
Appeal Decision

Site visit made on 14 June 2022

by Sandra Prail MBE, MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 13 July 2022

Appeal Ref: APP/P1425/C/21/3276829

Land at 3 Sherwood Road, Seaford, East Sussex, BN25 3EH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Dr Nicholas Amery against an enforcement notice issued by Lewes District Council.
- The notice was issued on 19 May 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding, classed as unauthorised development.
- The requirements of the notice are (i) remove the unauthorised outbuilding from the land in its entirety and (ii) clear all resultant materials and debris resulting from its removal.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) appeal and deemed application

Main issues

1. The main issues in the determination of this appeal are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of current and future occupiers of 3 Sherwood Road, with particular regard to the adequacy of external amenity space.
2. The officer report concerning the refusal of planning permission for the outbuilding and some of the objections before me refer to the appeal site as within a Conservation Area. But the Council confirms that the site is not within a Conservation Area and the effect of the development on heritage assets is not a reason for issue of the notice. There is also objection to the absence of consultation concerning archaeological issues before the development was carried out but the formal response from the County Council confirms that no relevant groundworks have been undertaken. These are therefore not main issues in my determination of this appeal. Other matters raised by objectors, including noise from building works, are not matters within my remit to consider in this appeal.

Character and appearance

3. The appeal site (No. 3) is a residential property located in a quiet residential area. The locality is characterised by a mixture of one and two storey detached and semi-detached dwellings on relatively generous plots. No. 3 is a white washed chalet bungalow with a relatively high side boundary wall also painted white. Planning permission was granted on appeal in 2019 for the conversion of the bungalow into 3 flats.
4. The Appellant says that he initially thought that the outbuilding had the benefit of permitted development rights but that is not a ground of appeal before me.
5. The outbuilding sits to the rear of no. 3 but is accessible through the garden of 10 Blatchington Hill as the former boundary wall between the two properties has been removed. The Appellant owns both properties. The outbuilding houses a swim spa pool with changing area and shower.
6. No 3 has planning permission for conversion into 3 self-contained flats and the property has been let accordingly. The Appellant advises that none of the leases include the land on which the outbuilding stands. Flat 1 (ground floor) has access to the rear courtyard of the dwelling but none of the Flats has access to the outbuilding which is used by the Appellant in connection with occupation of 10 Blatchington Hill. The Appellant advises that he is in the process of seeking to incorporate the land on which the outbuilding stands into the title of 10 Blatchington Hill. Some of the objectors suggest that the outbuilding should be considered as part of 10 Blatchington Hill and not No.3 but I must determine this appeal based on the red line delineating the appeal site on the plan attached to the notice.
7. The development plan (including the Lewes District Local Plan Part 2 and Joint Core Strategy) mirrors the National Planning Policy Framework (the Framework) in seeking to ensure that development respects its setting. I have also taken into account the Seaford Neighbourhood Plan. Policy DM29 of the Local Plan provides that outbuildings will be permitted where specified criteria are met. Criteria include size, scale, siting and design that relates satisfactorily to the existing dwelling and its curtilage, established streetscene and character of locality and the use of sympathetic materials.
8. The outbuilding is constructed of brick, clad in timber with uPVC doors and windows to match those of no 3. It is single storey with a flat roof and less than 2.5 metres in height. The quality of materials and finish is high. The parties agree that it covers 50.4 % of the available garden amenity area of no.3. Its scale, height and proportions are not out of keeping with the area. Its visual appearance is domestic and it does not harm the streetscene or the character of the locality. I note the absence of objections from the occupiers of no. 3 and the objections of neighbours who consider the outbuilding to be overdevelopment. But I find that the size, scale, siting and design relate satisfactorily to no.3, it is not overly dominant and the use of materials is sympathetic to the character and appearance of no.3 and the surrounding area.
9. I conclude that the outbuilding does not cause undue harm to the character or appearance of no. 3 or the surrounding area and is not in conflict with the Framework or relevant development plan policies.

Living conditions

10. Policy DM25 of the Local Plan provides that development which contributes towards local character and distinctiveness through high quality of design will be permitted where identified criteria are met. One of the specified criteria is that there shall be no unacceptable impact on the amenities of neighbours.
11. The outbuilding covers an area not significantly greater than would be permitted development if the property was a single dwelling house. There is no development plan policy before me that establishes external space standards for studio accommodation of the kind created by the conversion of no.3 to flats. Whilst not determinative I note the absence of objection from the current occupiers of no.3.
12. The reasonable expectation of external amenity space for the occupiers of a single family dwellinghouse is higher than the reasonable expectation of occupiers of studio flats. The fact that the flats are occupied suggests a market demand. I do not find the outbuilding to cause undue harm to the living conditions of current or future occupiers of no 3 with regard to the adequacy of external amenity space. There is no evidence before me that the outbuilding causes any undue harm to living conditions such as noise, overlooking, daylight, sunlight or privacy.
13. I conclude that the development does not have a harmful effect on the character and appearance of the area. It does not cause undue harm to the living conditions of current and future occupiers of no.3 or neighbouring properties with particular regard to the adequacy of external amenity space. It does not conflict with the Framework or relevant development plan policies and no material considerations indicate that this appeal should be determined other than in accordance with the development plan.
14. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The Council does not propose any conditions in the event that the appeal is allowed. I have taken into account the Planning Practice Guidance and do not consider it necessary to attach any conditions to the permission. It follows that the appeal on grounds (f) and (g) do not need to be considered.

Formal Decision

15. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of an outbuilding at 3 Sherwood Road, Seaford, East Sussex BN25 3EH as shown on the plan attached to the notice.

S. Prail

Inspector