



Appeal Decision

Site visit made on 9 January 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 27 January 2023

Appeal Ref: APP/U1430/W/22/3295483

8 Church Vale Road, Bexhill TN40 2ED

- 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 Oliver Beswick of The Goldeneye Group against the decision of Rother District Council.
 - The application Ref RR/2022/62/P, dated 12 January 2022, was refused by notice dated 21 March 2022.
 - The development proposed is erection of a single storey dwelling with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the application form. I have removed reference to the amendment to a previous application as that wording does not relate to development.
3. Whilst a loss of daylight experienced by the occupiers of 2 St Peter's Crescent was not included within the reasons for refusal, the Council has raised this concern within their appeal statement. As such, this has been included within the main issues detailed below. The Appellant has provided final comments following the issuing of the Council's appeal statement and they are therefore not prejudiced by me including this within the main issues of the appeal.

Main Issues

4. The main issues of the appeal are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the occupiers of, 6 Church Vale Road, with particular regard to outlook, and 2 St Peter's Crescent, with particular regard to outlook and daylight;
 - whether the proposed development would provide acceptable living conditions for future occupiers, with regard to the provision of private external space.

Reasons

Character and Appearance

5. St Peter's Crescent is characterised by large, generally detached bungalows set back from the road with wide road frontages, alongside low boundary treatments. There is a regular pattern of development, with dwellings often separated by driveways and garages. These aspects combine to create a spacious setting for the area.
6. Whilst the proposed development would have a similar sized, if not larger, road frontage than its immediate neighbours, the size of the proposed dwelling and plot is significantly smaller than neighbouring properties. Although full circulation of the proposed dwelling could be achieved, it would be sited very close to the rear boundary and close to the boundary with 2 St Peter's Crescent. The size of the proposed dwelling and plot, alongside its siting, would lead to it appearing cramped, in contrast to the spacious character of the wider area.
7. The proposal includes off-road car parking, bin and bike stores to the front of the proposed dwelling. Where these features are present elsewhere in the area, they are often found to the side of properties. As these features would be located to the front of the proposed dwelling, they would make the front external area appear cluttered which would amplify the cramped and overcrowded feeling of the proposed development. The proposed development would therefore appear as an incongruous feature within the pattern of development when viewed from the road and neighbouring properties.
8. It has been put to me that a large hedge could be planted to screen the development from wider public views. However, this would introduce a large boundary feature which would create a sense of enclosure around the property. This would be at odds with the open character of the area and further detract from its quality.
9. Although the appeal scheme is more spacious than previously refused schemes, it does not alter the acceptability of this proposal. Similarly, whilst the Council has not objected to the design and materials of the proposed development, it does not overcome the harm caused by its siting and scale.
10. I conclude that the proposed development would have an unacceptably harmful effect on the character and appearance of the area. The appeal scheme is therefore contrary to Policies OSS4 and EN3 of the Rother Local Plan Core Strategy (Core Strategy), adopted September 2014, which requires development to respect the character and appearance of the locality and contribute positively to the character of the site and surroundings. It is also contrary to Policy DEN1 of the Development and Site Allocations Local Plan (DASA), adopted December 2019, which states the siting, layout and design of development should maintain and reinforce the natural and built landscape. The appeal scheme is also contrary to Paragraph 130 of the National Planning Policy Framework (the Framework) which states planning decisions should ensure developments are sympathetic to the local character.

Living Conditions – Occupiers of 2 St Peter’s Crescent and 6 Church Vale Road

11. When compared with the previously refused application there is greater separation between the proposed dwelling and 2 St Peter’s Crescent (No. 2). However, the proposed dwelling is still sited close to the boundary with No. 2.
12. The proposed dwelling would be much larger than the existing garage on site and would rise above the existing fence line. The proposed dwelling would be viewed from three ground floor windows of No. 2, which are located within the elevation overlooking the appeal site. One of the windows serves a bedroom and the other two windows serve a bathroom. The increase in mass close to the boundary and directly in front of the windows would create a greater sense of enclosure, for the occupiers of No. 2. Consequently, the proposal would create a dominant and oppressive feature that would have an overbearing effect on the outlook from the ground floor windows of No. 2.
13. Given the height, massing, and the siting of the proposed dwelling, it would reduce the amount of daylight experienced by occupiers of No. 2. The proposed development would lead to significant overshadowing of No. 2’s bedroom and bathroom throughout most of the day, it would therefore have an unacceptably harmful effect on the living conditions of the occupiers of No. 2.
14. The siting of the proposed dwelling is close to the boundary with 6 Church Vale Road (No. 6); however, it is some distance from the rear elevation of No. 6. Given the considerable distance from the rear windows of No. 6 to the proposed development, I consider that the outlook from rear windows of No. 6 would not be significantly affected.
15. It has been put to me that a 2 metre high fence could be erected along the boundary of the appeal site, under permitted development rights, and this would have a more harmful effect on the living conditions of neighbouring residents compare to the proposed development. However, I have no evidence that the permitted development rights necessary to construct a 2 metre high fence exist and limited evidence that the appellant would construct the fence. Notwithstanding, the effect of a 2 metre high boundary fence would likely have less of an impact on the living conditions of No. 2, compared to the proposed development, given the roof of the proposed development would extend much higher. I can therefore only give the fallback position very limited weight and it does not alter my judgement on the acceptability of the appeal scheme.
16. I conclude that the appeal scheme would not have an unacceptably harmful effect on the living conditions of the occupiers of No. 6, with respect to outlook. Nevertheless, the appeal scheme would have an unacceptably harmful effect on the living conditions of the occupiers of No. 2, with respect to outlook and daylight. The appeal scheme is therefore contrary to Policy OSS4 of the Core Strategy which requires development to ensure it does not unreasonably harm the amenities of adjoining properties.
17. Policy DHG9 of the DASA does not apply to the appeal proposal as it relates to extensions, alterations and outbuildings. However, the appeal scheme is contrary to the general objective of Policy DHG9 which seeks to protect neighbouring living conditions.

Living Conditions – Future Occupiers of the Proposed Dwelling

18. Whilst the proposed external space is modest in size, it is proportionate to the size of the proposed dwelling and therefore would include sufficient external space for the future occupiers. Nevertheless, given the orientation of the proposed development the external space would be predominantly to the side and front of the proposed dwelling and therefore it would not benefit from the same level of privacy as a rear garden.
19. A suitable level of privacy within the proposed external space could be achieved through a carefully designed landscaping scheme or boundary treatment. However, any screen, whether it be hard or soft landscaped, would create a sense of enclosure and would therefore be contrary to the spacious character and appearance of the area. Also, the inclusion of a visual screen would sub-divide the external space and reduce the amount of usable space. I therefore consider that the use of a visual screen to protect future occupiers' privacy would not be acceptable.
20. Whilst neighbouring properties benefit from open front gardens, neighbouring residents are afforded a significant level of privacy in their back gardens. Future occupiers of the proposed dwelling would not have an alternative space to the rear of the property and would therefore be significantly overlooked from neighbouring properties and the street when using their only external space. The level of privacy that would be afforded to future occupiers is therefore considerably less than other properties in the suburban area.
21. I conclude that the appeal scheme would have an unacceptably harmful effect on the living conditions of future occupiers with regard to the provision of private external space. The appeal scheme is therefore contrary to policies OSS4 of the Core Strategy and DHG7 of the DASA, which require development to protect the amenities of future occupiers and provide appropriate private external space.

Other Matters

22. The scheme approved at 3 Claxton Road is materially different from the appeal scheme as there is a more close knit pattern of development in that area, also the level changes across that site and neighbouring properties mean the effect of the development on the outlook enjoyed by neighbouring residents is acceptable. The scheme approved following appeal, at 3 Claxton Road, does not set a precedent for the proposed development. It therefore has not affected my assessment of the acceptability of the appeal scheme.

Planning Balance

23. It is not disputed that the Council cannot demonstrate a five year housing land supply and it has underperformed in relation to the Housing Delivery Test. In accordance with Paragraph 11 of the Framework, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits; unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development. On the evidence before me, there are no specific policies in the Framework that provide a clear reason why the proposed development should be refused.

24. I have found that the appeal scheme would be contrary to policies OSS4 and EN3 of the Core Strategy and policies DEN1 and DHG7 of the DASA. These policies are generally consistent with the relevant aims of the Framework and are not considered out of date, and I attach substantial weight to them.
25. The appeal proposal would not lead to significant harm in relation to arboricultural or ecological matters and the Council does not dispute that the appeal scheme would include a suitable access and drainage arrangements. It is also agreed that the appeal site is located within an accessible location within Bexhill close to transport infrastructure, outside of the High Weald Area of Outstanding Natural Beauty. All of which could be considered as neutral factors.
26. The appeal proposal could provide a net increase in biodiversity through the agreement of a soft landscaping scheme; provide employment benefits during the construction of the proposed dwelling; and lead to the Council receiving Community Infrastructure Levy payments and increased Council Tax receipts. The appeal scheme would contribute to addressing the housing shortfall in Rother and could provide a relatively affordable, wheelchair accessible property on previously developed land. Whilst there is a significant shortfall of housing land and there has been an under delivery of housing in the area, these benefits are limited given the relatively modest scale of the development.
27. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

28. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR