



Appeal Decision

Site visit made on 29 November 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/T1410/W/21/3283191

78 Wish Hill, Eastbourne BN20 9HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Martin Hughes against Eastbourne Borough Council.
 - The application Ref PC/210349, is dated 19 April 2021.
 - The development proposed is the erection of 1 x no.2 bed dwellinghouse with associated parking.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal form indicates that the appeal is made on the basis that the Council failed to give notice of its decision within the appropriate period. Although a decision notice (DN) has been provided by the Council as part of the appeal documentation, it is not dated. The appeal is therefore progressed on the basis of the Council's failure to determine the application within the prescribed period of a decision on an application for planning permission.
3. The Council have confirmed that references made to 19 Spring Close within the undated DN and delegated officer report have been made in error. They further confirm that the correct reference was 1 The Chapel, 80 Wish Hill (number 80). The appellants have had the opportunity to respond.

Main Issues

4. Within their undated DN, the Council indicate that they would have refused planning permission and provide putative reasons for refusal. The delegated officer report expands upon the reasoning.
5. The main issues in this appeal are the effect of the proposed development on;
 - the living conditions of the occupiers of 76, 78 and 80 Wish Hill, with particular regard to outlook, noise and disturbance, and, to the occupiers of properties on Spring Close, with particular regard to parking stress;
 - highway safety; and
 - the character and appearance of the area.

Reasons

Living conditions

6. The appeal site comprises a large part of the front garden, the driveway, and the parking and vehicle manoeuvring area of 78 Wish Hill. Excepting the boundary which fronts onto Spring Close, the appeal site is surrounded by the houses at numbers 76, 78 and 80 Wish Hill (numbers 76, 78 and 80).
7. The principal elevation of the dwelling at number 78 contains a front door and bay window at ground floor level, and a triple window and 2 smaller windows at first floor level. The outlook from all of these is over the currently open appeal site.
8. The proposed dwelling would have a hipped roof. However, due to its height and siting close to the principal elevation of number 78, its presence would cause a significant harmful reduction in the outlook available, both from within the appeal site facing rooms of number 78, and, to the front of that dwelling. Such development would have a harmful effect on the living conditions available to existing and future occupiers of number 78. Even if the dwelling at number 78 were to be remodelled, to include a porch and driveway which would address Spring Close, full details of the proposed re-modelling have not been supplied as part of this appeal. As such I cannot conclude that alterations to the property would overcome the previously stated harms.
9. Subject to a separate consent being granted for a dropped kerb off Spring Close, then it has been indicated that land under the control of the appellant would be utilised to provide a replacement vehicular access and parking area which would serve number 78. This would result in the loss of at least one on-street car parking space within Spring Close. Although on-street car parking within Spring Close is unrestricted, due to the narrow width of the road and layout of properties within the Close, the level of car parking availability within both the highway and the curtilages of individual properties within the Close is limited. In the absence of any compelling information to the contrary I accept the comments made by third parties regarding the high level of parking stress within the Close. The loss of even a single on-street parking space in such a location would exacerbate the demand for the limited car parking availability within the Close. Although this reduction in on street-car parking availability would be to the detriment of the living conditions of the occupiers of properties within Spring Close, no compelling evidence has been presented from which I can conclude that the level of harm would be substantial.
10. Notwithstanding the above, the identified harm which would be caused to the living conditions of the occupiers of number 78 is determinative in respect of this main issue.
11. Numbers 76 and 80 Wish Hill both have driveways and parking areas which are to the fronts of the properties, and directly off the road at Wish Hill. The parking area proposed to serve the dwelling subject of this appeal, would be similarly located to those of the adjacent properties at numbers 76 and 80. With replacement parking indicated off Spring Close to serve number 78, (subject to a separate consent being granted for a dropped kerb), there would be no increase in the number of dwellings which would be served by the existing access and driveway from that at present. Subject to the provision of satisfactory boundary treatments which would prevent unacceptable levels of

headlights shining into the adjacent residential properties, I have no basis to conclude that the use of the driveway and parking area, would cause unacceptable harm to the living conditions of the occupiers of numbers 76 or 80, with particular regard to noise and disturbance.

12. Whilst I find no unacceptable harm would be caused to the living conditions of the occupiers of numbers 76 and 80, with particular regard to noise and disturbance, the scheme would result in an increase in parking stress within Spring Close to the detriment of the occupiers of properties within the close. It would also result in unacceptable harm to the living conditions of the occupiers of number 78, with particular regard to outlook. Consequently, and in this respect the development would conflict with the requirements of saved policy H020 of the Eastbourne Borough Plan – 2007 (the Borough Plan), where it seeks to ensure that development proposals should respect residential amenity and not cause unacceptable loss of outlook. Also, in respect of living conditions, it would conflict with policy D10a of the Eastbourne Core Strategy Local Plan – 2013 (the Core Strategy) where it requires development to take account of its context and be sympathetic in its relationship to adjoining buildings.

Highway safety

13. Roadside parking is unrestricted alongside the stretch of Wish Hill passing the appeal site. The junction of Herburn Road and Wish Hill is located opposite the proposed driveway and parking area.
14. The existing driveway serving number 78 passes alongside and to the rear of the residential accommodation at number 80. There is sufficient space for drivers of vehicles to park and turn within the curtilage of number 78 so that they may enter and exit the property in forward gear.
15. The construction of the proposed dwelling and associated landscaping proposals would result in the loss of the existing parking and turning area which currently serves the house at number 78. A new parking area to serve the proposed dwelling would be provided within the appeal site, directly to the rear of the pavement on Wish Hill. Whilst there would be space for at least 2 vehicles to be parked within this area, it is not wide enough to enable cars to be turned within the site. Therefore, drivers would be required to either reverse onto the parking area from Wish Hill or off the parking area and onto Wish Hill.
16. When reversing from the carriageway onto the parking area, drivers would be required to stop within the carriageway before undertaking the reversing manoeuvre. This action would be harmful to the free flow of traffic along the road. Alternatively, when undertaking a reversing manoeuvre from the parking area onto the road, visibility of oncoming vehicles approaching from Herburn Road would be restricted. So too, would visibility of oncoming vehicles along Wish Hill, by vehicles which may be parked on the street. Both manoeuvres would create a road safety hazard which would cause significant harm to road safety.
17. I therefore find that the proposed development would have an unacceptable adverse effect on highway safety. Consequently, it would conflict with the part of saved policy TR11 of the Borough Plan, which seeks to ensure that car parking reflects traffic conditions. It would also conflict with paragraph 111 of the Framework, which seeks to prevent unacceptable impacts on highway safety.

Character and appearance

18. The appeal site is located within a built up and predominantly residential area, which has a relatively high density of development. Although access to the property is currently secured via Wish Hill, the appeal site also has a boundary adjacent to Spring Close. The density of development within Spring Close is greater than that within surrounding streets. There are several short terraces of houses within Spring Close which share design characteristics and detailing. However, the properties which are adjacent to the appeal site side of Spring Close are of a wider range of ages, materials and styles, and they do not conform to any single common building line. The range of development in the area provides a varied streetscene which contributes positively to the character and appearance of the area.
19. The proposed detached dwelling would be sited between the buildings at numbers 78 and 80. Presently, there is a tall close boarded fence alongside the Spring Close facing boundary of the appeal site. The proposed development would result in the introduction of 2 storey development within the gap between the buildings at numbers 78 and 80. This would, to a limited extent, reduce the openness of the street scene in this area, and the views of surrounding development. However, by being detached and having small gaps retained on either side of the dwelling, the resultant development would not have an unacceptable harmful enclosing effect within the street scene, nor would it appear cramped within a street scene which incorporates a number of semi-detached and terraced houses.
20. Although located closer to the edge of the Spring Close carriageway than number 78, it would be a similar distance from the carriageway than the buildings at numbers 80 and 24 Spring Close. It would also have a similar height to the dwellings at numbers 78 and 24 Spring Close. Even though the main side wall of the property closest to number 78 would be largely blank, when viewed from locations further towards the enclosed end of Spring Close, much of this elevation would be obscured by the building at number 78. As such the proposed development would not have a harmful prominence or appearance within the Spring Close street scene.
21. The proposed parking area, is located similarly to that of neighbouring properties on Wish Hill. Subject to the imposition of conditions requiring the provision of landscaping details and boundary treatments, I have no reason to conclude that it would be out of keeping with the area.
22. The removal of areas of planting inside of the Spring Close boundary would be required. This planting has a positive effect on the character and appearance of the area. However, the benefits which would arise from the removal of the close board fencing directly adjacent to the rear of the pavement, and the erection of a house which addresses Spring Close, would outweigh the limited harm caused by the loss of the small areas of planting.
23. For the aforementioned reasons, the development would not cause unacceptable harm to the character and appearance of the area. Consequently, and in these respects, it would comply with the requirements of saved policies UHT1, UHT4, and UHT5 of the Borough Plan, and policy D10a of the Core Strategy, where they seek to ensure that design of development contributes towards local distinctiveness and is sympathetic to its setting.

Other Matters

24. Whilst the planning officer may have offered advice during their consideration of the planning application, this advice was not a formal decision or binding on the Council.
25. I have not been provided with full details of the developments approved under planning application references 020007 or 030715. However, these permissions appear to have been granted prior to the residential conversion of the building at number 80. Therefore, these earlier decisions are not directly comparable with the development subject of this appeal.

Planning Balance

26. Paragraph 11 of the National Planning Policy Framework (the Framework) indicates that decisions should apply a presumption in favour of sustainable development. The Council have indicated that it is currently unable to demonstrate a five year supply of housing land. As such, the requirements of paragraph 11d) are triggered, and the most important policies for determining the appeal are deemed to be out of date. In accordance with 11d) and 11d)ii, and for sustainable development proposals, 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.
27. In the context of the development plan, and in respect of living conditions and highway safety I have found that the proposed development would be contrary to policies HO20 and TR11 of the Borough Plan and D10a of the Core Strategy. For this appeal, I have found these policies to be generally consistent with the aims at paragraphs 111 and 130 of the Framework to create places with a high standard of amenity for existing and future users, and which would not cause an unacceptable harm to highway safety. I therefore attach substantial weight to these policies. Although I have found no demonstrable harm would arise in response to the requirements of policies UHT1, UHT4 and UHT5 of the Borough Plan or policy D10a of the Core Strategy, in respect of the effects of the development on the character and appearance of the area, the proposal would not accord with the development plan when taken as a whole.
28. In this case there would be a benefit from the creation of 1 new dwelling house on a small site which is supported by paragraph 69 of the Framework. Although it would help to address the Council's shortfall in housing delivery, it would deliver only a single dwelling, to which moderate weight can be accorded. Other benefits would be the inclusion of measures to minimise energy and water consumption; electric vehicle charging point and covered bicycle store to enable more sustainable travel; and the creation of a more active frontage along Spring Hill, which may help to increase levels of safety and security. In addition, materials would be sourced locally where possible, and local companies used during the construction, which would bring benefits to the economy. There would also be the opportunity to secure benefits to the biodiversity value of the site and to increase permeable landscaping to slow down the rate of surface water run-off. However, given the scale of the scheme any benefits would be small, and as such the weight than can be attributed to these benefits is limited.

29. The development would cause harm to the living conditions of the occupiers of number 78, with regard to outlook, and it would have a harmful effect upon highway safety. Substantial weight is accorded to these harms. Due to increasing parking stress within the area, it would also cause harm to the living conditions of the occupiers of Spring Close. This harm is accorded moderate weight. The development proposals would therefore be contrary to the aims of the Framework to create places with a high standard of amenity and to prevent unacceptable impacts on highway safety.
30. The main parties agree that the proposed development would not have an adverse effect on the setting of the nearby Conservation Area. This is a neutral consideration. So too, is that the materials and colour palette used would match those in the dwelling at number 78. That the dwelling has been designed so that it will not cause an unacceptable harm to the living conditions of the occupiers of numbers 76 and 80, is also a neutral factor that does not weigh either in favour or against the scheme.
31. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. As such, the development would not benefit from the presumption in favour of sustainable development.
32. The proposed development also conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and development plan conflict.

Conclusion

33. For the reasons given above, I conclude that the appeal should be dismissed and planning permission refused.

V Simpson

INSPECTOR