



Appeal Decision

Site visit made on 12 December 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2024

Appeal Ref: APP/Y9507/D/23/3322390

24 Fitzjohns Road, Lewes, East Sussex BN7 1PS

- 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 Matt and Zoe Tompsett against the decision of South Downs National Park Authority.
 - The application Ref SDNP/23/00846/HOUS, dated 26 February 2023, was refused by notice dated 9 May 2023.
 - The development proposed is the erection of raised decking to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice, on the basis that it accurately and clearly describes the proposed development and I have assessed the appeal on that basis.
3. In December 2023 a revised National Planning Policy Framework (the Framework) was published. However, in respect of the main issues for consideration in this appeal, the revised Framework has not changed Government Policy and so the cases for the appeal parties have not been prejudiced. I shall consider the appeal accordingly. In respect of the paragraphs submitted that are no longer correct, I have considered the most relevant paragraph in the current Framework.

Main Issues

4. The main issues are the effect of the proposal on the:
 - character and appearance of the area and host property; and
 - the living conditions of the occupiers of neighbouring properties with particular regard to privacy and outlook.

Reasons

Character and appearance

5. No 24 Fitzjohns Road is a two-storey semi-detached property located in a residential area with houses being of similar appearance. The rear garden is steeply sloped downwards towards the rear gardens of Mildmay Road.

6. The rear garden of No 24 is mostly open, with low boundary treatment, mature trees and vegetation providing screening. This, combined with the steeply sloping nature of the garden results in the appeal site being visible from the wider area.
7. The rear gardens and elevations of other dwellings in Fitzjohns Road are mostly unaltered and uniform in appearance. The proposal would result in a large decking area that would extend over the existing rear slope, allowing a mostly unusable space of garden to be used. The proposed decking would take up the majority of the width of the rear garden and also include screening that would enclose the decking.
8. The overall result of the design of the decking and screening would stand out as a bulky feature that would be jarring in the context of the predominantly uniform rear elevations of neighbouring dwellings.
9. The neighbouring dwelling has a large, decked area which is located to the rear of the dwelling. I am not aware of the circumstances of this decking or whether there is any planning permission for its siting. However, it does not justify allowing the appeal proposal.
10. I therefore conclude that the proposal would harm the character and appearance of the area and host dwelling. It would be contrary to Policies SD4 and SD5 of the South Downs Local Plan Adopted 2 July 2019 (2014-33) (LP), Policy PL2 of the Lewes Town Council Neighbourhood Plan 2015-2033 Made 11th April 2019 (NP) and Paragraphs 135 and 182 of the National Planning Policy Framework (the Framework). Amongst other things, these seek to ensure development is informed by landscape character, is sympathetic to its setting, maintain a strong sense of place and that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks.

Living conditions

11. The steeply sloped garden already provides a degree of overlooking for the occupiers of neighbouring properties. I acknowledge that there is currently no screening that prevent views into the gardens of neighbouring properties, and the proposal would include screening on all sides. However, the proposal would allow for a larger area of the garden to be used which would be closer to the rear gardens of Mildmay Road and would therefore increase the opportunities for overlooking.
12. Furthermore, the stairs to access the bottom of the garden from the decking would also be largely unscreened and provide a platform for future occupiers to look into the gardens and windows of neighbouring occupiers.
13. The proposal would also occupy a large section of the garden which would be visible from neighbouring occupiers. The decking would be screened by existing trees within the garden, particularly between the spring and autumn, however views would still be possible throughout this time and during the winter months. Therefore, due to the proposals overall size, it would be an overbearing feature that would harm the outlook for the occupiers of neighbouring properties.
14. I therefore conclude that the proposal would harm the living conditions of the occupiers of neighbouring properties with regard to privacy and outlook. It would be contrary to Policy SD5 of the LP and PL2 of the NP and Paragraph 135

of the Framework. Amongst other things, these seek to ensure development is well designed and has regard to avoiding harmful impact upon, or from, any surrounding uses and amenities.

15. The Council have referred to conflict with Policy SD4 of the LP and Paragraph 182 of the Framework in respect of their second reason for refusal, however as these relate to landscape character, I see no conflict with respect of living conditions.

Other Matters

16. I note that letters of support have been received from neighbouring occupiers, but I must consider the potential future occupiers of these properties who may not have the same views.
17. The proposal has been designed to not disrupt existing trees and would result in the creation of wildlife and composting areas. However, these benefits do not outweigh the harm I have identified.

Conclusion

18. For the reasons set out above, having had regard to the development plan read as a whole, and all other material considerations, I conclude that the appeal should be dismissed.

D Wilson

INSPECTOR