



Appeal Decision

Site visit made on 26 January 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/U1430/D/22/3305720

Solpax, Morlais Ridge, Winchelsea, TN36 4LL

- 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 L Schembri against the decision of Rother District Council.
 - The application Ref RR/2022/904/P, dated 6 April 2022, was refused by notice dated 1 June 2022.
 - The development proposed is described as proposed conversion of garage including roof extension and addition of dormers to provide ancillary annexe for Solpax.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first main issue is the effect of the proposal on the character and appearance of the locality. The second main issue is the effect of the proposal on the living conditions of the occupiers of 'This Is It' with particular regard to visual impact and privacy.

Reasons

Character and appearance

3. The appeal site is situated in a flat and open rural area on the outskirts of Winchelsea Beach. It is an area where planning policies seek to prevent the creation of new dwellings, other than in certain specified instances, but do allow for the provision of ancillary domestic buildings. The proposal would enable the appellant to live in the appeal building, whilst his daughter and her family live in the main dwelling.
4. The appeal site is located to the rear of an informal row of dwellings and other buildings that adjoin the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI). It is close to a designated Area of Outstanding Natural Beauty and within flood zone 3 on the Environment Agency's flood risk map.
5. The site extends to some 0.84 hectares and stretches between the rear of a number of dwellings fronting Morlais Ridge and Morlais Place. It is served by a private access drive located between 'This Is It' and 'Maecliffe'.
6. The existing dwelling comprises a bungalow with a shallow pitched roof and the appeal building, which sits on the opposite side of the access drive, to the rear

of 'This Is It' comprises a large single storey oblong building with a similar shallow pitched roof. It has a central garage door with windows on either side and a pedestrian door and window on its western side elevation. Currently the appeal building is used for storage purposes.

7. Collectively and amongst other things CS Policies OSS4 and EN3 and policy DEN1 of the Rother Development and Site Allocations Local Plan 2019 (DaSA), seek to ensure that new development respects and does not detract from the character and appearance of the locality. It should be of high-quality design and should respect and contribute positively to the character of the site and its surroundings. It should maintain and reinforce the natural and built landscape character of the area.
8. This is consistent with paragraph 130 of the National Planning Policy Framework (Framework), which states that new development should be designed to a high standard, be sympathetic to local character and history, function well, should safeguard the environment and optimise the development potential of a site. Paragraph 126 of the Framework states that that good design is a key aspect of sustainable development and paragraph 134 of the Framework states that development that is not well designed should be refused.
9. The appellant has stated that the council's Strategic Housing Market Assessment (SHMA) identified a high need for accommodation for the elderly. Also, that the Rother Local Plan Core Strategy 2014 (CS) does not meet the housing needs of the district due to environmental constraints. However little evidence regarding this.
10. The appeal building is located close to the rear elevation of the dwelling at 'This Is It'. Currently, due to its siting and modest height the appeal building is screened from Morlais Ridge by the dwelling at 'This Is It' and the existing boundary screening. With the proposal the roof eaves overhang and height of the appeal building would be materially increased, with the ridge height being in excess of seven metres. Pitched roof dormers would be introduced on both roof-slopes and new windows would be introduced on all sides of the building at ground and/or first floor level.
11. As a consequence, the new roof would be clearly visible from Morlais Ridge in the vicinity of the entrance drive and to the south of 'This Is It', where it would be out of keeping with the modest height of the few structures within this part of the largely open area between Morlais Ridge and Morlais Place. In addition, due to their juxtaposition, the relationship between the appeal building and the dwelling at 'This Is It' would appear unduly cramped and out of character with the surrounding open and spacious landscape.
12. For these reasons the proposal would materially and unacceptably harm the character and appearance of the locality. This harm would outweigh the benefits for the appellant and his family that would result from the extension and conversion of the outbuilding. It would similarly outweigh the identified need for accommodation for the elderly set out in the SHMA.
13. Finally, it is acknowledged that numerous properties have one and half storey ancillary outbuildings. However, the example referred to in Battle is not directly comparable to the appeal proposal and I saw no comparable outbuildings during the appeal site visit. Rather than set a precedent, the

existence of other outbuildings serves to highlight the need to assess each proposal on its individual merits and in light of the prevailing planning policies.

14. I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the locality. It would therefore conflict with CS Policies OSS4 & EN3 and DaSA policy DEN1 along with paragraphs 126 and 130 of the Framework.

Living conditions

15. The extended appeal building would be sited directly in front of the rear garden and between 8 and 12 metres from the existing rear elevation of the dwelling at 'This Is It'. This rear elevation includes a raised ground floor deck and various windows and doors, as well as roof lights serving the ground floor and a deep window at first floor level. As a consequence, the resultant appeal building would totally dominate the outlook from the rear garden, decked area and rooms served by the ground and first floor windows.
16. Whilst it is noted that there is some screen planting between the two properties, it is not tall and where it projects above the boundary fence daylight and sunlight can filter through it. It is acknowledged that further planting could take place between the appeal building and the boundary of the appeal site. However, to screen the proposed resultant building the planting would need to be tall, which itself would have an enclosing and overbearing impact on the rear environment at 'This Is It', particularly as the appeal building would materially restrict light filtering through the planting.
17. It is noted that there would be no first windows in the end elevation facing 'This Is It' in the resultant appeal building. However, the southern elevation of the appeal building is tilted slightly towards 'This Is It' and there would be views from the proposed rear home office directly into the side garden at 'This Is It'. Whilst in itself this would not amount to a reason for dismissing this appeal it would exacerbate the overbearing impact of the roof extension.
18. Finally, although the dwelling at 'This Is It' was originally single storey, the impact of the proposal has to be assessed having regard to the existing dwelling and garden area to that property.
19. I conclude on the second main issue that the proposal would unacceptably harm the living conditions of the occupiers of 'This Is It', due to its overbearing visual impact and associated loss of privacy. Accordingly, the proposal would conflict with DaSA Policy DHG9, which amongst other things seeks to ensure that new development does not unreasonably harm the living conditions of the occupiers of adjoining properties.

Other matters

20. The appeal site is located within Flood Zone 3 on the Environmental Agency Strategic Flood Risk Map. Accordingly, the application was supported by a Flood Risk Assessment (FRA). Subject to the mitigation measures set out in the FRA, I concur with the council that the proposal would be unlikely to raise significant flood risk issues.
21. The appellant submitted a bat survey report with the application, which reported no bats entering the building, although there was bat activity in the immediate area. It concluded that bats are likely absent from the building,

although vegetation within the wider site provides a good habitat for foraging and commuting bats. No further ecology surveys were undertaken. Given the proximity of the site to the SSSI I agree with the council that further survey work would have been pertinent. Accordingly, whilst due to the nature of the proposal it would be unlikely to result in significant harm to biodiversity, this is a matter upon which I would have sought further comments from both main parties, had I found in favour of the proposal.

Planning Balance and Conclusion

22. The appellant has stated that the District does not have a five year supply of deliverable housing sites, although few details are provided. However, I note that the Housing Delivery Test Figures published in January 2022 confirm that the Council had met only 57% of the delivery test requirement. Therefore, the development plan policies that are most important for determining the appeal are out-of-date and the tilted balance as set out in paragraph 11d of the Framework is engaged. In this instance criterion i is not applicable in view of my findings relating to flood risk and biodiversity, but criterion ii is.
23. The proposal does not include the provision of any new dwellings and so it would not increase the number of dwellings in the locality. Instead, it would provide a residential annexe suitable for extended family use and so would increase the accommodation capacity of the appeal property. Both in view of the minimal contribution the proposal would make to the supply of homes in the district and having regard to the Housing Delivery Test results, together with the stated need for accommodation for the elderly, I give a very little weight to this benefit of the scheme in the planning balance.
24. The proposal would make use of an existing building, although it would involve significant extension and alterations to the building to provide a first floor. As such I give this benefit negligible weight in the planning balance.
26. The construction of the proposed annexe would provide employment and the occupiers of the proposed annexe would likely support local services and facilities. Notwithstanding this, due to the modest nature of the proposal this is a benefit to which I give little weight in the planning balance.
27. I have found that due to the siting, bulk and height of the proposed annexe, the proposal would unacceptably harm the character and appearance of the locality and the living conditions of the occupiers of 'This Is It'. As a consequence, the proposal would be contrary to CS Policies OSS4 & EN3 and DaSA Policies DHG9 & DEN 1, which are consistent with paragraphs 126 and 130 of the Framework. For the reasons set out above I give this harm and conflict significant weight.
28. Overall, for the reasons set out above the proposal would conflict with the environmental objective of sustainable development. This weighs heavily against the proposal.
29. A lack of a five-year supply of housing and the shortfall in housing delivery does not automatically lead to the grant of planning permission. In this instance the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits resulting from the proposal when assessed against the policies in the Framework taken as a whole. I therefore find that the presumption in favour of sustainable development should not be applied.

30. The proposal would conflict with the development plan and this conflict is not outweighed by other material considerations, including the provisions of the Framework and in particular paragraph 11. Accordingly, for the reasons stated above and taking all other matters into consideration, I conclude that the Appeal should be dismissed.

Elizabeth Lawrence

INSPECTOR