



Appeal Decision

Site visit made on 28 December 2022

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/P1425/D/22/3308176

104 Wicklands Avenue, Saltdean, East Sussex, BN2 8EP.

- 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 Mark Gage against the decision of Lewes District Council.
 - The application Ref LW/22/0475, dated 14 July 2022, was refused by notice dated 29 September 2022.
 - The development proposed is described as steps to exit French doors at rear of the property.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The proposed steps have already been constructed and the photograph submitted with the application shows that there is a trellis fence across part of the southern edge of the central steps. Whilst this trellis is not shown on the submitted rear elevation drawing, it is indicated on the submitted side elevations. As a consequence, I am satisfied that the omission of the trellis from the rear elevation is a matter that could be satisfactorily dealt with by condition without prejudice to any parties.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of the neighbouring dwellings with particular regard to overlooking and loss of privacy.

Reasons

4. The Appeal dwelling comprises a detached chalet bungalow which sits on land that slopes down to the rear. There are tall close boarded fences along the side boundaries with 102 and 106 Wicklands Avenue (No.102 & No.106). Despite this, due to the fall in ground levels there is some inter-looking between the dwellings and their rear gardens. A single storey extension has recently been constructed to the rear of the appeal property. It extends beyond the rear elevations of the adjacent dwellings at No.102 & No.106 and projects to within one metre of the side boundaries of the appeal site.
5. Amongst other things policy DM25 of the Lewes District Local Plan Part 2 Site Allocations and Development Management Policies 2020 (DMP), and paragraph 130 b) & c) of the National Planning Policy Framework (Framework), seek to

ensure that new development responds to the characteristics of the site and its relationship with its immediate surroundings. New development should not have an unacceptable adverse impact on the living conditions of the occupiers of neighbouring properties due to privacy, outlook, and activities levels.

6. The proposed steps are located to the rear of the recently constructed extension and are oriented towards the boundaries with No.102 & No.106. The proposed steps facing towards No.102 project beyond the western flank elevation of the appeal dwelling. They are close to the boundary and the rear elevation of the dwelling at No.102. As a consequence, the steps facilitate clear views into the rear facing windows of the dwelling at No.102 and the rear garden area adjacent to those windows. This results in a significant and unacceptable loss of privacy for the occupiers of No.102. This harm materially outweighs the benefits for the appellant and his family of having a flight of steps facing towards No.102.
7. The appellant has suggested increasing the height of part of the boundary fence with No.102 to prevent any over-looking. However, few details for this have been submitted and the council has commented that a 2.5 metre high section of fencing would not prevent all overlooking and itself could serve to introduce further unneighbourly development.
8. It has also been suggested that the steps close to No.102 are removed and a privacy screen installed alongside the raised decking and steps. Whilst this does appear to offer an effective solution very few details have been provided. In view of the need for any mitigation scheme to prevent direct overlooking/ loss of privacy and for it not to be visually intrusive or overbearing, it is not a matter that could reasonable be dealt with by condition. It is something that should be subject to public consultation and formally considered by the council.
9. It is noted that there were steps and an area of decking to the rear of the appeal dwelling prior to the erection of the recent rear extension. However, the area of decking close to No.102 did not project as far into the rear garden and so did not facilitate comparable views into the rear windows at No.102.
10. The proposed steps facing No.106 are set in from the side elevation of the appeal dwelling and the rear elevation of the recent extension projects in excess of four metres beyond the rear elevation of the dwelling at No.106. For these reasons it is not possible to see into the rear facing windows at No.106 from the steps. In addition, the former decking adjacent to the boundary with No.106 has been removed, which will have reduced any overlooking of that property from the appeal site. Accordingly, the proposal does not result in a material loss of privacy for the occupiers of No.106.
11. I conclude on the main issue that although the proposal does not materially harm the living conditions of the occupiers of No.106, it unacceptably harms the living conditions of the occupiers of No.102 due to overlooking and loss of privacy. Accordingly, the proposal conflicts with DMP Policy DM25 and paragraph 130 b) & c) of the Framework.

Other matters

12. It is noted that concern has been expressed regarding the size and design of the extension which is served by the rear steps. As the rear extension does not form part of this appeal, it falls outside the scope of my considerations.

Conclusion

13. Whilst I have found in favour of the appellant on some points, the conclusion on the main issue represents a compelling reason for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR