
Appeal Decision

Site visit made on 21 June 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2022

Appeal Ref: APP/D3830/W/21/3289742

24 Oak Hall Park, Burgess Hill RH15 0BX

- 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 Joshua Baxter against the decision of Mid Sussex District Council.
 - The application Ref DM/21/2795, dated 28 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is the demolition of existing side extension to 24 Oak Hall Park and construction of new 2 bedroom detached dwelling with access driveway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council does not object to the demolition of the existing extension, and from my site visit, I agree that that element of the proposal is acceptable in respect of the character and appearance of the site and surrounding area (noting that, in and of itself, demolition in many instances does not require a planning application).

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the street scene and surrounding area;
 - The effect of the proposed development on the living conditions of the occupants of 24 Oak Hall Park, with particular regard to the potential for noise and disturbance; and
 - The effect of the proposed development on surface water drainage.

Reasons

Character and Appearance

4. The appeal site includes a detached property which sits within a corner plot at the end of the housing development of Oak Hall Park. The highway and main access to the site is along Oak Hall Park, to the east of the site. To the immediate north and west of the site lie footpaths providing access to Burgess Hill Station and town centre.

5. There is some historic variation in property type within Oak Hall Park, although dwellings are often repeated uniformly in groups across the estate. More precisely, 24 and 26 Oak Hall Park are of the same overall design, albeit they are mirrored in terms of layout. Properties on the opposite side of the highway are of a different design to Nos 24 and 26 but generally match each other. Properties within the surrounding area are generally consistent in their plot size and arrangement along the street. Notwithstanding this, the appeal site has a larger than average garden area when compared with much of the wider estate.
6. The proposed development would see the appeal site subdivided with the creation of a new two-storey detached dwelling to the north of No 24. The proposed dwelling would be set back from the front elevation of No 24, and would be of a contemporary design, finished in render and zinc. The eaves height would be below that of No 24, with its gable end at a right angle to it.
7. Due to the setback of the proposed development from the front elevation of No 24, it would not be readily visible from the southern approach to the site, along Oak Hall Park. From that perspective, the scheme would have little appreciable effect on the streetscene. However, the proposed development would become apparent as the site was approached and would be highly visible from the northern part of Oak Hall Park, including at the turning head. The site would also be visible from multiple private vantage points as well as from the footpaths that bound the site to the north and west, and could be glimpsed from Burgess Hill Station car park.
8. The existing properties within Old Hall Park read as a cohesive group. Although they vary slightly in design, as set out above, there are many consistent features, generally including the position of dwellings within individual plots and the use of matching materials. The design of the proposed dwelling, introducing render and zinc materials, would be out of keeping with those existing properties and the wider area. Similarly, in terms of siting, the proposed development would be orientated to the north and would not reflect the prevailing layout of the wider estate, in which properties generally sit within uniform garden plots arranged in a consistent manner relative to the highway. As a result, the proposed development would be incongruous and harmful to character and appearance.
9. The high boundary treatments proposed along the Oak Hall Park frontage, range from approximately 1.2 to 2 metres high. I observed during my site visit that a tall fence already exists here. However, it is clear that this relates to a private garden area whereas that proposed would form the frontage of a detached property. Properties within the wider estate are generally open plan, with front gardens open onto the highway. The proposed development in that respect would be incongruous and would have a detrimental impact on the character and appearance of the street scene.
10. I acknowledge the appellant's argument that the proposed development would help bring focus to the corner plot, that on account of the singular nature of the appeal site that it would not set any undesirable precedent, and that pastiche design has consciously been avoided. I also note that the Mid Sussex Design Guide Supplementary Planning Document (2020) encourages good contemporary design which avoids pastiche design. Whilst the design and materials of the scheme before me would clearly be contemporary, it would be

unacceptable and discordant in this particular context, with reference to the nature of the site and the prevailing characteristics of its surroundings, including layout and appearance in the streetscene.

11. My attention is drawn to several contemporary developments. However, I do not have the full details of these before me and in any case these schemes are not directly comparable by reason of their nature and location relative to the appeal site. I have assessed the appeal based on the evidence before me and my observations of the site.
12. Consequently, I conclude that the proposed development would harm the character and appearance of the street scene and surrounding area, conflicting with the relevant provisions of Policy DP26 of the Mid Sussex District Plan 2014-2031 (2018) (DP) and Policy H2 of the Burgess Hill Neighbourhood Plan 2015-2031 (2015). These policies, amongst other things, seek to ensure development is well designed and reflects the character of the location. Similarly, the proposed development would conflict with the design principles of the Mid Sussex Design Guide Supplementary Planning Document (2020) and the objectives of the National Planning Policy Framework (the Framework) insofar as good design is concerned.

Living Conditions

13. The proposed development would be accessed via the existing drive to No 24, leading to a new parking and turning area.
14. Whilst access would serve only this single additional dwelling, and would unlikely result in significant trips, the position of the driveway and parking area is such that the starting and manoeuvring of cars would take place very close to No 24. Such activity, however minimal, would result in noise and potentially light spill disturbance, compared with what is currently the case. This would be to the detriment of the living conditions of the occupiers of No 24, which are presently consistent with the prevailing nature of living conditions in the wider area.
15. The appellant contends that the existence of alternative windows within the living room and bedroom of No 24, which are situated to the front of the property, mean that those most affected by noise and disturbance as a result of the proposed development could be kept shut, with the introduction of blackout blinds to mitigate any impact of light spill. Whilst I accept that residential comings and goings and vehicular movements will inevitably generate a certain baseline level of noise and disturbance, given the incongruous and close relationship of the scheme before me, the effects of the scheme in that regard would be localised and significant. The fact that the Highways Authority would support a car-free development here is noted but does not change my conclusion as I am assessing the scheme as submitted.
16. Consequently, I conclude that the proposed development would harm the living conditions of the occupants of No 24, with particular regard to noise and disturbance. This is contrary to the relevant provisions of DP Policy DP26. This policy, amongst other things, seeks to suitably protect the living conditions of neighbouring occupiers (a common objective with Framework paragraph 130. f).

Surface Water Drainage

17. The site is located within Flood Zone 1, which based on the Environment Agency's definition is land having a less than 1 in 1000 annual probability of river or sea flooding. DP Policy DP41 promotes development that makes the best use of resources and that is able to adapt to climate change. It requires that development proposals demonstrate that they are safe across their lifetime and do not increase the risk of flooding elsewhere.
18. I accept that the site is categorised by the Council as having a low, or very low, risk of flooding. However, the property is part of a wider estate, consciously built as a whole with measures in place reflecting that. In that context the wider estate has a variable flood risk, including at points ranging to 'high'. Given the provisions of the policies set out above, and as the approach taken in any one instance is indivisible from flooding vulnerability related to the wider development, in my view it is necessary for appropriate provision to be evidenced. That is as opposed to relying on the potential for conditions to achieve compliance without a clear evidential basis.
19. I note that very limited information has been provided in respect of surface water drainage to satisfactorily demonstrate that the proposed development could meet the requires of DP Policy DP41. I acknowledge the appellant's attempts to deal with this matter through meetings with the Highways Authority, correspondence in respect of the position of existing sewers and the submission of topographic survey information. However, there is no evidence before me detailing, for example, a strategy that would be feasible and achieve a desired rate of attenuation.
20. Consequently, the proposed development would be contrary to the relevant provisions of DP Policy DP41. This policy, in summary, seeks to ensure that development proposals are safe and do not increase the risk of flooding. This is consistent with the objectives of the Framework insofar as flood risk in concerned.

Other Matters

21. I note the appellant's comments in respect of the reasons for refusal potentially being resolvable. However, the appeal procedure should not be used to evolve a scheme and I have assessed the proposed development on the evidence before me. In any event, revised plans attempting to resolve such matters are not before me, nor would it be legitimate to impose conditions in that respect as that would change the scheme significantly from that which was originally proposed.
22. I acknowledge the appellant's comments in respect of sustainability and the intention to construct the dwelling to the highest standards, including in terms of insulation and providing the opportunity for green energy. I also acknowledge the appeal site's proximity to the railway station in terms of sustainable access. I note that the proposed development would ensure that appropriately sized garden areas are provided for both existing and new dwellings, that privacy and outlook would be satisfactorily maintained and existing site boundaries would not be breached. However, those are effectively neutral in my determination of the case rather than weighing positively in favour of allowing the appeal.

23. Furthermore, I acknowledge that the proposed development would bring forward an additional dwelling in the district, with the advantages that would bring in respect of housing delivery and economic benefits. However, the principle of development is not in dispute, and there is nothing to suggest that the Council cannot presently demonstrate an adequate forward supply, and delivery, of housing relative to needs.
24. Given the above, none of these factors outweigh the harm that I have identified above in respect of character and appearance, living conditions and surface water drainage. Neither the support in the development plan, nor that in the Framework, for new housing is at the expense of ensuring that development integrates appropriately with its surroundings.

Conclusion

25. For the reasons above, having had regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR