
Appeal Decision

Site visit made on 12 February 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/C3810/W/23/3323503

Land between 11a The Grove and 30 Brook Lane, Ferring BN12 5HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Bridges against the decision of Arun District Council.
 - The application Ref is FG/13/23/PL.
 - The development proposed is a 1-bedroom house along with associated parking and private outdoor amenity space.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Arun District Council against Mr Andrew Bridges. The cost application is the subject of a separate decision.

Preliminary Matters

3. A planning application¹ for the development of a 2-bedroom house set over 2 floors on the appeal site was dismissed in May 2021. A planning appeal² against that refusal was dismissed in April 2022. The proposal subject to this appeal is an amended scheme.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide appropriate living conditions for future occupiers, with particular regard to the provision of private external amenity space; and,
 - the effect of the proposal on the living conditions of residents of 24, 28 and 30 Brook Lane, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site is a modestly-sized area of hardstanding with an outbuilding sited on it, located close to the junction between The Grove and Brook Lane. The Grove is a cul-de-sac which largely accommodates single storey houses, whereas properties on Brook Lane tend to be taller. There is no consistent

¹ Planning Application Ref. FG/46/21/PL

² Appeal Ref. APP/C3810/W/21/3281178

building line, prevailing pattern of development, or design of property within The Grove. However, there is often little separation between the properties, and they tend to be set back from the road with open frontages. The siting of the properties and open frontages in combination with their reduced height creates a sense of spaciousness.

6. Although the proposed dwelling would be located close to the junction with Brook Lane, the appeal site is not a corner plot; the proposed dwelling would front onto The Grove. It would be single storey with accommodation in the roof. Its design, including the open frontage, and the proposed external materials would be reflective of other properties in the area. The scale and massing of the proposed dwelling would also be like other properties in the vicinity. Nonetheless, given the modest size of the plot and its orientation compared to neighbouring properties, the proposed dwelling would be sited close to the road and significantly in front of 11A The Grove. The proposed dwelling alongside the garage building opposite, would narrow this section of The Grove which would disrupt the spacious nature of the area.
7. Whilst the ground floor footprint has been reduced by approximately 20% compared to the previously dismissed scheme, the plot is still a modest size and the proposed footprint to plot ratio would still be higher than most nearby properties. Due to the design and size of the proposed dwelling and the orientation of the plot, the bulk of the external amenity space would need to be to one side of the property. In this instance, the proposed external amenity space is modest in size and would not maintain the current sense of spaciousness. Given the proposed dwelling's siting close to the road and limited space either side of the property, it would appear cramped within the street scene.
8. The proposal would make a more efficient use of the land, than its current use. Nonetheless, this would not overcome the harm I have identified above.
9. I conclude that the proposal would have a harmful effect on the character and appearance of the area. It would be contrary to Policies D DM1 and D SP1 of the Adoption Arun Local Plan 2011-2031, July 2018 (LP) which indicate that the Council will have regard to making the best possible use of available land by reflecting or improving upon the character of the site; and, all proposals should reflect the characteristics of the local area in their layout, amongst other factors. Moreover, it would be contrary to Part P of the Arun Design Guide SPD, January 2021 (the Design Guide), where it advises that infill development should respect the character and form of surrounding buildings.

Future occupiers

10. The size of the proposed garden, despite being modest, would be acceptable for a one-bedroom house. However, there are two rear, first-floor windows in 30 Brook Lane which would look toward the proposed garden area. Views of the proposed garden area from the bigger window would be largely obscured by the rooflight protruding upward from 28 Brook Lane. It has been demonstrated that in relation to this window the proposal would comply with the 25-degree rule set out in the Design Guide.
11. However, it has not been demonstrated that the rooflight would obscure views from the smaller window. It is therefore likely that neighbouring residents would have an elevated view of a large section of the proposed garden from

this window. As such, future occupiers would suffer from a lack of privacy when using the proposed garden area.

12. Overall, the proposal would not provide appropriate living conditions for future occupiers, with particular regard to the provision of private external amenity space. It would be contrary to LP Policies D DM1 and QE SP1, which indicate that when considering planning applications, the Council will have regard to having a minimal impact to users and will ensure that development does not have a significantly negative impact upon residential amenity. Moreover, it would be contrary to Part H of the Design Guide which advises that privacy should be ensured by using the 25-degree rule.

Neighbouring residents

13. Whilst the footprint, scale, and eaves and ridge height of the proposed dwelling have been reduced from the previously dismissed scheme, it would still be a tall property, due to the height of the roof. The side elevation of the proposed dwelling would only be a short distance from the rear elevations of 24, 28 and 30 Brook Lane; below the standard for minimum separation distances between habitable rooms specified in Part H of the Design Guide.
14. Rear windows of 28 and 30 Brook Lane (Nos 28 and 30) would face directly toward the proposed dwelling, which would rise up above the rear fence at a short distance. Given the modest separation distance and the scale of the proposed dwelling it would appear oppressive to residents of Nos 28 and 30 when using their rear rooms and garden area.
15. The proposed dwelling would only be present in indirect views from the rear windows of 24 Brook Lane (No 24). Although it is only a short distance from the rear elevation, residents of No 24 would have relatively open views toward 11A The Grove, the proposed dwelling would therefore not appear overbearing to residents of No 24.
16. Several other examples of similar separation distances between properties in proximity to the appeal site have been put before me. However, most of these are different to the appeal scheme as they only demonstrate a short distance between a dwelling and a boundary, rather than between a rear and a side elevation. Notwithstanding this, there were a few examples where separation distances between side and rear elevations are similar or less than that proposed. These examples are exceptions, and the wider area is not defined by a pattern of development where rear elevations are close to side elevations. In any event, the presence of unacceptable development elsewhere does not justify similar development and each proposal is assessed on its own merits.
17. I conclude that the proposal would have a harmful effect on the living conditions of residents of Nos 28 and 30, with particular regard to outlook, but not the residents of No 24. The proposal would be contrary to LP Policy D DM1 which indicates that the Council will have regard to the proposed development having a minimal impact to occupiers of nearby property, for example by avoiding significant loss of outlook. Moreover, it would be contrary to Part P of the Design Guide where it advises that careful consideration must be given to the preservation of existing amenity.

Planning Balance

18. Benefits of the scheme include the provision of a house in an accessible location, which would include numerous sustainability measures. The proposed dwelling would be suitable for both first-time buyers and elderly residents. There would also be economic benefits associated with the construction of the dwelling and an increased population living in the area.
19. The LP was adopted in July 2018 and, as such, it predates this version of the National Planning Policy Framework (the Framework). Nevertheless, the weight attached to the LP does not hinge on its age. Rather paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. LP Policies D DM1, D SP1 and QE SP1 are broadly consistent with paragraphs 131 and 135 of the Framework. As such significant weight can be given to the conflict with these policies.
20. There are no policies in the development plan that positively favour development which is harmful to the character and appearance of an area and to the living conditions of future occupiers and neighbouring residents. As the appeal scheme is contrary to the policies listed above, there would be conflict with the development plan when considered as a whole.
21. It is not disputed that the Council cannot demonstrate five years of deliverable housing land supply, but the extent of the shortfall is unquantified, and that the Council has under performed in relation to the Housing Delivery Test. Accordingly, the presumption in favour of sustainable development identified at paragraph 11 of the Framework is engaged.
22. Paragraph 70 of the Framework indicates that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. Paragraph 124 of the Framework states that planning decisions should promote and support the development of under-utilised land. Furthermore, paragraph 157 of the Framework indicates that the planning system should support the transition to a low carbon future, and paragraph 159 indicates that new development should be planned for in ways that can help to reduce greenhouse gas emissions. Given the scale of development I ascribe moderate weight to the benefits of the proposal.
23. Paragraph 131 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 indicates that planning decisions should ensure that developments are sympathetic to local character and create places with a high standard of amenity for existing and future users, amongst other things. Given the importance placed upon the creation of beautiful places as well as the protection of users amenity, I ascribe significant weight to the harm caused by the proposed development.
24. Paragraph 11 of the Framework advises that decisions should apply a presumption in favour of sustainable development; for decision-taking this means where the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.

25. In this instance the harm that would be caused would significantly and demonstrably outweigh the benefits of the appeal scheme. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR