approved would be visually distinct from the other houses in the immediate area, due to their differing design, form and materials.
6. The rear dormer windows would be modest in their scale and would allow a significant proportion of the rear roofslopes to remain around them. They would be set below the height of the main ridgelines, be aligned with the windows below and would include pitched roofs with gable ends, which would reflect the gable roof forms on the host properties. In combination these factors would result in the dormers appearing as sensitive and subordinate additions to each of the properties.
7. As the site adjoins open countryside to the rear, the dormer windows may experience some visibility in longer views from the north east. However, even if this were the case the dormer windows would be set against the back drop of the existing settlement and the approved built forms on the site. Consequently, any visibility in far reaching views, including at night, would not create unacceptable visual harm.
8. While the proposed dormers to Plot 3 are likely to be visible in local views and from nearby properties, by reason of their scale and design, they would not appear visually intrusive or dominant. Other properties in close proximity to the appeal site do not display dormer windows but, as the development on the appeal site is distinct from the character of those properties and as the character of developments in the wider area is varied, I do not find the additions would cause harm to the overall character and appearance of the area.
9. The dormer windows would complement and enhance the character of the approved properties and would support the settlement pattern. For the same reasons, and due to the scale and containment of the proposed development within the existing settlement, the special qualities of the AONB would be preserved.
10. The appeal scheme would thus comply with Policies OSS4, EN1 and EN3 of the Rother Local Plan Core Strategy 2014, which together require high quality design and development that protects, and where possible, enhances the landscape character of the AONB including its settlement pattern. The proposal would also comply with Policies DEN1 and DEN2 of the Development and Site Allocations Local Plan 2019 which also relate to the protection, and seeking of enhancements, in the AONB. The proposal would also comply with the design objectives in the National Planning Policy Framework.

Other Matters

11. I have had regard to the other issues raised by third parties, including the effect on the living conditions of occupants of nearby properties and on local

traffic. I do not have substantive evidence to suggest that the increase in local traffic arising from the proposal would be substantial or harmful. As the proposed dormers would have the same direction of outlook as the other windows in the rear elevation, and as views towards neighbouring properties would be at oblique angles only, the privacy of those neighbouring occupants would be preserved.

12. There have been earlier planning decisions relating to this site, including an appeal. Based on the evidence, those proposals would appear to be substantially different to the appeal before me and there is no convincing evidence to suggest that they should alter my judgement.

Conditions

13. As the development has already begun, I have not imposed the condition limiting the time for commencement. The condition which was previously condition 2, relating to the approved plans, is restated and amended to reflect the new drawings.
14. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. The Council have advised that conditions 3, 4 and 5 of the previous permission have been discharged. As they continue to have effect, and in allowing the appeal I am creating a new planning permission, I have restated them. Matters relating to the discharge of conditions are a matter to be addressed by the main parties.

Conclusion

15. For the reasons set out, the proposal would comply with the development plan. The appeal should be allowed, and planning permission granted with the variations I have explained.

C Shearing

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved drawings:
No.15.645/02D (Proposed Site Plan), dated August 2018
No.15.645/04 (Sections) dated August 2018
No.15.645/09 (Proposed New Dwelling- Plot 1) dated October 2019
No.15.645/10 (Proposed New Dwelling- Plot 2) dated October 2019
No.15.645/11 (Proposed New Dwelling- Plot 3) dated October 2019
No.645.12 (Site Location Plan and Site Block Plan), dated January 2021.
2. Before construction work is commenced an area within the site shall be identified for the delivery and storage of construction materials and parking of vehicles the details of which shall be approved in writing by the Local Planning Authority. Such approved areas shall be retained for the duration of the development or until such other time as may be first agreed in writing by the Local Planning Authority.
3. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. No above ground development shall take place on the site until the hard and soft landscaping details have been submitted to and approved in writing by the Local Planning Authority, which shall include:
 - a) Indications of all existing trees and hedgerows on the land including details of those to be retained, together with measures for their protection in the course of development;
 - b) Planting plans;
 - c) Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - d) Schedules of plants, noting species, plant sizes and proposed numbers/ density where appropriate;
 - e) Means of enclosure;
 - f) Hard surfacing materials; and
 - g) Implementation programme.
5. The new access shall be provided in the position shown on approved drawing no. 15.645/02D (Proposed Site Plan), dated Sep '18, and all works undertaken shall be executed and completed to the written satisfaction of the Local Planning Authority in consultation with the local Highway Authority prior to the occupation of the development hereby permitted.
6. The access shall not be used until the visibility splays shown on approved drawing no. 15.645/02D (Proposed Site Plan), dated Sep '18, are cleared of all obstructions exceeding 600mm in height and kept clear thereafter.
7. The development shall not be occupied until the parking and turning areas have been provided in accordance with approved drawing no.15.645/02D (Proposed Site Plan), dated Sep '18, and the areas shall thereafter be

retained for that use and shall not be used other than for the parking and turning of motor vehicles.

8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.