

Appeal Decision

Site visit made on 17 January 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/Y9507/D/22/3303985
58 South Way, Lewes BN7 1LY

- 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 Mrs Alec Sawyers against the decision of the South Downs National Park Authority ('the NPA').
 - The application, Ref. SDNP/22/01837/HOUS, dated 4 April 2022 was refused by notice dated 23 June 2022.
 - The development proposed is the erection of a two-storey side and rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two-storey side and rear extension at 58 South Way, Lewes in accordance with the terms of the application, Ref. SDNP/22/01837/HOUS, dated 4 April 2022 and subject to the following conditions:
 - 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building;
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 2122_0005P1; 2122_0101P1; 2122_0301P1; 2122_0501P1; 2122_0701P1.

Main Issues

2. The main issues are (i) whether the cumulative increase in the amount of floorspace at the property would harmfully exceed the limit laid down by Policy SD31 of the South Downs Local Plan 2014-33 adopted in July 2019 ('the Local Plan') and also result in the loss of a 'small/medium dwelling', and (ii) the effect of the development on the living conditions for the occupiers of No. 60 in terms of outlook, privacy and light.

Reasons

Issue (i): Size of the Dwelling

3. On the first issue, the NPA says that the appeal scheme would increase the dwelling's existing floorspace by 47%, which would significantly exceed the
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policy limit of approximately 30%. For the appellant it is argued that because the existing detached garage is to be demolished, its floor area should be deducted and this would reduce the net increase in floorspace to 32%, a figure that would be acceptable under Local Plan Policy SD31.

4. I am satisfied that the garage is used for 'an ancillary domestic purpose' as referred to in supporting paragraph 7.92 of Policy SD31. However, in order for its demolition to be taken into account, this paragraph firstly requires the outbuilding to have been there on 18 December 2002 and secondly that its removal would be part of a rationalisation to improve the appearance of the site.
5. As regards the date, neither the appellant nor the NPA have provided evidence of the age of the garage and no reasons are given for this omission. However, from my visit to the site I observed that the house and garage appear to be built from bricks, mortar and roof tiles that are an exact match in terms of both type and their appearance as regards the ageing process. I have not been advised as to the date of the house, but in any event from all I have seen and read I consider it reasonable to assume that the garage pre-dates 2002.
6. In terms of the second requirement of outbuildings being rationalised, the NPA has discounted this because no replacement garage is included in the development. I acknowledge that this is the example given in paragraph 3.19 of the Technical Advice Note. However, it is only an example and I consider that paragraph 7.92 would be satisfied in this case as the number of outbuildings would be reduced from one to none and the removal of the garage would improve the appearance of the site.
7. In my assessment of the proposal I have also had regard to the reference in the grounds of appeal to the November 2021 decision on a similar proposal at No. 42 South Way (Ref. SDNP/21/03254/HOUS) in which the floorspace of the existing garage was taken into account.
8. The NPA additionally refers to the increase in property size from below 120sqm to above 120sqm resulting in the loss of a small/medium dwelling. However, as the grounds of appeal point out, the Technical Advice Note in paragraph 3.6 defines a small or medium sized dwelling as having a gross internal area of 120sqm *and/or* having one, two or three bedrooms (my emphasis).
9. The use of the word 'or' does not preclude the appeal scheme because the existing dwelling already has three bedrooms and although the first floor of the extension would provide increased floorspace and the provision of additional facilities, it does not increase the number of bedrooms.

Issue (ii): Effect on Living Conditions at No. 60

10. I also saw on my visit to No. 58 that the land slopes upwards from east to west resulting in the houses being at a higher level than the carriageway of South Way, whilst a south to north downward slope places No. 58 slightly higher than its neighbour at No. 60.
11. The appeal scheme is a wraparound two-storey extension to the side and rear (the latter including a single storey element) and the NPA's concern is that the elevated position of No. 58 and the higher land level than No. 60 would have

an adverse effect on that dwelling as regards outlook, light and privacy. However, the extension would be set down and set back to achieve the necessary subordination to the host dwelling. I also consider that both the increase in width at the side and depth at the rear would be proportionate to the existing footprint.

12. I acknowledge that the higher land level of No. 58 than No. 60 would to some degree increase the impact of the extension on its neighbour, albeit in my assessment not significantly. Moreover, No. 60 is positioned well away from the boundary and overall the removal of the existing garage (with its position on the boundary and extensive projection to the rear) would more than compensate for the effect of the appeal scheme as regards outlook, despite the latter's two storey height.
13. In terms of privacy, the additional bedroom window would increase the overlooking of No. 60 by virtue of its greater proximity compared to the existing first floor rear windows. However, the oblique views are a feature of linear development and the relationship between the new window and the back garden of No. 60 would be no more invasive of privacy than that of countless other residential settings. Furthermore, the removal of the existing clear glazed first floor side window that currently permits views over the neighbour's driveway and garden would be removed.
14. Finally, the NPA has referred to an increased shadowing effect on No. 60 and I have noted the analysis in the Officer's Report. However, when considering the combination of the time of the year, the hours of the day and the areas of No. 60 affected I do not regard this as anything out of the ordinary for side by side houses. Nor would the change from the existing situation be unduly harmful in terms of living conditions. And although not determinative, it is material that the occupiers of No. 60 have not objected to the appeal proposal on the basis of this or indeed any other effect.

Conclusion

15. Overall, I conclude on balance that on both main issues the appeal proposal would not be in harmful conflict with Local Plan Policies SD5 & SD31 and in the case of issue (ii) also paragraph 130f) of the National Planning Policy Framework 2021. I shall therefore allow the appeal.
16. A condition to require the matching of external materials with the existing house will preserve visual amenity. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning.

Martin Andrews

INSPECTOR