



Appeal Decision

Site visit made on 15 August 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17TH November 2022

Appeal Ref: APP/C3810/W/22/3292613

22 Vermont Drive, East Preston BN16 1LA

- 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 Tristan Rosenfeldt & Mrs Louise Byars against the decision of Arun District Council.
 - The application Ref EP/125/21/PL, dated 4 October 2021, was refused by notice dated 30 November 2021.
 - The development proposed is described as a 'new detached 1 ½ storey self-build dwelling with detached garage building on existing garden land, following demolition of an existing single storey projection to the host dwelling and removal of a swimming pool'.
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Decision

1. The appeal is allowed and planning permission is granted for a new detached 1 ½ storey self-build dwelling with detached garage building on existing garden land, following demolition of an existing single storey projection to the host dwelling and removal of a swimming pool at 22 Vermont Drive, East Preston BN16 1LA in accordance with the terms of the application, Ref EP/125/21/PL, dated 4 October 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area and b) living conditions of the occupiers of neighbouring properties, having regard to outlook and privacy.

Reasons

Character and Appearance

3. The appeal site consists of part of the rear garden of 22 Vermont Drive, a large detached 2 storey dwelling set within a spacious plot incorporating a number of mature trees and established landscaping. It is bound on all sides by residential development which is made up of varying sizes and architectural styles including 2 storey, single storey and chalet style dwellings.
4. Vermont Drive includes detached properties mostly set back a similar distance from the highway, creating a strong sense of uniformity. No 22 and its immediate neighbours however are an anomaly to this, being set back from the road, sited to the rear of the existing properties that front Vermont Drive, with a shared vehicular access drive to serve the properties. Therefore, the location

of dwellings behind frontage development is a feature of the area immediately surrounding the appeal site.

5. The proposal would involve the sub-division of the plot of No 22. The lack of a street frontage that the proposed dwelling would have, being largely screened from Vermont Drive by the existing dwellings, would not be out of character or incongruous with the form of the existing surrounding development. The proposal would not, therefore, be out of character with the existing pattern of development in the immediate locality with regards to siting. Even though development would not adhere to the broader pattern of housing, this would not be widely noticeable and not incongruous within a grouping of similar properties.
6. As a result of the generous nature of the plot on which No 22 sits, which is greater than others nearby, the proposed subdivision of the site to accommodate a new dwelling would not lead to plots that would be dissimilar to others in the vicinity with regards to size. There would be ample private rear garden space to serve both the existing and proposed dwellings. As such the proposal would not appear unduly cramped or at odds with the character of the surrounding residential development.
7. Whilst the appeal site is surrounded by houses, which means that it is not easily visible from many public viewpoints, it will be seen from Nursery Close in glimpsed views between the properties at the end of the cul-de-sac as well as from adjoining properties. However, as a consequence of the scale and siting of the proposed dwelling it would be largely obscured by the neighbouring dwelling at 10 Nursery Close and would therefore not be unduly dominant in the street scene.
8. The site benefits from considerable tree and shrub planting. Whilst a number of trees are to be retained, the removal of a significant degree of the existing landscaping would be required to facilitate the development. However, given that the trees are within the rear garden of No 22 and that they do not occupy a prominent position in the street scape, they are of limited value with regards to wider public enjoyment and amenity. Furthermore, the proposal would also include new tree and hedge planting which would provide some mitigation.
9. In relation to the first main issue, the development would not be harmful to the character and appearance of the area. The proposal would, therefore, be sympathetic to local character and the surrounding built environment, whilst optimising the potential of the site to accommodate an appropriate amount of development. The proposal would, therefore, accord with Policies D SP1 and D DM1 of the Arun Local Plan adopted July 2018 (LP) which seek high quality design and Policy 1 of the East Preston Neighbourhood Plan (NP) which supports development proposals for new housing where they meet specific criteria, including that the density and layout reflects and enhances the architectural and historic character of the surrounding buildings. The proposal would also reflect the aims of section P.01 of the Arun District Council Design Guide Supplementary Planning Document 2021 (SPD) which requires infill development to be informed by the prevailing character of the area and advice in the National Planning Policy Framework (the Framework) that development should be sympathetic to local character.

Living Conditions

10. 10 Nursery Close is positioned in close proximity to the rear boundary of its plot, with little space between the rear elevation of the property and the appeal site. It is orientated so that its main outlook is towards the garden which lies to the side of the dwelling. As a consequence of the siting of the proposed dwelling, set in from the site boundary, together with the modest scale and height of the side elevation which faces the rear of No 10, the proposal would not be an unduly overbearing feature when viewed from No 10, nor would it lead to a feeling of enclosure of No 10.
11. The Council has referred to the effect on 12 Nursery Close (No 12), but at my site visit it appeared that 9 Nursery Close (No 9) and not No 12 adjoins the appeal site. I have therefore considered the effect on No 9. The proposed dwelling would not include first-floor openings in the side elevations that would directly overlook the neighbouring properties. This includes the side windows in the projecting rear gable, which would be at a lower level and would therefore not provide an outlook. Furthermore, any view towards the neighbouring properties to the side of the site from the first-floor windows in the front and rear elevations would be at an oblique angle so severely restricted.
12. As a consequence of the distance between the proposed dwelling and the rear boundary of the site, together with the presence of mature trees, which are to be retained, the rear first floor windows would not give rise to any direct overlooking of the rear garden of 20A. I find therefore that the window positioning is such that there would be no adverse effects through overlooking or perceived overlooking to Nos 9 and 10 Nursery Close or Nos 20A and 22 Vermont Drive.
13. In light of the above, the appeal scheme would not result in a harmful impact on the living conditions of the occupiers of neighbouring properties through harm to outlook or loss of privacy. The proposal would therefore not conflict with LP Policies D DM1(3) and QE SP1 which seek to ensure, among other things, that development does not have a significantly negative impact upon residential amenity or the Council's SPD which requires development proposals to preserve existing amenity and avoid overlooking.

Other Matters

14. My attention is drawn to an extant permission to extend the existing dwelling at No 22. Whilst the details of which are not before me, the planning history of the site indicates that this is a single storey rear extension for which prior approval was not required. The property lies beyond the boundary of the appeal site, any future extensions which may be undertaken as permitted development are not for consideration as part of this appeal.
15. Policy 1 of the NP sets out that development proposals will be supported provided that, among other things, the materials reflect and enhance the architectural character of the surrounding buildings. I note concerns that the proposed slate roof of the dwelling would fail to reflect the character of the area. Whilst the roofs of dwellings in the immediate vicinity are predominantly clay or concrete roof tiles, the use of slate would add interest to and enhance the context of the surrounding built form and would therefore accord with Policy 1 in that regard.

16. In relation to concerns regarding increased traffic noise and disturbance as a result of the proposal, I have no evidence to indicate that a single dwelling would lead to anything greater than a very modest number of traffic movements. As such any impact of noise from additional vehicles would not have a significant effect on the living conditions of the occupiers of neighbouring properties.
17. Concerns have also been raised regarding the impact of the development on highway safety. However, I saw that the access drive provides good visibility for emerging drivers in both directions along Vermont Drive. Furthermore, whilst only a snapshot in time, there were no obstructions to visibility at the time of my visit. The proposal would provide adequate on-site parking and turning facilities, excluding the garage, which falls short of the dimensions required for the parking of a vehicle. In view of these considerations, there would not be any harm to highway safety. In relation to access to the proposed dwelling by emergency vehicles including the Fire Service, this can be satisfactorily mitigated against subject to a suitable condition to secure the provision of a domestic sprinkler or water mist system.

Planning Balance

18. The Council indicates that it is not able to demonstrate a 5 year supply of deliverable housing sites. In such instances paragraph 11 d) of the Framework falls to be considered. In so far as this appeal is concerned this indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. Being a proposal for a single dwelling, the contribution to housing supply would be small. The benefits associated with additional housing, including short-term during the construction phase and longer term relating to the contribution that future residents would make to the community, would be similarly limited. The absence of harm relating to highway safety and living conditions would be neutral factors.
20. However, there are no adverse impacts of the proposed development that would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would benefit from the presumption in favour of sustainable development.

Conditions

21. I have imposed the standard condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, which include a materials schedule, as this provides certainty. The Council has submitted a schedule of suggested conditions to cover other matters, which I have considered against the advice in the Planning Practice Guidance and the Framework. Where I have agreed that the conditions are necessary, I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.
22. The site is closely surrounded by the rear gardens of residential properties. To protect the living conditions of the occupants of the surrounding dwellings during the construction phase, it is reasonable and necessary to impose a

condition limiting the hours when work can take place as well as deliveries associated with the construction of the development. Given the site constraints and proximity to dwellings a condition to ensure the development is carried out in accordance with an appropriate Construction Method Statement is deemed necessary.

23. In order to minimise impacts on and provide net gains for biodiversity, in accordance with advice in the Framework, conditions are reasonable and necessary to secure the recommended mitigation and enhancement measures set out in the submitted Ecological Appraisal as well as details of biodiversity net gain. Other environmental impacts can be lessened by the installation of vehicle charging points as suggested and as encourage by LP Policy T SP1.
24. In lieu of access and turning facilities for a fire appliance the Fire and Rescue Service have suggested a condition to secure the installation of a domestic sprinkler or water mist system in accordance with relevant standards which would meet the tests set out in the PPG.
25. A condition has been put to me which would restrict Permitted Development rights for the dwelling under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015. The PPG states that "Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity." I have not been presented with compelling reasons why permitted development rights should be withdrawn in this case.
26. I note the suggestion for a condition to restrict the use of the proposed garage as a private domestic garage only, for the parking of vehicles and/or storage. As there is sufficient on-site parking provision to serve the development without the garage there is no need to limit the use of the garage to the parking of vehicles. Furthermore, there is no evidence to suggest that the garage would be used for purposes other than uses incidental to the use of the dwelling, therefore it is not necessary to attach a condition to restrict the use.

Conclusion

27. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be allowed.

Emma Worley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 203124/03, 203124/04, 203124/05 and 203124/06.
- 3) Demolition, clearance or construction work and deliveries to and from the site in connection with the development hereby approved shall take place only between 08:00 and 18:00 hours on Monday to Friday and between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or Bank or Public Holidays.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel washing facilities;
 - measures to minimise the noise (including vibration) generated by the construction process to include proposed method of piling for foundations, the careful selection of machinery and use of noise mitigation barriers;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) Prior to the commencement of the development hereby approved, an appropriate ecological mitigation and enhancement strategy based on the recommendations made in the Preliminary Ecological Appraisal by the ecology partnership dated July 2021 shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall also include an implementation timetable. The works shall thereafter be carried out in accordance with the approved details and timetable.
- 6) Prior to the first occupation of the dwelling hereby permitted details of biodiversity net gain shall be provided in accordance with details to be submitted to and approved by the Local Planning Authority. The details so provided shall be retained in perpetuity.
- 7) Prior to the first occupation of the dwelling hereby permitted the car parking spaces shall be constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be kept available at all times for the parking of vehicles.
- 8) Prior to the first occupation of the dwelling hereby permitted details of covered and secure cycle parking spaces shall be submitted to and approved by the Local Planning Authority and provided in accordance with the approved plans. The spaces shall thereafter be kept available for the parking of bicycles.

- 9) Prior to the first occupation of the dwelling hereby permitted an electric vehicle charging point shall be provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.
- 10) The development hereby approved shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment and Method Statement by Arbortrack Systems Ltd dated 9th July 2021.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shown on the Planting Plan Rev A dated July 2021 at Appendix E of the Arboricultural Impact Assessment and Method Statement by Arbortrack Systems Ltd dated 9th July 2021 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) Prior to the first occupation of the dwelling hereby permitted the dwelling shall be fitted with a domestic sprinkler or water mist system in accordance with BS 9251 or BS8458 standards (or as amended). The system shall be retained and operational for the lifetime of the development.