



Appeal Decision

Site visit made on 15th November 2022

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 12 December 2022

Appeal Ref: APP/U1430/W/22/3299342

142 Pebsham Lane, Bexhill TN40 2RY

- 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 Balwinder Singh-Khaira against the decision of Rother District Council.
 - The application Ref. RR/2021/3086/P, dated 23 December 2021, was refused by notice dated 7 April 2022.
 - The development proposed is a replacement detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are the effect of the proposal on the character and appearance of the area and the effect on the living conditions of the occupants of 34 Mistley Close in relation to privacy and on the occupants of 144 Pebsham Lane in relation to outlook.

Reasons

Character and appearance

3. The appeal site consists of a small bungalow and garden located to the south side of Pebsham Lane and opposite to the junction with Filsham Drive. It slopes steeply from north to south down to Mistley Close. The bungalow sits almost at the centre of a narrow and long plot. Neighbouring properties are 140 Pebsham Lane to the west, 144 Pebsham Lane to the east and 34 Mistley Close to the south-east.
4. The area is residential and within the defined development envelope of Bexhill. Its character is defined by domestic dwellings which are mainly set back from Pebsham Lane with those on the northern side in the vicinity of the site being mainly semi-detached houses and those on the southern side being a mixture of detached houses and bungalows. Mistley Close is a medium-sized development of terraced houses.
5. The proposed development includes demolishing the existing bungalow and replacing it with a two storey dwelling. The existing dwelling is very broadly on the building line of no.140 to the west and sits on lower land. The proposed replacement dwelling would be much further forward towards Pebsham Lane on a broadly similar building line to no.144 to the east but much closer to Pebsham

Lane owing to the curve of the Lane. Both 144 and 140 have off-road parking whereas the appeal site has none (but has a building notated as a garage to the rear of the bungalow). The proposal is to create a vehicular drive on the western side of the site from Pebsham Lane which would facilitate 2 off-road parking spaces.

6. The dwelling would have an entrance courtyard access via stairs to the lower level. The land where the new building would be sited is proposed to be excavated by about 2m to accommodate the ground floor level and would add one level of accommodation above it. Whilst it is acknowledged that national policy encourages developers to make effective use of land, particularly land which is within a settlement envelope as this is, the proposed development site would appear overdeveloped and the new dwelling would be overly prominent in the streetscene.
7. Whilst the proposed western flank would be separated from the common boundary with no.140 by a driveway, the proposed mass and bulk of the building would nevertheless appear cramped within the site and too close to no.144. The proposed north-western corner would be close to the front of the site. This would result in an unduly prominent building in the streetscene which would be exacerbated by the creation of the vehicular driveway. This would be uncharacteristic of the pattern of development in the area and despite the use of excavation, the proposal would unduly dominate the streetscene. I agree with the Council's description of the proposal as a 'visual anomaly' in the streetscene.
8. Consequently, on this issue, I conclude that the proposed development would unduly harm the character and appearance of the area. It would be contrary to policies OSS4(iii) and EN3 of the Rother District Core Strategy 2014 and paragraph 130 of the National Planning Policy Framework.

Living Conditions for Occupants of 144 Pebsham Lane and 34 Mistley Close

9. 34 Mistley Close is an end-of-terrace dwelling to the south-east of the bungalow on the appeal site. The two properties share a common boundary. No.34 has a small rear garden which also adjoins the rear of 144 Pebsham Lane. The proposal would have two floors of accommodation. At the rear on the lower level of accommodation there would be a raised outdoor patio with glazed balustrade and bifold doors serving a sitting room/dining room/kitchen. On the upper level at the rear there would be a large bedroom window. Views from the proposed rear of the dwelling at either lower or upper level would allow a significant degree of overlooking of the small rear garden of 34 Mistley Close. This would be exacerbated by the views being elevated and by the proposed amount of glazing giving a strong perception of being overlooked when enjoying the garden of no.34. I do not consider that the loss of privacy for the occupants of 34 Mistley Close could be effectively mitigated given the change in land levels between the proposal and 34 Mistley Close and the likely extent of the overlooking.
10. Turning to the potential loss of outlook for the occupants of no.144 Pebsham Lane, there would be a modest part of the proposal standing forward of the front elevation of no.144 and at the rear a part of it would extend beyond the rear elevation of 144. However, the key question is whether or not the occupants of 144 would experience an unacceptable sense of enclosure from the proposal. I have concluded that they would not given that the relationship

is a flank-to-flank one and given the proposed excavation to embed the lower level of the proposal. In coming to this view I have borne in mind the topography of the two sites. Whilst there would be some harm, it is not sufficient to warrant refusal of planning permission by itself.

11. On this second main issue, I conclude that (i) there would be an unacceptable loss of privacy for the occupants of 34 Mistle Close contrary to policy OSS4(ii) of the Rother District Core Strategy (adopted 2014) and (ii) that there would not be an unacceptable loss of outlook for the occupants of 144 Pebsham Lane or a breach of policy.

Conclusion

12. I have not concluded that there would be unacceptable loss of outlook for the occupants of no.144 Pebsham Lane but this is a neutral factor rather than being a positive benefit of the proposal. However, I have identified harm to the living conditions of the occupants of no.34 Mistle Close and I have identified harm to the character and appearance of the area from the proposal.

Taking these harms cumulatively, they outweigh other considerations including benefits which flow from the redevelopment of the site as proposed.

13. Consequently, having taken into account all representations made, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR