



Appeal Decision

Site visit made on 20 February 2024

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2024

Appeal Ref: APP/L3815/W/23/3327943

Cranleigh, 36 Park Lane, Selsey, West Sussex, PO20 0HE

- 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 and Mrs Edward Hawkins against the decision of Chichester District Council.
 - The application Ref SY/23/01114/FUL, dated 13 May 2023, was refused by notice dated 21 July 2023.
 - The development proposed is the demolition of existing and erection of 1 no. replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing and erection of 1 no. replacement dwelling at 36 Park Lane, Selsey, PO20 0HE in accordance with the terms of the application, Ref 23/01114/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council's Appeal Statement confirms that reasons for refusal 1, 4, 5 and 6 would fall away if I were to find that the appeal scheme is not tantamount to a new dwelling in the countryside. Moreover, the Statement confirms that reason for refusal 3 relating to bats, could be dealt with by condition.

Main Issues

3. In light of the above, the main issues are, firstly, whether the proposed development would be contrary to Policy 45 of the Chichester Local Plan: Key Policies 2014-2029 (the LP) and, secondly, the effect of the development on the character and appearance of the area.

Reasons

Development in the countryside

4. The appeal property is located on the northern side of Park Lane on the outskirts of Selsey. The site is bordered by existing residential development to the east, south and west. There is open countryside to the north. Although the site is outside the settlement boundary on the Proposals Map, on the ground, the appeal property and its neighbours on the northern side of Park Lane clearly read as part of Selsey.
5. LP Policy 45 states that development in the countryside will only be granted where it requires a countryside location and meets the essential, small scale,

and local need which cannot be met within or immediately adjacent to existing settlements.

6. The Council's Officer's Report states that a replacement dwelling, can be considered acceptable in principle, as it does not result in an increase in the number of dwellings in the countryside. While the Council's approach to replacement dwellings is not, strictly speaking, in accordance with the wording of Policy 45, it is proportional and balanced, and I see no reason to take a different view. Compliance with Policy 45 therefore turns on whether the appeal proposal is for a replacement dwelling.
7. The starting point is the Application Form where under the Description of the Proposal it states: "*Demolition of existing property and replace with new*". That very clearly cannot be construed as anything other than a replacement dwelling. I have noted the Appellants' reference to "*three existing units of accommodation*". However, that comment has not been explained. The Application Form refers to an existing property not properties and there is no indication on the existing floor plan that the house has been subdivided.
8. As is made clear in the Officer's Report, the Council's concerns were based entirely upon the design of the dwelling which it noted:

"...features two separate front entrances, with a mirrored front elevation, and an internal layout with two wings of accommodation, containing all the necessary elements to form two separate self-contained units of accommodation".
9. The first overarching point is that the plans do not show that two dwellings are to be formed and, in that sense, they support the description of development. Nonetheless, I share some of the Council's concerns particularly in relation to the two front entrances. This strikes me as a particularly unusual design feature notwithstanding the Appellants' explanation that the design is intended to provide his disabled son with semi-autonomous living space within a shared house.
10. Although no medical details have been provided, one would have thought a shared entrance would make more sense for someone with a disability. It is also difficult to understand why two WCs are required within the western wing if that area is intended for the Appellants' son.
11. I concur with the Council that it would be relatively easy to convert the house into two separate units but that does not mean it would happen or is even likely to happen. It seems to me that the Council's case, while not unreasonable, is based largely on conjecture. To that extent at least, the Council did not determine the application on the information submitted, as asserted in its Appeal Statement.
12. I appreciate the Council was not helped by the Applicant. The application as submitted made no reference to the personal circumstances of the Appellants set out above. That was a curious omission and to some extent the Appellants have used the appeal process to evolve the scheme with new information that was not before the Council when it made its decision.
13. Putting those issues to one side, the justification provided goes someway to explaining the design of the dwelling. For example, the western wing does not contain a separate kitchen or living area and has only one bedroom. I

appreciate that there would be scope to provide these facilities within the 'utility and plant room' and/or the 'larder' but that would require significant internal alterations. It would also deny the eastern wing access to the larder and utility room.

14. Overall, I can understand perfectly well how the Council came to the view it did based on the submitted details. However, despite my uneasiness over elements of the proposed layout, I cannot say with any degree of certainty whether it was or remains the Appellants' intention to split the property. In that regard I give weight to the declaration signed by the Appellants and submitted with the appeal.
15. Moreover, and perhaps more importantly, if the house were to be split in the future, it is likely this would constitute a material change of use for which planning permission would be required. The Council would therefore have powers to take action should unauthorised development take place. The Appellants should be aware that this decision in no way ties the hands of the Council in respect to any future breach of planning control.
16. For the reasons set out above, I am satisfied that the appeal proposal is for a replacement dwelling. Accordingly, it would not conflict with the aims and objectives of LP Policy 45. On the few details before me, it appears that the circumstances of the current appeal are different to the Wellington Gardens case¹. I have therefore based my decision on the facts before me.
17. Based on my findings above, I concur with the Council that reasons for refusals 4, 5 and 6 now fall away.

Character and appearance

18. The Council's concerns relate mainly to the roof which it describes as 'excessively large, bulky and prominent'. The second reason for refusal also references a discordant approach to fenestration and incoherent use of materials and detailing.
19. The appeal property is a well-meaning but unremarkable rendered bungalow. It sits in a line of other similarly proportioned dwellings which are set-back from Park Lane along a consistent building line. However, beyond those features, the area is not particularly sensitive in architectural or streetscape terms and there is a wide range of building and roof forms.
20. According to the Appellants, the proposed asymmetrical pitched roof is designed to maximise solar energy capture. However, that explanation is somewhat counter-intuitive when one considers the elongated roof slope would be north rather than south-facing. Nonetheless, the asymmetrical nature of the roof would not be apparent in public views of the building from Park Lane. Accordingly, and given the varied nature of the surrounding roofscape, I do not consider it can reasonably be argued that it would result in unacceptable harm.
21. For similar reasons, I find the Council's concerns about the fenestration, facing/roofing materials and detailing to be overplayed. The house would undoubtedly appear different to its neighbours, however, it would simply add to the already eclectic mix of building styles in the area. As with the rear roof

¹ PINS ref: APP/L3815/C/15/3141285

slope, the windows in the side elevations would not been seen in public views and therefore would not harm the character and appearance of the area.

22. Finally, in terms of its proportions, I do not agree that the roof or dwelling would span the majority of the plot's width. The plans show a 3m wide access drive along the western boundary with No. 38. The amount of separation to this boundary would be significantly more than currently exists.
23. It appears that the eastern elevation would be a marginally closer to the shared boundary with No. 34. However, in my view the reduction would be imperceptible. Given the side elevation of the proposed house would sit broadside to an existing free-standing garage, it is unclear how it would be unneighbourly. Overall, the proposed dwelling would provide more separation to its side boundaries than the current dwelling.
24. Based on the foregoing, I am satisfied that the proposed dwelling would not conflict with LP Policy 33 which among other things, seeks development that is in keeping with the character of the surrounding area and its setting in the landscape.

Other Matters

25. I am satisfied that any harm to bats, should they be found to be present, would be satisfactorily mitigated by condition 4 below.

Conditions

26. I have imposed conditions relating to time limits and the approved plans to provide certainty. A materials condition is necessary to ensure the satisfactory appearance of the development. A condition relating to floor levels is necessary in order to future proof the dwelling from tidal flooding. To provide clarity I have imposed a condition to ensure the property is occupied as a single unit of C3 residential accommodation.
27. Given the character of the area, the current condition and use of the site as well as the lack of policy justification, I do not consider that the suggested conditions relating to bat and hedgehog boxes, ecological mitigation (construction), refuse facilities, cycle parking, external lighting and landscaping are necessary to make the development acceptable. In the absence of a specific development plan policy, I am also not persuaded that it is the role of the planning system to approve technical details relating to sustainable energy measures. These are matters that are covered by other regulatory regimes.

Conclusion

28. For the reasons given above the appeal should be allowed.

D. M. Young

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 202393-08, 202393-09, 202393-05 REV C, 202393-06 REV E, 202393-07 REV A and 202393-08
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in accordance with the methodology and mitigation recommendations in the Preliminary Roosting Assessment, prepared by arbtech dated 24 April 2023.
- 5) The finished floor level of the dwelling hereby permitted shall be a minimum of 400mm above the level of the existing dwelling.
- 6) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment, and the mitigation measures it details. Thereafter, the measures shall be retained and maintained thereafter throughout the lifetime of the development, unless otherwise agreed in writing by the local planning authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) the building hereby permitted shall comprise a single unit of C3 residential accommodation. The ancillary accommodation shall not be let or sold separately.