



Appeal Decision

Site visit made on 19 June 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2024

Appeal Ref: APP/U1430/W/23/3331836

101 Dorset Road, Bexhill-on-Sea, East Sussex TN40 2HU

- 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 Tim and Sharon Gordon against the decision of Rother District Council.
 - The application Ref is RR/2023/480/P.
 - The development proposed is the change of use from C4 (HMO) to 7 x C3 one and two bed dwellings with two storey side/rear extensions, side and rear dormer windows and fenestration changes to the west elevation. Enlarged dropped kerb to parking in frontage with associated bin and cycle stores to front and side of building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the building and the wider area; and b) the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

3. The appeal property is a detached two storey building with previous extensions to the rear. It is located within a residential area of sizable detached and semi-detached buildings that largely sit within generous plots. Buildings are generally set back from their site frontages and although gaps between properties in Dorset Road are not wide, the area has a pleasant, spacious character to it.
4. The proposal would entail extensive extensions, partly to the rear of the original building and partly to the rear of the previous extension. The resulting building would have a large, linear footprint covering much of the plot. Given its height, length and depth, the proposal would be a substantial structure.
5. Indeed, the resulting bulk, form, proportions and scale of the proposed building would be incongruous and out of keeping with the original building and the more modest form and scale of most other properties in the vicinity. The size of the building relative to the site would not sit well within the character of the locality, adding to the overall incongruity of the proposal.
6. I noted that No.2 Elmstead Road is also a sizable, two-storey building, that runs along the western boundary of the appeal site. It has a notable presence

which dominates part of the rear garden of the appeal site. To my mind, it appeared overly large and of no architectural merit. Its evolution is clearly historic, but it has a negative impact on the environs of the appeal site and is not representative of the wider area. That the proposal might not have as great a length, height or scale compared to this neighbouring building is not a reason in itself to allow the appeal, given that the proposal would add to the level of incongruity that already exists.

7. The harm that would arise would be visible from some nearby properties, and to some extent, their gardens. Even though the works to the rear would not form part of the street scene, this does not mean that the development would have a neutral effect on the overall character and appearance of the area, or that because it is not widely seen it is acceptable.
8. The large side roof dormer would be more clearly visible from Dorset Road. The appellant suggests that it would be permitted development. However, I have no detailed evidence before me to suggest that the dormer would both benefit from such rights and that there is more than a theoretical possibility of it being constructed on its own. Whilst there are smaller, flat roof dormers in the vicinity, large box like additions such as that proposed are not common features. It would be incongruous and out of keeping with the appearance of the building and the more modest form and scale of roof dormers in the area.
9. Overall, I find the proposal would be harmful to the character and appearance of the existing building and the wider area. It would therefore conflict with Policies OSS4 and EN3 of the Rother Local Plan Core Strategy 2014 (RLPCS) and Policy DHG9 of the Development and Site Allocations Local Plan 2019 (DaSA) which, amongst other things, seek to ensure developments respect and respond positively to the character and appearance of existing dwellings and do not detract from the character and appearance of the surrounding locality.
10. The reason for refusal references Policy DEN1 of the DaSA. However, as this relates to the issue of landscape character, it does not appear to be directly relevant to the appeal proposal. I have therefore not taken it into account when reaching my conclusion on this main issue.
11. The proposal would be contrary to Paragraph 135 of the National Planning Policy Framework (the Framework), which amongst other things, seeks to ensure developments are sympathetic to local character.

Living Conditions

12. The proposal would extend the existing building some 10.7 metres along the side boundary with No.103 Dorset Road. The result would be a particularly large structure, occupying a significant part of the site, close to this neighbouring property.
13. There is no substantive evidence before me to demonstrate that this neighbour's habitable rooms would suffer a significant loss of daylight or sunlight as a result. However, given the scale and proximity of the built form along the boundary, a shadow would nevertheless be cast onto this neighbouring garden. Furthermore, due to its projection, height and very close proximity to No 103, it would draw the eye as an unduly domineering presence. It would partly enclose outlook and would "loom" above the garden to an

overwhelming degree. These factors would significantly compromise the enjoyment of part of the neighbour's garden area.

