

Appeal Decision

Site visit made on 27 August 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2024

Appeal Ref: APP/P1425/W/23/3330591

35 Heathfield Road, Seaford, East Sussex BN25 1TJ

- 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 S Rigden against the decision of Lewes District Council.
 - The application Ref is LW/22/0659.
 - The development proposed is the erection of 1no. single-storey dwelling with attached garage and associated hard and soft landscaping within the rear garden area of 35 Heathfield Road. Material alterations to 35 Heathfield Road to include erection of attached garage and provision of a driveway with vehicular access onto Heathfield Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, and
 - the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons

Character and appearance

3. The appeal property is a large, two storey dwelling set within a large plot in a predominantly residential area. To the side of the property is a detached double garage. The appeal property is set back from the road with a front garden and driveway and it also has a large rear garden which is extensively covered by trees and vegetation. Houses in the area are of a similar style and are mostly located within large plots which results in an open and verdant character and appearance that the appeal site contributes to positively.
4. The proposal seeks to demolish the existing double garage which would provide an access to a new dwelling which would be located to the rear of the existing dwelling.

5. Policy DM30 of the Lewes District Local Plan Part 2 Site Allocations and Development Management Policies February 2020 (LP2) states that backland sites will be permitted where the following criteria is met;
- 1) the provision of safe and convenient vehicular access and parking which does not have an unacceptable adverse impact on the amenities of neighbouring properties in terms of noise, light or other disturbance;
 - 2) the mass and scale of development will not have an overbearing impact on, or result in the loss of privacy to, existing homes and gardens;
 - 3) the development does not cause the loss of trees, shrubs or other landscape features which make an important contribution to the character and appearance of the locality or its biodiversity.
6. In regard to criteria 1) I will return to this later in the decision and in respect of 2) the Council have found that this could be met subject to appropriately worded conditions. I have no reason to conclude otherwise.
7. A large section of the rear garden would be taken up by the dwelling and a large section of the front garden and driveway to the side of the existing property would be taken up by the proposed access. The rear garden is extensively covered by trees and a significant number of trees would be removed in order to facilitate the proposed dwelling.
8. I note that the trees are considered to be of poor health and are not protected, however, they still make an important contribution to the verdant and open character and appearance of the area. I also acknowledge that soft landscaping is proposed as part of the appeal scheme including adjacent to the boundaries, however, this would not replicate the existing tree coverage. The proposed loss of trees would therefore erode the open and verdant character and appearance of the area.
9. I therefore conclude that the proposed development would unacceptably harm the character and appearance of the area. It would be contrary to Strategic Objective 8 and Policy CP11 of the Lewes District Local Plan Part 1 Joint Core Strategy 2010-2030 May 2016 (LP1), Policies DM25 and DM30 of the Lewes District Local Plan Part 2 Site Allocations and Development Management Policies February 2020 (LP2), Policy SEA2 of the Seaford Neighbourhood Plan 2017 – 2010 Submission Version March 2019 and guidance contained within the General Design Guidelines for Seaford February 2019. Amongst other things, these seek to ensure that development contributes towards local character and distinctiveness through high quality design and does not cause a loss of trees or other landscape features which make an important contribution to the character and appearance of the locality.

Living conditions

10. The proposal would introduce a new access immediately next to the boundary with No 35a that extends for the majority of the plot's length. The proposal is for a family dwelling and therefore, it is likely that there would be frequent comings and goings which would be in proximity to the neighbouring dwelling and its garden.

11. I note that it is proposed to use low noise surfacing and acoustic barriers. However, the proximity, combined with the number trips that would be likely, even by just walking and opening and closing the proposed gate would be noticeable and would result in unacceptable noise and disturbance for these occupiers.
12. I note that an acoustic fence and materials could be controlled by a suitably worded planning condition. However, without any initial details to suggest that this would be sufficient to not result in unacceptable noise and disturbance there is no basis to form a planning condition.
13. I therefore conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers in regard to noise and disturbance. It would be contrary to Policies DM25 and DM30 of the LP2 which amongst other things, seek to ensure that there will be no unacceptable impact on the amenities of neighbouring properties.

Other Matters

14. The appellant has referred to a development nearby in an attempt to justify the appeal proposal. I do not have the full details in respect of such example so I cannot be sure of the circumstances. In any case, I have determined the appeal on its own merits, based on the evidence before me.
15. However, from site observations, No 15 Heathfield Road relates to two dwellings that have been constructed to the rear of the original property. While this scheme relates to back land development the site layout differs from the appeal scheme before me in that the plot is much deeper and also backs onto open space as appose to gardens. The application was also accompanied by a noise assessment which demonstrated that subject to certain measures there would be no unacceptable levels of noise disturbance to neighbouring occupiers which differs from the appeal scheme before me.
16. The Council have found that the proposed development would provide adequate parking provision and not unacceptably harm highway safety. However, these are neutral matters.

Planning Balance

17. The proposal would be contrary to Strategic Objective 8 and Policy CP11 of the LP1, Policies DM25 and DM30 LP2, Policy SEA2 of the Seaford Neighbourhood Plan and guidance contained within the General Design Guidelines for Seaford. These Policies are consistent with the National Planning Policy Framework (the Framework) in focusing on ensuring that proposals are sympathetic to local character, including the surrounding built environment and landscape setting with a high standard of amenity for existing users.
18. The Council is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with Paragraph 77 of the Framework. The appellant suggests the Council is only able to demonstrate a 2.73 year supply, which is not disputed by the Council. This represents a significant undersupply. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the Policies which are important for determining the application should be deemed out-of-date

and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole.

19. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall, and it is more likely to be able to be built out quicker due to its small scale. This attracts significant weight in favour of the proposed development. The dwelling is also proposed to be energy efficient and contain ecological enhancements.
20. The proposal would also support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality. Although this is tempered by the fact that the proposal is only for one dwelling.
21. In this instance, the harm to the character and appearance of the area and living conditions of neighbouring occupiers would significantly and demonstrably outweigh the very modest benefits. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.
22. Consequently, when assessed against the Policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

23. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR