



Appeal Decision

Site visit made on 11 December 2017

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 December 2017

Appeal Ref: APP/T1410/W/17/3183314

Garage block adjacent to 21 Derwent Road, Eastbourne BN20 7PH

- 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 Mrs Jeanette Crouch against the decision of Eastbourne Borough Council.
 - The application Ref PC/170607, dated 25 April 2017, was refused by notice dated 23 June 2017.
 - The development proposed is described as "*demolition of existing three garages and erection of chalet bungalow type 1 bedroom single dwelling*".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Jeanette Crouch against Eastbourne Borough Council. That application is the subject of a separate Decision.

Main Issue

3. The main issue raised by this appeal is the effect of the proposed development upon the living conditions of adjoining occupiers.

Reasons

4. The adjacent basement flat at 17 Darley Road is positioned at a significantly lower ground level to that of the appeal site. Outlook from the kitchen and bedroom of this property is toward the retaining wall relating to the appeal site. An ornamental block and brickwork wall runs along the top of the retaining wall and encloses the southern side of the appeal site. The space between the raised appeal site and the basement flat creates a lightwell for the kitchen and bedroom. The lightwell is also used as a small yard area providing an outdoor seating area for the occupiers of the basement flat.
5. I observed that the retaining wall is in close proximity in the outlook from both kitchen and bedroom windows. Skyward view can be achieved in outlook from these rooms but one would need to be close to the windows. I saw that the kitchen sink is next to the window where skyward views can be enjoyed. As this basement flat does not benefit from any significant alternative outlook the view from these habitable rooms is important to the living conditions of the existing occupiers.

6. The Council has raised concern in its reason for refusal to the size, bulk and siting including boundary treatment of the proposed chalet bungalow. The Council's Appeal Statement makes it clear that it is the size and siting of the replacement boundary treatment that is of specific concern. The scheme proposes to replace the ornamental block and brickwork to the top of the retaining wall with a 1.8m high closeboard fence. This would run along the full southern side of the appeal site.
7. Although the existing wall is approximately 1m tall, the ornamental blockwork permits light to penetrate through this existing enclosure. Despite being positioned to the north of the lower basement, the proposed closeboard fence, being a taller solid enclosure, would create a more oppressive living environment for the existing occupiers. It would also substantially reduce the skyward views. This would also have an increased enclosing impact upon the living environment of the occupiers of this basement flat. This would be harmful to the internal living environment and would also make the yard a less enjoyable outdoor space.
8. I note the appellant's comment that the proposal would comply with the 45 degree rule of thumb generally adopted by local planning authorities. However, I have no substantive evidence before me that would indicate that this authority has adopted such policy or guidance. I therefore give this little weight.
9. For the above reasons, I consider the proposed development would be harmful to the living conditions of adjoining occupiers. The proposal would therefore conflict with Policy B2 of the Eastbourne Core Strategy Local Plan 2013 and saved Policy HO20 of the Eastbourne Plan 2007 that require development, amongst other matters, to protect the residential amenity of existing residents.

Other Matters

10. It is appreciated that the appellant has sought to address issues raised by the Council in respect of the proposed scheme prior to the Council's committee meeting. I note that the Council has not raised an objection to the proposal in respect of its impact upon the conservation area or its appearance within the Derwent Road streetscene. Furthermore, the Council has not raised concern in relation to the living conditions of other neighbouring occupiers, standard of the proposed accommodation for future occupiers, parking or highway concerns, or to the location of the proposed development. However, these matters do not outweigh the harm to the living conditions of the adjoining occupiers identified above or justify the proposed development.
11. The Council confirms that it does not have a 5-year supply of housing in place. Paragraph 14 of the National Planning Policy Framework (the Framework) is therefore engaged, which states that permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would contribute a windfall site to the Borough's housing land supply. Although this is a benefit of the scheme, the contribution made by one dwelling would be modest.
12. I have concluded that the proposed development would cause substantial harm to the living conditions of the adjoining occupiers. This places the proposal in conflict with the environmental dimension of sustainability, as set out in

paragraph 7 of the Framework and this weighs very heavily against the scheme. When the Framework is considered as a whole, I find the scheme does not constitute sustainable development. This is because the positive housing supply and other benefits are significantly and demonstrably outweighed by the identified environmental harm. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.

Conclusion

13. A number of nearby residents and the Meads Community Association raise a series of concerns about the proposal but in view of my conclusions on the main issue there is no need for me to address these in the current decision.
14. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR