

Appeal Decision

Site visit made on 19 June 2023

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

an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/D3830/W/22/3307957

Frog and Effet, Stairbridge Lane, Bolney, Haywards Heath RH17 5PA

- 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 Joshua Attwood against the decision of Mid Sussex District Council.
 - The application, Ref. DM/22/1911, dated 15 June 2022 was refused by notice dated 9 September 2022.
 - The development proposed is the separation of the annex from the main house to create a new separate dwelling. To include obscure glazing to the existing annex building and substantial mature landscaping between the two properties.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the new dwelling would be acceptable in this countryside location and (ii) the effect of the proposal on the living conditions for occupiers of the Frog and Effet and the annex building as regards privacy.

Reasons

3. A previous application for the separation of the two properties was refused and the subject of a dismissed appeal little more than a year ago. The Council's wording of the refusal reasons for the current proposal is exactly the same as before. On the first issue there has been no change in national and local planning policy and insofar as they exist at all, the differences in this appeal to the first proposal relate to the second main issue.
 4. Nonetheless, on the first issue, I have reviewed the relevant policies as applied to the application and the submissions for the appellant and the Council. The three policies cited in the refusal notice are Policies DP6, DP12 & DP15 of the Mid Sussex District Plan 2014-2031 adopted in 2018 ('the District Plan'). The appeal site is clearly not in a location that meets the requirements of Policy DP6, whilst in the case of Policy DP12 the use of the annex for a dwelling is not necessary for the purposes of agriculture or supported by a specific policy reference in the District Plan or Neighbourhood Plan. As regards Policy DP15, the use of the annex as a separate dwelling clearly does not fall within the specified categories for a new home in the countryside.
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5. I acknowledge that whilst on the one hand there is no policy support in this case for an additional dwelling in the countryside, the fact that the building is already there does reduce the extent of harm that would be caused by the proposal through policy non-compliance. However, there remain issues of sustainability because of its rural location in both the District Plan (including by reference to the settlement hierarchy) and Government policy in the National Planning Policy Framework 2021 ('the Framework').
6. Irrespective of whether on their own these issues are determinative for an existing building, in this case there is also the second issue of the potential for a mutual loss of privacy for the occupiers of the respective buildings. From my inspection of the site I have no reason to disagree with the previous Inspector's finding in paragraph 11 of their decision that *'due to the differences in levels and the modest distances between the glazed openings in the dwelling and the glazed openings and balcony in the annex, and the relationships between them and their two proposed gardens including the paved areas close to their homes, the overlooking of the neighbouring occupiers' homes and grounds that would occur in both cases would significantly harm the neighbouring occupiers' privacy'*.
7. The difference in this case is that the evidence includes the submission of a landscape screening plan and a '3D Visual' of the proposed mature planting along the lengths of boundaries closest to the existing dwelling. However, in general terms, whilst landscaping is often proposed to mitigate the impact of a development and is included in a scheme and protected by a condition or alternatively required by condition to be part of future details, its effectiveness in this case is in more doubt because of the inherently unsatisfactory relationship between the two buildings, including proximity and land levels. Certainly, as proposed I do not consider that the modified appeal scheme adequately addresses each and every aspect of this relationship as expressed in paragraph 11 of the first appeal and replicated above.
8. Amongst my concerns are that the distance between the annex and the rear boundary may not be enough and that the mature trees shown, plus their future growth, could be perceived as being unduly obstructive. Furthermore, with the westerly outlook from the annex building there may be issues of sunlight and daylight as a result of the proximity and height of the trees. In addition, the remainder of the boundary as currently fenced may not offer sufficient mutual privacy given the presence of the annex balcony and the wrap around nature of the garden of the existing house.
9. There is also a procedural matter in that because of the issue of the effectiveness of the landscaping in the longer term as referred to in the officer's report, a section 106 agreement or undertaking would be necessary, as opposed to reliance on a condition. Such an agreement or undertaking would need to accompany any application at the outset both for procedural reasons and to allow proper scrutiny of its provisions.
10. On this issue I therefore find that the appeal proposal would be harmful to the living conditions for the occupiers of both the Frog and Effet and the annex building. This is in harmful conflict with Policy DP26 of the District Plan and paragraph 130f) of the Framework which requires development to provide a high standard of amenity for future users.

Conclusion

11. On the first issue the proposal is not supported by the relevant policies of the District Plan, although the fact that the building is already there is a material consideration to be weighed in the overall planning balance. On the second issue the separation of the annex building to enable it to become a separate dwelling from the Frog and Effet would have an adverse effect on the living conditions for occupiers of both buildings. This would conflict with local and national planning policy.
12. Having regard to both main issues and all other matters raised I conclude overall that the appeal must fail.

Martin Andrews

INSPECTOR