



Appeal Decision

Site visit made on 7 November 2022

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

an Inspector appointed by the Secretary of State

Decision date: 16th November 2022

Appeal Ref: APP/C3810/W/22/3296083

23 Little Paddocks, Ferring BN12 5NJ

- 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 Ms J Hearn against the decision of Arun District Council.
 - The application Ref FG/210/21HH, dated 10 November 2021, was approved on 19 January 2022 and planning permission was granted subject to conditions.
 - The development permitted is Front balcony/inset dormer and 1st floor rear extension.
 - The conditions in dispute are Nos 3 and 4.
Condition No 3 states that: "The North-West and South-East elevations of the proposed front facing balcony hereby approved shall at all times, be screened with an obscured barrier to a minimum height of 1.7m from the balconies finished floor level. The screening shall be retained in perpetuity."
Condition No 4 states that: "The rear facing window incorporated into the second storey rear extension (first floor) hereby approved shall at all times, be obscure glazed up to a minimum height of 1.7m from finished floor level. The screening shall be retained in perpetuity."
 - The reason given for Condition No 3 is: "For avoidance of adverse impacts on neighbouring properties by way of overlooking, so as to remain in accordance with policies D DM1(3) & D DM4(c) of the Arun Local Plan."
The reason given for Condition No 4 is: "For avoidance of adverse impacts on neighbouring properties by way of overlooking, so as to remain in accordance with policies D DM1(3) & D DM4(c) of the Arun Local Plan."
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Decision

1. The appeal is dismissed.

Reasons

2. Paragraph 55 of the National Planning Policy Framework (Framework) explains that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The Framework and Planning Practice Guidance (PPG) add that planning conditions should be kept to a minimum and only imposed where they are, amongst other things, necessary. So, the main issue is whether Conditions 3 and 4 are necessary to protect the living conditions of the occupiers of 22 and 24 Little Paddocks and 45 Sea Lane Gardens regarding privacy.
3. The appeal site is situated within a mostly residential area. Little Paddocks is mainly characterised by bungalows, chalet style dwellings and houses that face the road that edges the greens. The roughly south west facing appeal dwelling is sited at an angle to the dwellings next door at 22 and 24 Little Paddocks on its corner plot. The back gardens of the dwellings at 43, 45 and 47 Sea Lane Gardens lie roughly east, north east and north of the back garden at the site.

4. The appeal dwelling is an extended hipped roofed bungalow, which includes a good-sized flat roofed back extension and rooms in its roof space. The upper floor is lit by front facing rooflights and a tall opening in its rear facing dormer, which is roughly in line with the back wall of the former bungalow. The development permitted would extend the existing dormer to about the depth of the existing back extension and would include a front facing dormer and partly inset front balcony that would broadly line up with the dwelling's front wall.

Condition 3

5. Due to their siting in the front facing roof slope, the outlook from the existing rooflights is mainly forwards. The glazed opening in the permitted dormer would be larger than both rooflights, but because its front would be roughly in line with the existing rooflights' cills and its sides would not include glazing, the forward outlook from it would be similar to that from the rooflights.
6. Whilst overlooking of the fronts of existing dwellings and front gardens is generally acceptable, most neighbouring occupiers reasonably expect some privacy in and by the sides of their homes and in their back gardens. Due to the appeal dwelling's roof form, the height and siting of the balcony, and its relationships with 22 and 24 Little Paddocks, balcony users would be able to overlook parts of the sides of the neighbouring dwellings, which include side facing windows, and activity in their grounds close by. Thus, overlooking from the balcony would harm the privacy of the adjoining occupiers. It would be contrary to Policy D DM1 of the Arun Local Plan 2011-2031 (LP) which aims for development to have minimal impact on occupiers of nearby property and land, and LP Policy D DM4 which aims for extensions or alterations to not have an adverse overlooking effect on neighbouring properties.
7. The dwellings on both sides of the front facing balconies at 19 and 25 Little Paddocks are broadly in line with those dwellings, so their layout differs from the angled relationships at the site. As their balcony users would not be able to overlook most of the sides of the neighbouring dwellings, balcony side screens would not be necessary to safeguard the neighbouring occupiers' privacy.
8. The balcony side screens required by Condition 3 would be reasonable because they would be the minimum height necessary to protect the privacy of the neighbouring occupiers. Because the screens would prevent harmful overlooking into the neighbouring dwellings and their private grounds, the otherwise unacceptable development would be made acceptable. So, Condition 3 is necessary to protect the privacy of the occupiers of 22 and 24 Little Paddocks.

Condition 4

9. Due to the siting of the dwellings at 43 and 47 Sea Lane Gardens and the layout and scale of their back gardens, the increased overlooking that could occur from the rear facing dormer in the development permitted would be acceptable. However, the back garden at 45 Sea Lane Gardens is relatively compact, and the conservatory at the back of that dwelling and its garden close by can be overlooked from the existing dormer. Whilst the dormer faces the roughly south west corner of the conservatory at 45 Sea Lane Gardens, both of the conservatory's south and east facing walls are largely clear glazed, and the nearby parts of the back garden by the conservatory are likely to be amongst the most well-used.

10. A degree of mutual overlooking between nearby dwellings and back gardens would reasonably be expected in a suburban area such as this. Even so, overlooking from the existing rear facing dormer is broadly at the limit of acceptability. Due to the increase in the depth of the rear facing dormer, the degree of overlooking would be increased. Its glazing would also be less than 21 m from the conservatory at 45 Sea Lane Gardens. Having regard to the relationships between the dwellings and their back gardens at the site and 45 Sea Lane Gardens, the increase in overlooking that could occur from the rear facing dormer would harm the privacy of the occupiers of the dwelling at 45 Sea Lane Gardens in their home and back garden. It would be contrary to LP Policies D DM1 and D DM4, and guidance in the Arun District Design Guide Supplementary Planning Document which seeks a minimum of 21 m between dwellings of up to 2 storeys.
11. With the obscure glazed area required by Condition 4, the occupiers of the appeal dwelling would lose most of the outlook over their back garden, and the light from the rear facing dormer would be reduced. However, as the parts of the glazing that would be more than 1.7 m above finished floor level could be clear glazed, and there would be ample light and outlook from the clear glazed opening in its front facing dormer, Condition 4 would be reasonable. Because the obscure glazing in part of the rear facing opening would prevent harmful overlooking into the conservatory of the dwelling at 45 Sea Lane Gardens and its back garden, the otherwise unacceptable development would be made acceptable. So, Condition 4 is necessary to protect the privacy of the occupiers of 45 Sea Lane Gardens.
12. The extract from the officer's report for a previous proposal refers to 'facing windows' and not to the conservatory, and it does not say whether the officer visited the site, so it attracts little weight. Little information about the other developments that were referred to by the appellant, including at 25, 40 and 61 Little Paddocks, has been put to me. So, I have dealt with the appeal before me on its merits and in accordance with its site specific circumstances and relevant local and national policy and guidance.
13. Therefore, I consider that Condition 3 is necessary to protect the living conditions of the occupiers of 22 and 24 Little Paddocks regarding privacy, and that Condition 4 is necessary to protect the living conditions of the occupiers of 45 Sea Lane Gardens regarding privacy. As Conditions 3 and 4 satisfy the other 'tests' in Framework paragraph 56 and PPG, I shall not remove them.

Conclusion

14. Without Conditions 3 and 4, the development permitted would be contrary to the Development Plan when taken as a whole. The other considerations in this case, including the Framework, do not outweigh that conflict.
15. For the reasons given, the appeal should be dismissed.

J Reid

INSPECTOR