14. The proposed eastern elevation would contain six windows at first floor level. The two windows serving the WC and utility room would be small and obscurely glazed. The four windows serving the habitable rooms would be larger. They are labelled as high level on the submitted drawings but given their size and position it is unclear the extent to which they would prevent occupants from seeing out.
15. There are already three first floor habitable room windows on the eastern elevation of the existing rear extension. However, notwithstanding this, and accepting the proposed windows would be obscurely glazed or at high level, the increased number of windows and their greater proximity to the neighbour would at the very least increase the neighbour's perception of being overlooked.
16. No.4 Elmstead Road is positioned close to the rear boundary of the appeal site. It has a number of existing windows which overlook the appeal site. The appeal building has a first floor window facing this neighbouring property. Notwithstanding the difference in their respective ground levels, there is considerable intervisibility and overlooking between the two properties.
17. The Juliette balcony serving proposed unit 2 and the dormer serving proposed unit 7 would be positioned a similar distance from this northern boundary as the existing rear first floor window in the appeal property. This would give rise to a small increase in the intervisibility that already exists.
18. The proposal would bring the building some 7.8m closer to the shared boundary with No.4. This will reduce the buffer between the two buildings and heighten what already appears as a somewhat uncomfortable physical relationship between them. It would also bring the Juliette balcony serving proposed unit 3 close to this neighbour.
19. This window/balcony would have a north easterly outlook. The ground levels would lessen its impact, but there would still be the potential to overlook the gardens of No.4 and 103 Dorset Road. There is currently planting along this part of the boundary which blocks much of these views. However, given that planting can too easily be removed, provide less protection at various times of the year or simply suffer disease and die, it cannot be relied upon.
20. Whilst the loss of privacy to the occupants of No.4 might be modest, the additional windows and proximity of the building to the shared boundary would increase the overall sense of being overlooked and create an unneighbourly relationship between the two buildings.
21. The main parties disagree as to what room is served by the ground floor side window at No. 2 Elmstead Road. It was unclear from my site visit, as the window is obscurely glazed and it had its curtains drawn.
22. Given the positions of the buildings and the orientation of the window, it appears that it does not receive direct sunlight, instead benefiting from the daylight which fills the space between the two buildings. Having regard to the position of the proposed extension in relation to this window, there may well be some diminution of the light which reaches this space and thus the window.

However, I cannot be certain that this loss would be significant, even if the room were a habitable one.

23. Accordingly, I do not find the proposal harmful to the living conditions of the occupiers of the ground floor flat at No.2 Elmstead Road. However, the effect on the other adjoining neighbours would be in excess of what might reasonably be expected from extensions to a neighbouring property in an area such as this one. As a result, I find that these neighbour's living conditions would be unacceptably harmed.
24. The proposal would therefore be contrary to Policy OSS4 (ii) of the RLPCS, and Policy DHG9(i) of the DaSA which, amongst other things, require developments to not unreasonably harm the amenities of adjoining occupiers.

Planning Balance

25. The Council is unable to demonstrate a five-year supply of deliverable housing land. Paragraph 11(d)(ii) of the Framework is therefore engaged.
26. The Framework's policies seek to boost the supply of housing from a variety of sites, and the reuse of previously developed land within existing towns is encouraged. The scheme would deliver 7 new flats. The house is currently used as a small house in multiple occupation but could revert to a Class C3 dwellinghouse without planning permission. Given the current under-provision of housing, this uplift in units from a windfall site attracts considerable weight.
27. There would be direct and indirect social and economic benefits of the development, both short-term during construction and longer-term on occupation. However, when associated with a development of this scale, these benefits would attract modest positive weight.
28. Conversely, I have found harm in respect of the character and appearance of the area and the living conditions of the neighbouring occupiers. These harms are likely to be significant and long lasting. The need to protect the character of an area and the living conditions of its residents is perennial and in direct compliance with the Framework's policies. Furthermore, the provision of housing should not be at the expense of these matters as otherwise it risks undermining the Framework's objectives of creating welcoming and distinctive places to live, work and visit.
29. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The scheme would not therefore be sustainable development.

Conclusion

30. Whilst there would be some beneficial aspects of the scheme, considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR