
Appeal Decision

Site visit made on 16 August 2023

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/P1425/W/23/3317140

398 South Coast Road, Telscombe Cliffs, BN10 7AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Khasan Karimov (Properties Invest Ltd) against Lewes District Council.
 - The application Ref LW/22/0313, is dated 29/04/2022.
 - The development proposed is demolition of single-storey outbuildings and erection of detached dwellinghouse (C3) to the rear garden.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. The Council has not issued a decision notice and has not provided an appeal statement. The Council's position regarding the proposed development is therefore unclear.
3. Objections to the proposal have, however, been submitted by Telscombe Town Council and a resident within the block of adjoining flats. The objections raised primarily relate to the effect of the proposal on: the living conditions of surrounding occupiers; the character and appearance of the area; and on highway safety with particular regard to the emergency services' access to the site. These objections represent material considerations in the assessment of the proposal.
4. The Council did not provide any policy extracts with its appeal questionnaire. Other parties' appeal submissions referred to Spatial Policy 1 and Core Policy 11 of the Lewes District Local Plan Part 1– Joint Core Strategy¹ (JCS); and to Policies DM35, DM30 and DM25 of the Lewes District Local Plan Part 2 - Site Allocations and Development Management Policies² (SADMP). The Council provided the wording to these policies, as requested, during the appeal process.

¹ Adopted 2016

² Adopted 2020

Main Issues

5. The main issues in this appeal are the effect of the development on:
- the living conditions of existing surrounding occupants, and on future occupants of the proposed dwelling, with particular reference to privacy, outlook and light; and
 - the character and appearance of the area.

Reasons

Living Conditions

6. The proposal would result in the introduction of a 2-storey dwelling to the rear of the detached bungalow at 398 South Coast Road. The plot to no 398 would be subdivided and two existing single-storey outbuildings located to the rear of the existing dwelling would be demolished. The dwelling would be dug into the ground and would have an asymmetric roof to reduce its overall height. The appellant advises that, at the ridge, the house would be approximately 6.6 m above ground level and that it would be 3.7 m high at the westerly eaves, closest to the adjoining 3-storey flats at Fairhurst. The appellant also advises that the rear garden would be 7.1 m in length and that there would be a back-to-back distance of approximately 16 m to the rear elevation of no 398.
7. Whilst the rear garden to no 398 is already overlooked by residents within the flats at Fairhurst, views from these flats to the area of garden closest to the rear of no 398 are oblique. In contrast, direct views of the garden area closest to the rear of no 398 from the large first floor rear windows serving bedrooms of the new dwelling would be possible. This direct overlooking of the garden area closest to the rear of no 398, given the limited separation distance, would have an unacceptably adverse effect on the private enjoyment of the outdoor space. Furthermore, the limited separation between the first floor rear windows of the proposed dwelling and the rear windows of no 398 would result in unacceptable levels of privacy for occupants of both the proposed and the existing dwellings.
8. The rear garden area to the proposed dwelling would also be directly overlooked by the windows of a number of flats at Fairhurst. Whilst the height difference between the windows in the flats at Fairhurst and the proposed rear garden would reduce the severity of the overlooking, the overlooking would nevertheless have an unacceptably adverse effect on the private enjoyment of the rear garden.
9. The proposed dwelling would be significantly higher than the outbuildings to be demolished and would result in direct views from habitable rooms of flats at Fairhurst onto the roof of the dwelling. The appellant advises that the asymmetric roof form means that the ridge would be 8.5 m from the windows of the facing first floor flats at Fairhurst. The facing roof slope would, however, be slightly closer and would result in an unacceptable reduction in outlook from the facing habitable rooms of the first floor flats.
10. The appellant has not provided an assessment of the effect of the proposal on daylight and sunlight reaching the facing habitable rooms of the flats at Fairhurst. The eastern orientation of the new dwelling means that any loss of light to the flats would occur around sunrise. Given the asymmetric roof form,

and the eaves height similar to the existing outbuilding, I am not persuaded that the proposal would result in an unacceptable adverse effect on daylight or sunlight reaching the facing habitable rooms of the flats at Fairhurst.

11. For the above reasons, I conclude the proposal would not provide satisfactory living conditions for its occupants and would have an unacceptably adverse effect on the living conditions of surrounding existing occupiers by virtue of its detrimental impact on privacy and outlook. In these regards, it would not accord with Policies DM25 and DM30 of the SADMP, or with Core Policy 11 of the JCS. These policies, taken together, require development to, amongst other things, provide a satisfactory environment for existing and future occupants, including in relation to the adequate provision of privacy, private outdoor space, and outlook. The proposal would also conflict with the National Planning Policy Framework (the Framework) requirement for decisions to secure a high standard of amenity.

Character and Appearance

12. No 398 is located to the front of a narrow rectangular plot and faces onto the South Coast Road. There is a mix of dwelling types in the surrounding area, and the site represents a transition between the bungalows facing onto South Coast Road and the adjoining 3-storey flats at Fairhurst. Surrounding buildings are also of different ages and architectural styles, including hipped and gable roofs, resulting in no strong architectural vernacular in the area.
13. The proposal would involve the demolition of the existing ramshackle outbuildings and the construction of a dwelling that is intentionally contemporary in design and appearance. The built form of the dwelling, with an asymmetric roof design, would be significantly different to the more traditional building forms found in the surrounding area. I am mindful, however, that the Framework advises against discouraging appropriate innovation and I find the proposed dwelling to be of architectural merit.
14. Nevertheless, the proposal would result in the intensification of residential development on a backland site. The existing plot of no 398 is narrow and the dwelling would be located close to the adjacent 3-storey flats. The proximity to the 3-storey flats is such that the dwelling would appear cramped in its plot, and the site and its surroundings would appear harmfully overdeveloped.
15. Overall, whilst some benefits would result from the replacement of the outbuildings with an attractively designed dwelling, the cramped and overdeveloped appearance of the development would not respect the character and appearance of the surrounding area. As such, the proposal would not accord with Policy DM25 of the SADMP, or with Core Policy 11 of the JCS, which together, amongst other things, require high quality design that is of a scale compatible with existing buildings. Moreover, the development would be inconsistent with paragraph 130 of the Framework as it would not be sympathetic to the surrounding built environment.

Other Matters

16. Vehicular access to the dwelling would be provided by an existing unmade road off the western side of Fairlight Avenue. This existing unmade road currently provides vehicular access to several properties. There is no substantive evidence before me to indicate that the unmade road would prevent access for

emergency vehicles. As such, in accordance with paragraph 111 of the Framework, the proposal would not have an unacceptable effect on highway safety and would not have a severe residual cumulative impact on the road network.

Planning Balance

17. The appellant states that the Council does not have a five-year housing land supply, and that Paragraph 11 of the Framework is therefore engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
18. The proposal would result in some economic and social benefits, including through the dwelling's construction and as a result of a slight increase in spending and patronage of services in the local area. The proposal would also make a limited contribution to the Government's objective of significantly boosting the supply of homes. The dwelling would be in a sustainable location, and would be energy efficient, thereby resulting in small environmental benefits. However, as the proposal is for only a single dwelling, the benefits identified attract limited weight.
19. Weighing against these benefits would be the above identified harms in relation to the effect of the proposal on the living conditions of existing surrounding occupiers and future occupiers of the dwelling, and the harm to the character and appearance of the area. The development plan policies referred to above are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to the surrounding built environment, and to secure a high standard of amenity. The identified conflicts with the development plan therefore attract significant weight.
20. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. Even if there is a shortfall in the five-year housing land supply on the scale stated by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. The proposal would conflict with the development plan when read as a whole and there are no other considerations that outweigh that identified conflict.

Conclusion

22. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR