



Appeal Decision

Site visit made on 10 October, 2016

by C. Jack, BSc (Hons) MA MA(TP) MRTPI

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

Decision date: 17th October, 2016

Appeal Ref: APP/M2270/W/16/3154182

98 Henwood Green Road, Pembury, Royal Tunbridge Wells, TN2 4LN

- 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 W H Hodder and Sons Ltd. against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/500126/FULL, dated 8 January, 2016, was refused by notice dated 8 July, 2016.
 - The development proposed is the demolition of detached garage, creation of access and erection of three x 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of occupiers or neighbouring properties, with particular regard to No. 63 and No. 65 Heskett Park.

Preliminary Matters

3. Two additional plans have been submitted by the appellant that were not provided to the Council prior to its determination of the application. These are a Revised Block Plan 1415/P302 Rev A and a Revised Layout Plan 1415/P04 Rev A, which show the position of the proposed house at Plot 2 moved forward, away from Heskett Park, by approximately 1.5m. I am satisfied that no party would be prejudiced by my consideration of the revised plans since the change involved is minor in the context of this case and thus it does not significantly evolve the scheme from that considered by the Council. I have therefore determined the appeal with regard to these revised plans.
4. For clarification, the site address above is taken from the application form. However, it is clear from the plans and my site visit that the appeal site runs to the rear of 94 to 98 Henwood Green Road, as identified on the Council's decision notice.

Reasons

5. The appeal site consists of the rearmost parts of the back gardens of 94, 96 and 98 Henwood Green Road, with access proposed to be taken from Henwood Green Road via the existing access to No. 98. The site lies within the defined Limits to Built Development (LBD) of Pembury, where the main parties agree that new residential development is acceptable in principle. Henwood Green Road is predominantly residential in character and includes a wide variety of properties of
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mixed ages, sizes and styles. Numbers 94 to 98 are detached bungalows with substantial rear gardens. No. 94 has first floor living accommodation in the roof space, facilitated by rear dormer windows. The properties in Heskett Park to the rear of the appeal site comprise two-storey semi-detached properties with linked garages, situated on ground notably lower than the appeal site.

6. The proposed development consists of three chalet style houses, with accommodation in the roof-space at first floor level. The houses, identified as Plots 1 to 3, would be positioned in a row approximately centrally within the site, with parking and turning areas provided at the front.
7. Each proposed house has been designed with bathroom and landing windows at first floor level in the rear elevation, facing towards Heskett Park. I accept that these windows could reasonably be obscure glazed to prevent overlooking of the neighbouring properties to the rear in Heskett Park from the first floor, without detriment to the living conditions of future occupiers of the proposed houses. This is a matter that could be secured by a condition if the appeal were to be allowed.
8. The proposed layout would result in Plot 1 being slightly offset from No. 65 Heskett Park at a distance of approximately 20m from the common boundary. Plot 2 would be positioned directly behind No. 63 Heskett Park at a distance of approximately 18m from the common boundary, or a little more with the reposition of Plot 2 as shown on the revised plans. The rear gardens of No. 65 and No. 63 are relatively small. I am advised by residents that the rear garden of No. 65 is around 6.6m deep, and it is apparent that the garden depth of No. 63 is somewhat less than that.
9. On level ground, the total separation distances would be adequate to prevent any significant detriment to living conditions experienced at the properties in Heskett Park, particularly with the provision of obscure glazing to the first floor windows. However, it is the case that No. 63 and No. 65 are set at a significantly lower level than the proposed houses would be. As a result, their impact in relation to the neighbouring properties to the rear would be exacerbated, compared to a similar proposal on level ground.
10. Without significant additional screening at the rear of the site it would be possible for significant overlooking of No. 63 and No. 65 from the rear ground floor and garden areas of the proposed houses, since these would be positioned broadly at the first floor level of No. 63 and No. 65. I accept that in many circumstances enhanced boundary treatments and planting can be secured by condition to overcome such an issue. However, in this case the rear gardens of No. 63 and No. 65 are small and so any significant additional screening set on or near the boundary and on higher ground, such as would be necessary to prevent harmful overlooking in this instance, would have an overbearing relationship with the rear gardens and rear windows of No. 63 and No. 65, which would further restrict the levels of daylight and sunlight experienced there to an unacceptable degree.
11. The distances from the proposed houses in relation to No. 59 and No. 61 Heskett Park are in the order of 25m from the common boundary, with No. 59 and No. 61 also being staggered further away from the boundary than No. 63 and No. 65. Accordingly, the effect of the proposed development in relation to No. 59 and No. 61 would be significantly less than in relation to No. 63 and No. 65, and would not amount to any harm.

12. The area is predominantly residential and accordingly the introduction of three new homes would not have a significant effect on the levels of general noise and activity associated with the occupation of houses of the proposed size and type. Cars would only be able to access the new properties at the front and so there would be no significant effect in terms of noise and disturbance to residents of Heskett Park as a result of normal daily activity at the proposed houses.
13. My attention has been drawn to a previous appeal whereby 2 x three bedroom bungalows were allowed at the rear of 88 to 90 Henwood Green Road, Ref APP/W2270/A/13/2194230. The appellant advises that the Inspector in that case accepted a smaller plot depth than is proposed in this appeal. While that may be the case, I also recognise that the circumstances differed somewhat to the appeal before me, including because the proposed dwellings in the previous appeal were single-storey and because the relationship with properties in Heskett Park differed both in terms of the proposed layout of the bungalows and because the closest houses in Heskett Park were staggered further from the common boundary. Consequently, while I have had due regard to that earlier decision, it does not outweigh my reasoning above, which relates to the detailed circumstances of the case before me.
14. I therefore conclude that the proposed development would be harmful to the living conditions of the occupiers of neighbouring properties, with particular regard to No. 63 and No. 65 Heskett Park. Accordingly, it would conflict with saved Policy EN1 of the Tunbridge Wells Borough Local Plan 2006, which among other things seeks to ensure that development would not cause significant harm to the residential amenities of adjoining occupiers, when assessed in terms of daylight, sunlight and privacy. However, I find no conflict with adopted Core Policy 4 of the Tunbridge Wells Borough Core Strategy 2010, which specifically relates to the conservation and enhancement of the environment and not to the living conditions of neighbouring occupiers.

Other Matters

15. I have considered the various benefits of the proposed development, including that it would provide three additional dwellings in a sustainable location and the proposed vernacular style and materials. I also note that the appellant has questioned the validity of the Council's five-year housing land supply position, which might call into question whether development plan policies for the supply of housing are out of date in the context of Paragraph 49 of the National Planning Policy Framework. However, no significant evidence has been provided upon which to assess the supply position and notwithstanding my conclusions on the main issues above, I have had regard to Paragraph 14 of the Framework. In this context my decision would not be altered, even if relevant policies are out of date, because of the harm I have identified above. Therefore, any benefits arising from the proposal would be significantly and demonstrably outweighed by the harm that the development would cause.

Conclusion

16. For the reasons given above, and having regard to all matters raised, I conclude the appeal should be dismissed.

Catherine Jack

INSPECTOR