

Appeal Decision

Site visit made on 1 November 2016

by David Smith BA (Hons) DMS MRTPI

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

Decision date: 8 November 2016

Appeal Ref: APP/G2245/W/16/3153852

13 Buckhurst Avenue, Sevenoaks, Kent, TN13 1LZ

- 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 Mr Roger Francis against the decision of Sevenoaks District Council.
 - The application Ref SE/16/00113/FUL, dated 29 December 2015, was refused by notice dated 15 April 2016.
 - The development proposed is the provision of a new two storey dwelling to the south elevation of 13 Buckhurst Avenue and demolition of existing detached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The draft unilateral undertaking submitted at validation stage is incomplete as it is not signed. However, in the light of the Court of Appeal judgement of 11 May 2016¹, the Council now acknowledges that the proposal falls below the threshold for which affordable housing contributions can be required. It does not seek to defend the second reason for refusal. The Written Ministerial Statement of 28 November 2014 and the Planning Practice Guidance provide that affordable housing contributions should not be sought from developments of 10 units or less. The lack of any such payment is therefore unobjectionable.

Main Issue

3. The effect of the proposal on the living conditions of the adjoining occupiers in Buckhurst Avenue with particular reference to visual impact.

Reasons

4. The proposed dwelling would be attached to the side of No 13 at the end of a short terrace within an enclave of similar Victorian houses close to the town centre. Policy EN2 of the Sevenoaks Allocations and Development Management Plan aims to protect amenity. In particular, development should not result in visual intrusion.
5. The flank wall of the proposal would be in close proximity to the front facing windows of the row of properties immediately to the south. Although the first floor would be stepped further away from the boundary the overall height and length of this elevation would be substantial. Because of its bulk and closeness

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

to the fenestration at 17-23 Buckhurst Avenue the overall impact of the proposal would be oppressive and overpowering. As well as being visually intrusive the outlook from within the adjacent habitable rooms would be significantly impaired. This adverse impact would be experienced most severely at Nos 19A and 21.

6. Planning permission was given in 2006 for a two storey side extension at No 13 to provide an annex. This scheme included a balcony at first floor. At that time the Council concluded that the development would not have an unacceptable impact on the residential amenities of nearby dwellings. However, according to the Council, the proposal is slightly wider and about 4m deeper than the previously permitted addition. Consequently the impact on neighbouring occupiers would be materially greater and so this earlier decision does not justify accepting the proposal.
7. There are no side windows proposed and views out of the first floor bedroom windows towards the houses to the south would be so oblique that there would be no serious loss of privacy. Having applied its 45 degree test there is no objection from the Council in terms of loss of daylight or sunlight and no technical evidence to contradict this finding. However, neither of these matters alters the detrimental visual impact that would occur. Overall the proposal would fail to safeguard the amenities of existing occupants of nearby properties in Buckhurst Avenue contrary to Policy EN2.

Other considerations

8. The appellant refers to supplementary planning document A01 whilst the Council indicates that the site falls within the Buckhurst Avenue Character Area. The assessment observes that the garage building terminating the vista from the west does not enclose the street. A sense of enclosure is one of the recognised characteristics of the area and the proposal would therefore be of some benefit in townscape terms. Nevertheless, the 2006 permission suggests that there may be scope for similar advantages to be realised in other ways.
9. The Government seeks to boost significantly the supply of housing but one extra unit would have a minimal impact on the total stock. Indeed, none of these other considerations override the significant harm that would be caused.
10. The proposal is likely to marginally increase the number of cars attempting to park in Buckhurst Avenue where space is limited and a permitting system in place. However, the implications arising from a single additional dwelling are not so serious that this concern adds to the harm identified.

Conclusion

11. The proposal would harm the living conditions of the adjoining occupiers in Buckhurst Avenue. There are no other considerations which outweigh this finding or the conflict with the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR