



Appeal Decision

Site visit made on 14 June 2022

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/P1425/W/22/3290795

3 Homefield Road, Seaford BN25 3DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr J Palmer against the decision of Lewes District Council.
 - The application Ref LW/21/0705, dated 29 August 2021, was approved on 13 January 2022 and planning permission was granted subject to conditions.
 - The development permitted is "Householder for lower ground floor, ground floor and first floor extension including internal alterations at first floor".
 - The condition in dispute is No 7 which states that: "Notwithstanding the provisions of the Town and Country (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development described in Class(es) A to E of Schedule 2, other than hereby permitted, shall be undertaken unless the Local Planning Authority otherwise agrees in writing".
 - The reason given for the condition is: "A more intensive development of the site would be likely to adversely affect the appearance and character of the area having regard to DM25 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework 2019".
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Decision

1. The appeal is allowed and the planning permission Ref LW/21/0705 for "Householder for lower ground floor, ground floor and first floor extension including internal alterations at first floor" at 3 Homefield Road, Seaford BN25 3DG granted on 13 January 2022 by Lewes District Council, is varied by deleting Condition No 7.

Procedural matter

2. In respect of the 'principal elevation', Ministry of Housing, Communities & Local Government Permitted development rights for householders Technical Guidance states that where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation. During the appeal process the parties were invited to give their view on whether the north west elevation or the south west elevation of the appeal building forms the principal elevation, and to give their reasons for that view. The responses received have been considered in my determination of the appeal.

Main issue

3. The main issue is whether Condition 7 is necessary and reasonable to protect the character and appearance of the surrounding area.

Reasons

4. The appeal site is situated within a mainly residential area where there are dwellings in a range of styles. The site includes an Edwardian style dwelling in good-sized grounds on the roughly south east side of Homefield Road. The site's roughly south west boundary and part of its north west boundary adjoin the East Blatchington Conservation Area, which includes the listed building at The Star House (the listed building) next door. Generally, the local landform slopes down from roughly north west to south east, but parts of the grounds of the listed building and 22 Blatchington Hill are lower than the site.
5. The site is towards one end of Homefield Road, where the mostly verdant suburban area to roughly north east meets the historic rural hamlet in Blatchington Hill. Due to the differences in their styles, scale and form, the appeal dwelling is more prominent than the roughly C18 listed building on one side and the 1930s style dwelling at 5 Homefield Road on the other. The foremost part of the appeal dwelling is closer to the street than the dwelling at 5 Homefield Road, but the listed building is even closer. So, the siting of the appeal dwelling mitigates this streetscape change.
6. Paragraph 56 of the National Planning Policy Framework (Framework) states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. These '6 tests' are also referred to in Planning Practice Guidance (PPG). Framework paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. PPG advises that conditions restricting the future exercise of permitted development rights may not pass the test of reasonableness or necessity.
7. Permitted development rights allow householders to improve and extend their homes without the need to apply for planning permission where that would be out of proportion with the impact of the works carried out. In terms of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), there are different views on whether the south west or the north west elevation of the dwelling is the principal elevation.
8. Having regard to the age and style of the appeal building, and because it includes the main porch and front door into the dwelling, the principal elevation is, in architectural terms, its south west elevation. The representations put to me by interested parties including the historic plan support this view. However, although parts of the appeal dwelling and its site can be seen from land and buildings within the Conservation Area, relatively little of either can be appreciated in the restricted views from the public highway in Blatchington Hill, or from any other nearby street. As the dwelling and its site are mainly appreciated by the general public from the nearby part of Homefield Road, in terms of the exercise of rights under the GPDO, and for the purposes of this appeal, I consider that the principal elevation is the north west elevation.
9. Irrespective of the Condition, almost any development in front of the principal elevation would require an application for planning permission. So, the Condition would not be necessary to control development there.
10. Due to the tall boundary treatment by Homefield Road, and because it is set well back, the land by the south westernmost side of the appeal dwelling can

mainly be seen from the road when the gates are open or through them. Whilst the partial screening effect of the planting by the railings on the walls could not be relied upon in the long term, the extension was found acceptable with the substantial pitched roofed garage facing Homefield Road (which has since largely been removed) between the south westernmost side of the dwelling and the site's south west boundary. So, it could not reasonably be argued that the exercise of permitted development rights for, say, an outbuilding and/or extension in the area beyond the principal elevation between the dwelling and the side boundary would be unacceptable. As several nearby dwellings include low-key garages and/or other structures between the dwellings and their side boundaries, such permitted development outbuildings and/or extensions would be in keeping with the character and appearance of the locality.

11. The nearby designated heritage assets contribute positively to the character and appearance of the area, but they were not included in the Council's Reason for imposing Condition 7. Even so, as the Conservation Area is now almost surrounded by suburban development, the exercise of the permitted development rights subject to the Condition within its setting would not diminish the significance of the Conservation Area as a historic linear downland settlement. Also, as the settings of heritage assets evolve over time, I see no reason why the exercise of the relevant permitted development rights would fail to preserve the setting of the listed building or would erode its significance as a historic dwelling that was formerly a public house.
12. I have had regard to the planning history including my colleague's appeal decisions refs APP/P1425/D/21/3284565 and APP/P1425/D/22/3290793, and to the floor area of the approved development. In imposing the Condition, the Council aims to control, rather than to prevent, further development. However, there is little to explain how other development permitted by Classes A to E of GPDO Schedule 2 Part 1 would adversely affect the character and appearance of the area, contrary to Policy DM25 of the Lewes District Local Plan Part 2 Site Allocations and Development Management Policies, which seeks respect for context, and the Framework, which seeks sympathy for local character. So, as I consider that such development would not harm the character and appearance of the surrounding area, the Condition would not be necessary.
13. The Condition would impose a restriction on the entire site but much of the back of the extended dwelling and its back garden would not be readily seen from the public domain. As development there that would otherwise be subject to the GPDO would instead be subject to an application for planning permission, the Condition would not be reasonable.
14. Therefore, I consider that Condition 7 is not necessary or reasonable to protect the character and appearance of the surrounding area. As the Condition does not meet all 6 tests in Framework paragraph 56 and PPG, it should be deleted.

Other matters

15. Some interested parties have noted that I have the power to consider the application afresh and to deal with the application as if it has been made to me in the first place. I have considered the representations made. Even so, as that power lies primarily with the Council, and, amongst other things, as it is a well-established principle that the advice of its officers cannot bind the decision of the Council, I consider that the Council's decision to permit the approved development is not fundamentally flawed.

16. Whether the ridge of the side extension were to be the same height as, or a little lower than, the main ridge of the existing roof, the approved development would be acceptable. So, the relevant minor drafting errors on some plans are not material. The trees within the garden of 5 Homefield Road are not subject to statutory protection, and because they could be removed at any time without the need for consent, it would not be reasonable or necessary to impose a condition to protect them. The living conditions of nearby occupiers were not included in the Reason for imposing Condition 7, and I agree.

Conclusion

17. For the reasons given, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

J Reid

INSPECTOR