

Appeal Decision

Site visit made on 10 February 2023

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

an Inspector appointed by the Secretary of State

Decision date: 9th March 2023

Appeal Ref: APP/C3810/W/22/3308587

Longacre, Maypole Lane, West Sussex, Yapton BN18 0DR

- 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 and Mrs N Boffee against the decision of Arun District Council.
 - The application, Ref. Y/60/22/PL, dated 5 May 2022 was refused by notice dated 5 July 2022.
 - The development proposed is the erection of a detached dwelling and garage with shared access from Maypole Lane.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a detached dwelling and garage with shared access from Maypole Lane at Longacre, Maypole Lane, West Sussex, Yapton in accordance with the terms of the application, Ref. Y/60/22/PL, dated 5 May 2022 and subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are (i) the effect of the development on the character and appearance of the area, and (ii) the effect on the living conditions for occupiers of Longacre and The Paddocks as regards privacy.

Reasons

3. On the first issue, the term 'overdevelopment' is much favoured in objections to development proposals, albeit more often by third parties than Local Planning Authorities, and is applied on the basis that it results in a wide variety of unsatisfactory outcomes. In this instance the outcome that the Council fears would be one of an adverse effect on the character of the area as a result of an overly cramped appearance. The Council does however accept that in locational terms the appeal scheme would be a sustainable development.
 4. In assessing the Council's evidence I acknowledge that this is a 'tight' site as regards the proposed development. In addition, with its elongated footprint and a shallow depth from front to rear that permits only a sequential single room layout on the ground floor, the proposed dwelling has an element of contrivance in its design. However with that said, the appearance would not be dissimilar to the existing built form of Longacre and I note that the Officer's Report accepts both that the dwelling would be of a comparable size to its neighbours and that its appearance is appropriate for the area.
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5. Furthermore, in this backland location the absence of both a street frontage and another dwelling close by on either side would almost entirely negate any reasonable perception of a cramped development. This is especially so, given the open fields on the western boundary and the generous rear garden size of Longacre that in both cases would read as part of the proposed dwelling's setting.
6. The siting of the access, garage and turning area to the side would also enable the dwelling itself to have a useable garden both to the front and rear, albeit the dwelling's proximity to the east boundary would restrict this part of the garden to only sitting out and is an indication of the modest site size.
7. Be that as it may and acknowledging that there would be some aspects of conflict with details of Section P of the Arun Design Guide SPD 2021, I consider that at close quarters the dwelling would not draw the eye as having been 'shoehorned' in to the site and also that it would have no impact on the wider area on the western side of Maypole Lane. There is additionally the more fundamental point that a change of use from the current unsightly storage / builder's yard use to residential would in principle result in a major uplift in the quality of the area's character and appearance. I make further reference to this in paragraph 13 below.
8. Accordingly on this issue I find that there would be no harm caused to the character and appearance of the area and therefore no unacceptable conflict with Policies D SP1 and D DM1 (1) of the Arun Local Plan 2011-2031 (July 2018) ('the Local Plan') and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2021 ('the Framework').
9. Turning to the second issue, the Council considers that the proposal would result in undue overlooking of the back gardens of Longacre and The Paddocks to the east and thereby result in an unacceptable loss of privacy for the occupiers of those properties. The particular concern is that a first floor dormer window in each of two bedrooms on the eastern elevation would overlook the back gardens of Longacre and The Paddocks.
10. The Council's assessment is that whilst the habitable rooms of these two properties would not be affected because the distance between buildings would exceed the minimum standard in the Design Guide, their gardens would suffer a loss of privacy as the distance between the proposed dwelling and the boundary would be only about a third of that required.
11. However, I consider that both actual and perceived overlooking could be prevented by a condition to require the windows to be obscure glazed and fixed shut. In many cases this would not be acceptable in a bedroom but in this case the bedrooms would have identical windows on the west elevation with an outlook over the open countryside. This would provide a high standard of aspect and daylight/sunlight for future occupiers of the proposed dwelling.
12. On this issue I conclude that there would not be an adverse effect on the living conditions for occupiers of Longacre and The Paddocks as regards privacy. Accordingly, there would be no harmful conflict with Local Plan Policy D DM1 (3); the objectives of the Arun Design Guide and paragraph 130f) of the Framework.

Other Matters

13. There are two 'Other Matters' to be considered. Firstly, the appeal site is currently a storage area and builder's yard that includes a miscellany of commercial / construction paraphernalia. As such it has the potential to be a 'bad neighbour' use in terms of visual amenity, noise and disturbance and even some aspects of pollution to occupiers of The Paddocks, Longacre and possibly even the two holiday cottages. In this context I note that the blue line on the application plan indicates that the appellants are owners of the adjoining land and buildings as well as the application site.
14. Whilst this shared ownership is unlikely to be perceived by the appellants as causing harm to their 'residential amenities', the situation could change in the long term with separate ownership and control of the appeal site and the remaining land. I therefore consider that proposed residential development would have the additional benefit of avoiding any future prospect of incompatible land uses and that this factor merits substantial weight in the appraisal of the appeal scheme.
15. The second 'Other Matter' is that the Council is unable to demonstrate a 5 year housing land supply, with the latest available report cited in evidence being one of 2.4 years supply. Accordingly the presumption in favour of sustainable development in paragraph 11d) of the Framework applies on the basis that the policies for the provision of housing (in this case Local Plan Policies C SP1 & SD SP2 and Yapton Neighbourhood Development Plan Policy BB1) should be regarded as being out-of-date.
16. Paragraph 11d)ii says that in these circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
17. Framework Policy 60 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. Paragraph 69 adds that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
18. The development would result in a single additional dwelling and would appear to be an example of the contribution to housing land supply referred to in Framework paragraph 69, albeit a modest addition. Nonetheless, there would still be an economic and social benefit to the District of the new home and I consider that the cumulative impact of such incremental contributions is important in a situation where there is a significant shortfall of housing land supply.

Conclusion and Conditions

19. On both main issues I have concluded that whilst acknowledging that the size proposed dwelling would be the maximum amount of built form on the appeal site and in some respects conflict with the Council's design guidance, the appeal scheme would have no adverse effect on either the character and appearance of the area or the privacy of neighbouring occupiers. There would therefore be no

harmful conflict with the Council's policies and Government policy in the Framework, both as already referred to above.

20. Furthermore, the development would remove a potential 'bad neighbour' from a residential area and the addition of a dwelling would contribute to the District's housing land supply and secure economic and social benefits from its construction and occupation. I shall therefore allow the appeal.
21. The Council has suggested some 20 conditions and whilst at first sight this appears unduly onerous for a single dwelling, I consider it reasonable to adopt a precautionary approach in a number of topics given the quasi-industrial character of the existing use. However having observed the location of the site in relation to potential noise sources I consider that there is insufficient explanation and justification for the condition requiring an acoustic assessment condition. In addition, conditions should not duplicate other legislation and I therefore agree with the appellants' comment that because electric vehicle charging points are now a requirement of the Building Regulations this suggested condition is unnecessary. I have also modified the conditions to ensure they refer to the development of just one dwelling.
22. 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. A condition limiting the hours of construction will safeguard residential amenity. Conditions to reduce the risks of contamination to future residents; to enhance the biodiversity of the site, and to provide fire hydrants will respectively safeguard against surface water flooding, protect priority species & habitats and reduce the safety risk from fire.
23. Conditions requiring details of external materials and boundary treatments will preserve visual amenity, whilst a condition requiring details of energy efficiency will reduce the dwelling's impact on climate change. Car parking and cycle storage conditions will ensure there are adequate facilities for these transport modes and a condition restricting external lighting will safeguard amenity and biodiversity.
24. A condition requiring high quality broadband is needed for the amenities of future residents, whilst conditions addressing the details of first floor windows and precluding new openings on the eastern elevation will safeguard the privacy of neighbours. A condition restricting permitted development rights is needed on this modestly sized site both to safeguard the privacy and amenity of neighbours and the character and appearance of the area.

Martin Andrews

INSPECTOR

Schedule of 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 development hereby approved shall be carried out in accordance with the following approved plans: Drawing Nos. LB-01; PL-01 Rev. B; PL-02 Rev. B; PL-03 Rev. A;
- 3) No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays;
- 4) Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority: (i) a 'Preliminary Risk Assessment' which has identified all previous (historical) uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways, and receptors and potentially unacceptable risks arising from contamination at the site; (ii) a 'Site Investigation Scheme', based on (i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site; (iii) based on the 'Site Investigation Scheme' and the detailed risk assessment (ii), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; (iv) a 'Verification Plan' providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action. Any changes to these components, (i) to (iv) shall require the express written consent of the Local Planning Authority;

The scheme shall be implemented as approved above and, prior to occupation of the dwelling a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer-term monitoring of pollutant linkages, maintenance, and arrangements for contingency action, as identified in the Verification Plan, and for the reporting of this in writing to the Local Planning Authority;

- 5) If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol/diesel/solvent odour, underground tanks or associated pipework) not previously

identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority shall be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with shall be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority;

- 6) Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design shall follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Design considerations shall take full account of the 'Supplementary Requirements for Surface Water Drainage Proposals' produced by Arun District Council and are an overriding factor in terms of requirements. Winter groundwater monitoring to establish highest annual ground water levels and winter percolation testing to BRE 365, or similar approved, shall be required to support the design of any infiltration drainage. The dwelling shall not be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity;
- 7) A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority prior to any development above damp-proof course (DPC) level. The content of the Biodiversity Enhancement Strategy shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs to achieve stated objectives; c) locations of proposed enhancement measures by appropriate maps and plans; d) persons responsible for implementing the enhancement measures and e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter;

- 8) No development above damp-proof course (DPC) level shall take place unless and until details of the proposed location of the required fire hydrants have been submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. Prior to the first occupation of the dwelling, the developer shall at their own expense install the required fire hydrants in the approved locations to BS:750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrants shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner/occupier if the installation is retained as a private network;

- 9) No development above damp-proof course level shall take place unless and until a schedule of materials and finishes to be used for external walls and roof of the proposed building has been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in its construction;
- 10) No development above damp-proof course level shall take place until details of all new boundary treatments and any amendments to the existing boundaries have been submitted to and approved by the Local Planning Authority and the dwelling shall not be occupied until the boundaries associated with the development have been erected or amended.

Gaps shall be included at the bottom of proposed new boundary treatments to allow movement of small mammals across the site. The development shall be carried out in accordance with the approved details and the approved boundary changes permanently retained in a useable condition thereafter;

- 11) No development above damp-proof course level shall take place unless and until the applicant has submitted a scheme for approval by the Local Planning Authority to demonstrate that the dwelling will achieve energy efficiency measures that reflect the current standards applicable at the time of submission and include the use of renewable energy supply systems. The approved scheme shall thereafter be implemented prior to occupation of the dwelling and any approved renewable energy supply systems shall be permanently retained & maintained in good working order thereafter;
- 12) The dwelling shall not be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose;
- 13) The dwelling shall not be first occupied until covered and secure cycle parking spaces have been provided in accordance with the Council's Parking Standards SPD (table 2.3, page 10). These cycle storage spaces shall thereafter be permanently retained and maintained;
- 14) Prior to the occupation of the dwelling, the applicant or developer shall ensure that infrastructure is implemented to allow for the provision of the highest available headline speed of broadband provision to future occupants from a site-wide network provided as part of the initial highway works and in the construction of frontage thresholds to buildings that abut the highway. Unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the customers will no longer necessitate below ground infrastructure, the development of the site will continue in accordance with the approved strategy;

- 15) Prior to the occupation of the dwelling, full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage). The scheme shall seek to conform with the recommendations of the Institution of Lighting Profession (ILP) 'Guidance Notes for the Reduction of Obtrusive Light' (GN01:2011) but also minimise potential impacts to any bats using nearby trees and hedgerows (in accordance with the BCT/ILP Guidance Note 08.18) by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. Care shall be exercised in respect of lighting directed to the site boundaries. The lighting approved shall be installed and maintained in accordance with the approved details;
- 16) The first-floor dormer windows on the eastern elevation of the building shall at all times be glazed with obscured glass and permanently fixed to be non-opening above an internal floor to ceiling height of 1.7m;
- 17) No windows (other than those shown on the plans hereby approved) shall be constructed in the first floor eastern elevation of the building hereby permitted without the prior permission of the Local Planning Authority on an application in that behalf;
- 18) Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any order revoking or re-enacting this Order) no extensions/alterations to the dwelling house shall be constructed or buildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf;