



Appeal Decision

Site visit made on 11 July 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/U1430/W/22/3294268

Dorena, Wall Farm Lane, Jurys Gap, Rye, TN31 7SE

- 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 Eric Moon against the decision of Rother District Council.
 - The application Ref RR/2020/1304/P, dated 26 June 2020, was refused by notice dated 19 January 2022.
 - The development proposed is described as demolishing an existing single storey chalet bungalow and the creation of a two storey 3-bedroom, 4 person detached dwelling with associated car parking at Dorena, Wall Farm Lane, Rye, TN31 7SE.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The appellant confirms on the appeal form that the description for the proposal has not changed from that stated on the application form. As such, although it differs from the written descriptions given in the decision notice and the appeal form, it is used in the panel above. However, all of the descriptions given refer to the proposed dwelling as having three bedrooms, whereas the submitted drawing shows just two bedrooms. Accordingly, for the purposes of this appeal I have used the following description for the appeal. Demolition of the existing single storey chalet bungalow and the construction of a two storey 2-bedroom, 4 person detached dwelling with associated car parking.

Main Issues

3. The first main issue is the effect of the proposal on the character and appearance of the area. The second main issue is the effect of the proposal on the living conditions of the occupiers of the neighbouring property, with particular regard to visual impact, privacy and daylight/sunlight.

Reasons

Character and appearance

4. Wall Farm Lane is a narrow rural lane located within an area of flat open countryside with minimal soft planting and panoramic views on three sides. To the south is a coastal road (Lydd Road), with tall banking and the coastline beyond. There are a few isolated groups of dwellings along Wall Farm Road

- and Lydd Road, which mainly comprise modest sized timber framed and clad bungalows and mobile homes.
5. There are a few more recent chalet and two story timber clad dwellings in the group of development in which the appeal site is located, which are prominent within the landscape due to their height. Notwithstanding this, they are located relatively close to the junction of Wall Farm Road and Lydd Road, where there is a concentration of dwellings, a local distributor road, parking areas and elevated coastal path. Conversely, the dwellings further to the north along Wall Farm Lane are seen as encroaching into the flat open countryside. Notwithstanding this, their visual impact is limited due to the modest height and form of the dwellings.
 6. Elsewhere within the surrounding countryside is Dungeness power station, a series of electricity pylons and overhead lines, a cluster of wind turbines and water treatment works. These developments contribute to the utilitarian and remote character and appearance of the area. A short distance to the west of Wall Farm Lane is a large holiday park on the eastern side of Camber Sands.
 7. The appeal site is situated mid-way along and on the east side of Wall Farm Lane and backs onto Jury's Gut Sewer. It comprises a comparatively small plot that is occupied by a small derelict timber framed and clad bungalow, a modern mobile home to the side of it and a garden shed in the front garden. The appeal property has a vehicle driveway on the southern side of the plot and a small rear garden that backs onto Jury's Gut Sewer. It is flanked on either side by modest sized bungalows located close to the lane and whose rear gardens are deeper and wider than that of the existing appeal property.
 8. Due to the derelict condition of the dwelling and the poor condition and prominent location of the shed the existing development on the appeal site has a degrading impact on the site and its immediate surroundings. However, in most views from Wall Farm Lane and the surrounding area the property is screened by existing buildings, planting and the alignment of the lane.
 9. Together and amongst other things policies OSS4 & EN3 of the Rother Local Plan Core Strategy 2014 (CS) and policy DHG7 of the Rother District Council Development and Site Allocations Local Plan 2019 (DASA), require new development to be of high design quality. New development should respect and contribute positively to the character of the site and its surroundings. Also, rear garden spaces will normally be required to be at least 10 metres in depth.
 10. The National Planning Policy Framework 2021 (Framework), promotes a positive approach to sustainable forms of development. It seeks to ensure that new development is sympathetic to the local environment, including the built environment and its landscape setting, whilst not preventing or discouraging appropriate innovation or change. New development should function well, add to the quality of the area and optimise the potential of the site.
 11. With the proposal all of the existing structures on the appeal site would be removed and replaced with a two storey dwelling with timber clad walls and a shallow pitched roof. This roof would project beyond the rear elevations of the dwelling where it would be supported by tall columns. The overall building would project beyond the front and rear building lines of the existing dwelling. The proposed dwelling would be sited close to the north-eastern boundary of

the site and would project approximately six metres beyond the rear elevation of the adjacent dwelling at The Woodnut. It would also project beyond the rear elevation of the adjacent bungalow at Lalholme.

12. It would appear from the submitted drawings, the ecology report and my site visit that the rear edge of the plot would be located within the water course and its bankside. Also, that the rear garden, including the area under the canopy, but excluding the watercourse bankside, would be materially less than ten metres in depth.
13. Collectively, as a result of these factors the proposed dwelling would appear overlarge on the plot and totally out of scale with the adjacent bungalows. Due to its mass, height and siting beyond the concentration of dwellings towards the coast, the proposed dwelling would be unduly prominent in views from the surrounding open countryside. This includes views from Wall Farm Lane and Lydd Road, where it would be seen as intruding into and having an urbanising impact on the adjacent flat open countryside.
14. This harm would outweigh the direct and indirect economic, social and environmental benefits that would result from the demolition of the existing structures and of providing a new dwelling on the site. It is not a matter that could be satisfactorily dealt with through the imposition of conditions.
15. It is acknowledged that there is a similarly designed dwelling a short distance to the south at Torrylee. However, that dwelling sits just within the concentration of development to the north of Lydd Road. It also occupies a far larger plot than the appeal site and its long side fronts onto Wall Farm Lane. As such it respects the front and rear building lines of the adjacent dwellings and spacious gaps are maintained between the dwelling and its side boundaries.
16. I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the area. It would therefore conflict with CS Policies OSS4 & EN3, DASA Policy DHG7 and paragraph 130 of the Framework.

Living conditions

17. Together and amongst other things CS Policy OSS4 and paragraph 130 of the Framework seek a high standard of amenity for existing and future occupiers. Proposals should not unreasonably harm the living conditions of the occupiers of adjoining properties.
18. The Council has referred to DASA Policies DHG3 & DHG7 in their second reason for refusal. However, these policies relate to internal and external space standards for new development and so are not of any particular relevance to the effect of the proposal on the living conditions of the occupiers of the neighbouring properties.
19. Due to its height, siting and proximity the proposed dwelling would dominate the outlook from the existing window in the southwest elevation of the dwelling at The Woodnut. It would also have an enclosing impact on the outlook from the adjacent rear facing windows and rear garden of that dwelling. Due to its height, depth and siting to the southwest of The Woodnut the proposed dwelling would result in a material loss of daylight and sunlight for the occupiers of The Woodnut. This would be both within the dwelling and parts of its garden area.

20. For these reasons the proposal would unacceptably harm the living conditions of the occupiers of The Woodnut, due to its overbearing visual impact and loss of daylight and sunlight.
21. Conversely, the proposed dwelling would be sited to the northeast/east and several metres from the boundary with Lalholme. As a consequence, the proposal would not unacceptably harm the living conditions of the occupiers of Lalholme due to its visual impact or loss of daylight/sunlight.
22. The proposed dwelling would project well beyond the rear elevations and parts of the rear gardens at The Woodnut and Lalholme and the proposed side bedroom window would be obscure glazed. In addition, tall close boarded fences would be erected along the boundaries with these properties. For these reasons the proposal would not result in an unacceptable loss of privacy for the occupiers of The Woodnut and Lalholme.
23. I conclude on the second main issue that whilst the proposal would not materially harm the living conditions of the occupiers of Lalholme, it would materially and unacceptably harm the living conditions of the occupiers of The Woodnut due to visual impact and loss of daylight/sunlight. Accordingly, the proposal would conflict with CS Policy OSS4 and paragraph 130 of the Framework.

Other matters

24. The site falls within an area that is at high risk of flooding. However, no additional dwellings are proposed and the proposed dwelling would have the same number of bedrooms. It would also provide a safer environment for the occupiers of the plot due to the inclusion of first floor accommodation. Accordingly, subject to the mitigation measures set out in the Flood Risk Assessment submitted with the appeal application, the proposal would be suitable in terms of flood risk.
25. The appellant has raised a number of concerns relating to the conduct of the council in relation to the pre-application submitted in 2020 and the processing of the appeal application.
26. The pre-application referred to by the appellant related to the replacement of the existing bungalow with a mobile home. The council commented that whilst no details were submitted for them to comment on, that there would be visual concerns relating to the siting of a mobile home in this location. They went on to advise that in principle a replacement dwelling would be acceptable on the site and that with any scheme flood risk, the impact on neighbours, design and scale would be main factors.
27. Having regard to the nature of the pre-application, I find that the council's response was proactive and consistent with section 4 of the Framework. I also note that the concerns raised by the council to the appeal proposal similarly relate to design, scale and impact on neighbours.
28. Limited details are provided relating to the processing of the appeal application and the reasons for the length of time it took for the application to be determined. As such it is not a matter that I could reasonably comment on. Irrespective of this, it is not something that is material to the merits of the appeal proposal.

Conclusion

29. Whilst I have found in favour of the appellant on some matters the conclusions on both main issues amount to compelling reasons for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR