



The Planning Inspectorate

Appeal Decision

Site visit made on 17 May 2023 and 24 July 2023

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th July 2023

Appeal Ref: APP/D3830/W/22/3306185

Land to rear of 174 Holtye Road, East Grinstead RH19 3ES

- 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 Chris Neate (TILCO) against the decision of Mid Sussex District Council.
 - The application Ref DM/21/0847, dated 1 March 2021, was refused by notice dated 25 July 2022.
 - The development proposed is for the erection of a 2-storey dwelling with new vehicular access on to Smeeds Close.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
3. Following the submission of a signed Unilateral Undertaking and a mitigation payment by the appellant, the Council has confirmed that it no longer wishes to contest its second reason for refusal; namely the effect of the proposal on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) However, being the competent authority for the purposes of habitats regulations, I must consider the effect of the development on this European protected site. I will return to this matter later in my decision.
4. Access to the appeal site was not possible at my first site visit. Therefore, I carried out a second site visit on the date given above, which included access to the host garden.

Main Issues

5. The main issues in this appeal are the effect of the proposal on:
 - the character and appearance of the area; and,
 - the living conditions of neighbouring occupiers.

Reasons

Character and appearance

6. The appeal site is located in an established residential area of brick and tile dwellings. As such, the general principle of development on the appeal site is not at odds with the surrounding area.
7. I noticed at my site visit that the spaces to the rear of the dwellings on Holtye Road and Lancaster Drive is typified by landscaped and relatively unfettered garden spaces. Moreover, the host garden of No 174 Holtye Road (the host dwelling) can be glimpsed through the gaps between 93 and 95 Lancaster Drive. In combination with the roadside landscaping, this creates a sense of spaciousness along Smeeds Close. Therefore, while the appellant has brought to my attention the pattern of development in and around Holtye Road in his submitted 'comparison plan', which demonstrates that there is a variety of spatial relationships between properties and plot sizes in the nearby streets and roads, I have considered the proposal on its own planning merits within this specific location.
8. The proposal is for a new two-storey dwelling that would be constructed in the severed garden space of the host dwelling. While the proposal would be similar in appearance to the contemporary dwellings nearby, including those it faces onto in Smeeds Close, the scale and mass of the proposed development close to the surrounding garden boundaries would erode the sense of spaciousness and be cramped on the rear garden space. Furthermore, the attractive landscaped verges seen on Smeeds Close would be diminished as a consequence of the proposal. New and retained landscaping and fenced boundaries would not be adequate mitigation. As such, I conclude that the scale and mass of the proposal would be incongruous with the immediate surrounding area and harm its character and appearance.
9. Therefore, the proposed development would be contrary to Policy DP26 of the Mid Sussex District Plan 2018 (MSDP) and Policy EG3 of the East Grinstead Neighbourhood Plan 2016 (EGNP) as supported by the Mid Sussex Design Guide (SPD) which say, amongst other things, that development should demonstrate that it creates a sense of place while addressing the character and scale of the surrounding buildings and landscape.
10. For similar reasons, the proposal does not meet the aims of Paragraph 130 (c) of the Framework, which says that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Living conditions

11. The proposal would be in close proximity to both the host dwelling and the neighbouring properties on Lancaster Drive. Consequently, while I acknowledge that the appellant has made changes to a previous scheme for the appeal site, including the orientation of the proposal, and notwithstanding the obscured windows proposed at first floor level, the fact remains that the proximity of the bulky proposal to the garden boundaries would not only erode the outlook from the dwellings on Lancaster Drive, but would also be overbearing and lead to a sense of enclosure for the occupiers of the host dwelling, particularly when using the remaining garden space. Therefore, in my view, the proposal would harm the living conditions of the occupiers of those properties.

12. As such, in respect of the living conditions of neighbouring occupiers, the proposal would be contrary to Policy DP26 of the MSDP, Policy EG3 of the EFNP, which say that the layout of a proposed development should respect the topography and character of the site, protect important landscape features and not harm adjoining amenity, as supported by the SPD when read as a whole, and Paragraph 130 (f) of the Framework, which says that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

13. The appeal site is located in the SPA and SAC and is therefore, subject to the Habitat Regulations which protect them. If I had come to a different conclusion, it would have been necessary for me as a competent authority to undertake an 'Appropriate Assessment' and the likely effectiveness of any mitigation measures, including the submitted 'Unilateral Agreement'. Nevertheless, as I have found harm to the character and appearance of the area and the living conditions of the neighbouring occupiers, and therefore planning permission is to be refused, this matter need not be considered any further in this case.

Conclusions

14. For the reasons given above, I conclude that the appeal should be dismissed.

JE JOLLY

INSPECTOR