

Appeal Decision

Site visit made on 20 February 2023

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

an Inspector appointed by the Secretary of State

Decision date: 24th March 2023

Appeal Ref: APP/Y9507/D/22/3307103

83 Michel Dene Road, East Dean, East Sussex BN20 0JZ

- 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 J. and A. Bolton against the decision of South Downs National Park Authority ('the NPA').
 - The application, Ref. SDNP/22/02640/HOUS, dated 20 May 2022 was refused by notice dated 10 August 2022.
 - The development proposed is the construction of a veranda and external access steps on rear elevation with installation of a pair of doors from the lounge to the new veranda and cladding of part of the rear elevation.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a veranda and external access steps on rear elevation with installation of a pair of doors from the lounge to the new veranda and cladding of part of the rear elevation at 83 Michel Dene Road, East Dean in accordance with the terms of the application, Ref. SDNP/22/02640/HOUS, dated 20 May 2022 and subject to the condition that the development shall be carried out/retained in accordance with the following approved plans: Location Plan; Drawing Nos. 83MDR/01; 83MDR/02; 83MDR/03; 83MDR/04; 83MDR/04A; 83MDR/05; 83MDR/06.

Procedural Matter

2. The veranda and doors have already been constructed/inserted and accordingly the application is for a retrospective permission.

Main Issue

3. The main issue is the effect on the living conditions of neighbours in terms of privacy as a result of the construction and use of the veranda.

Reasons

4. The appeal dwelling is one of a row of detached houses on the west side of Michel Dene Road. To the rear of the dwelling the land falls steeply away, with the result that users of the veranda have longer distance views from an elevated position but also a more immediate outlook over the garden of the host dwelling and the gardens of the houses to either side. The NPA's objection is that this results in unacceptable overlooking as regards the adjoining Nos. 81 and 85.
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5. There is a linear development pattern in Michel Dene Road and where this occurs it is usual for there to be views from the upper windows of each dwelling into the neighbouring gardens, with the inevitable reduction in privacy. In this case the situation is rather different as because of the steep slope of the land away from the houses there is an outlook from the downstairs living rooms into adjoining gardens. As the gardens are at a lower level the perception of being overlooked would be increased. However, this reduction in privacy would be apparent in any occupier's initial decision to live in one of the dwellings.
6. The slope of the land also creates a situation whereby for a resident to leave the house to use the garden they have to use an external staircase. For practical and safety reasons this would need to be connected to, or form part of, a landing or balcony close to the access door. This is the case with the appeal dwelling and the grounds of appeal assert that this is a common arrangement for the houses in this locality. In this context the appeal evidence includes details of the permission for No. 79, in respect of which the NPA raised no objection as regards overlooking of adjoining gardens.
7. Each case will be slightly different and in this appeal I did not have the opportunity to inspect the arrangement at No. 79. Nonetheless, I consider that the principle of some form of decking/balcony to facilitate access to the garden to be appropriate at the appeal dwelling, as indeed is its incidental use for sitting out during clement weather also a reasonable amenity. The more relevant issue is whether the elevated outdoor area is disproportionately large, such that it causes egregious harm to the privacy of the neighbours.
8. However, a glance at the block plan (Drawing No. 83MDR/04A) shows that the veranda is both proportionate to the house and of a relatively modest scale. The largest area is at an inset in the building at its south west corner and this projects only slightly further than an extension at No. 81. The depth along the main part of the rear wall is just sufficient to walk past a small table and chairs, whilst the length is no more than needed to provide access from the downstairs rooms and to the external stairs leading down to the garden.
9. The view into the garden of No. 81 is impeded by that dwelling's extension and a substantial area of bushes/ hedges, with the effect that only a modestly sized area at the bottom of that garden can be overlooked. Although the Officer's report says that the tree/hedge screen is not permanent, the occupier of No. 81 can choose to retain or supplement this already effective visual barrier.
10. I have taken the objection from No. 81 into account but for the reasons explained I do not regard the effect on their living conditions to be significant. In fact the view over No. 85 is more open, albeit this too is mitigated by Nos. 83 & 85 being further apart and by a large number of shrubs, bushes and hedges.
11. Overall, in the circumstances of this case including the nature and form of the original development on the western side of Michel Dene Road, I consider that the veranda does not cause a significant loss of privacy for neighbouring occupiers in conflict with Policy SD5 of the South Downs Local Plan 2014-2031 ('the Local Plan') and paragraph 130f) of the National Planning Policy Framework 2021.

12. In allowing the appeal and granting retrospective planning permission I shall impose the standard condition that ties the development to the submitted plans, for the avoidance of doubt and in the interests of proper planning.
13. The NPA has suggested in the Questionnaire that a condition should also be imposed requiring the planting and layout of the rear garden as shown on Drawing No. 83MDR/05. I note that has been included in the application as a proposal and it is therefore embraced by the compliance with plans condition.
14. However, I am not convinced that with the development proposal mainly in the form of a veranda the suggested condition has in itself the degree of relevance, necessity and reasonableness to justify its imposition, even allowing for the provisions of Local Plan Policy SD2.
15. The Parish Council suggested a condition requiring partial obscure glazing, but as the Officer's report correctly identifies, this is not appropriate in this case as it would not achieve its purpose and may well have an adverse effect on the appearance of the veranda.

Martin Andrews

INSPECTOR

