
Appeal Decision

Site visit made on 7 November 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 21st November 2016

Appeal Ref: APP/C1435/W/16/3154421

Anderida, Green Lane, Crowborough, East Sussex TN6 2BX

- 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 Weald Civil Engineering Ltd against the decision of Wealden District Council.
 - The application Ref WD/2016/0637/F, dated 15 March 2016, was refused by notice dated 17 May 2016.
 - The development proposed is erection of 4 no bedroom dwelling including provision for areas of hard and soft landscaping and car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. One of the Council's reasons for refusal related to the effect of the proposal on protected species arising from the proximity of the site to the Crowborough Ghyll Site of Nature Conservation Importance. In response to this the appellant submitted an Extended Phase 1 Habitat Survey. This identified slow worms on the site along with the potential for nesting birds. The report set out a series of mitigation measures, which could be secured by conditions, in the event that the appeal was allowed. Subject to these conditions, the Council was satisfied that its objection in relation to this matter could be overcome. On the basis of all that I have read, I see no reason to come to a different view.

Main Issues

3. I therefore consider the main issues in the appeal to be the effect of the proposed development on:
 - a) the living conditions of the occupants of The Willow in relation to outlook and sunlight;
 - b) the character and appearance of the area.

Reasons

Living conditions

4. The appeal site is part of the long rear garden of Anderida. The plot of Oakleigh, immediately to the north, has already been sub-divided and the area to its rear is now occupied by a dwelling, The Willow, which is accessed via a driveway shared with Oakleigh.
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5. The proposed dwelling, would be similar in style and proportions to The Willow, but it would be sited further east on its plot and very close to the common boundary along the northern side of the site. Its rear elevation would therefore project beyond the rear elevation of The Willow where it would be on higher ground. Consequently, the height, bulk and proximity of the proposal, combined with its siting immediately to the south, would give rise to a loss of sunlight, and overshadowing of, that part of The Willow's garden which is closest to the house. In my view this would be particularly apparent in the middle and latter parts of the day and I am not persuaded that the hipped roof element of the proposal would mitigate this harm.
6. For the same reasons, the proposal would also introduce a sense of enclosure into part of the rear garden of The Willow, adversely affecting the outlook from the rear of the house, including the dormer window nearest to the shared boundary. These effects would be compounded by the difference in land levels, as the land falls away to the east. The new dwelling would therefore appear overbearing when viewed from the house and garden of The Willow, adversely affecting the living conditions of its occupants and making their home a less pleasant place to be.
7. Neighbours at Oakleigh and The Willow have also expressed concern about the difficulties that would arise from another dwelling sharing the existing access driveway, which is immediately adjacent to the flank wall of Oakleigh. The driveway is narrow. Any additional traffic movements along it would increase the noise and disturbance experienced by the occupants of Oakleigh and could create inconvenience for the residents of both properties. Considered in isolation, I do not believe this change would be a justification for refusing planning permission. However, these matters add to my concerns about the effects of the development on the living conditions of the occupiers of neighbouring properties.
8. Taking all these factors into consideration I conclude that the proposal would be harmful to the living conditions of the occupants of The Willow, arising from loss of outlook and sunlight. It would therefore be contrary to saved Policy EN27 of the Wealden Local Plan, which seeks to protect the amenities of adjoining occupiers from the unacceptable consequences of development.

Character and appearance

9. The eastern side of Green Lane in the immediate vicinity of the appeal site is characterised by a variety of detached dwellings set in deep plots. The dwellings are set back from the road, reasonably well spaced and there is an abundance of mature vegetation. It is therefore typical of a well-established and spacious residential area. The area immediately to the south and east of the appeal site has been recently developed as part of an area of new housing centred on Nassau Drive. This is very different in character, but is physically and functionally separated from existing development in Green Lane.
10. The proposed dwelling would be sited to the rear of Anderida and approximately adjacent to The Willow, an existing 'backland' development. The Council has also approved a chalet style dwelling which will be sited to the north of the Willow and at the rear of Springfield. The proposal would be clearly visible from Anderida, The Willow and from some of the houses in Bethany Close, within the recent housing development. Other views of it from the public realm and Green Lane would be very limited.
11. In terms of overall scale and form, the design of the dwelling appears to be a mirror image of The Willow. The proposal would include a detached garage, an area in which to manoeuvre vehicles in front of the house and a reasonable sized

rear garden. The plot would be a similar depth to that which is now occupied by The Willow.

12. However, the plot would be somewhat narrower than that of The Willow and the dwelling would occupy a greater proportion of the width of the site. The gap between the flank wall and the shared boundary with The Willow would be only around 1.2m. In my view the width of the house would be disproportionate to the width of its plot. The lack of space around the proposed dwelling would give rise to a cramped appearance that would fail to respect the more spacious layout of other dwellings in the immediate locality, including The Willow and the proposed dwelling to the rear of Springfield.
13. The flank wall of a pair of semi-detached houses in Bethany Close is sited close to the southern boundary of the appeal site. This wall would be alongside the rear garden of the proposed dwelling. However, it is intended that trees along the southern and eastern parts of the site would be retained. These would provide visual as well as spatial separation between the existing development and the proposal. There would also be a reasonable separation distance between the flank wall of the proposed dwelling and a pair of garages in Bethany Close. I therefore do not consider that the proximity of the proposal to the development to the south of the site would be a reason to reject the scheme.
14. Nevertheless, I conclude that the cramped siting of the proposal would be harmful to the character and appearance of the area. It would fail to comply with Policy SPO13 of the Wealden Core Strategy Local Plan, which seeks to encourage development of high quality where people will want to live.

Other Matter

15. The appeal site is close to Ashdown Forest, which is designated as a Special Protection Area (SPA). The Council has therefore determined that mitigation measures are required to ensure that the appeal proposal either alone, or in combination with other plans and projects, would not cause significant harm to the protected species for which the site is considered to be of international nature conservation importance.
16. The Council considers that the effects of potential additional visits to Ashdown Forest could be mitigated through an approach that requires contributions towards the Strategic Access Management and Monitoring Strategy (SAMMS) and provision towards a Suitable Alternative Natural Greenspace (SANG). The Council indicated that the development is liable for a Community Infrastructure Levy (CIL) charge and that the SANGS and/or SAMMS contributions could be secured within this payment. However, in the event that a subsequent application for exemption or relief from the CIL payment was successful, it suggested that these mitigation measures could be secured by conditions.
17. I have insufficient detail about the Council's CIL charging levy to be certain that this mechanism would secure the payments towards the necessary mitigation. I also have some concerns about the use of conditions in view of the Planning Practice Guidance's¹ (PPG's) advice in relation to negatively worded conditions. The PPG advises that such conditions should only be used in exceptional circumstances and in the case of more complex and strategically important development. However, in view of my conclusions on the main issues, this matter is not a determining factor in this case and, therefore, does not need to be considered further.

¹ Para 010 Reference ID:21-010020140306

Planning Balance and Conclusions

18. The Council acknowledges that it is currently unable to demonstrate a five-year housing land supply. Where this is the case, paragraph 49 of the National Planning Policy Framework (the Framework) is clear that relevant policies for the supply of housing should be considered out-of-date. However, it is not apparent from the evidence before me, which, if any, development plan policies fall into this category. In any event, as the appeal site lies within the development boundary of Crowborough, there does not appear to be any objection in principle to a residential development on the site.
19. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. In assessing the current scheme in the context of an acknowledged lack of a five-year housing land supply, I have, therefore, adopted the approach set out in paragraph 14 of the Framework, which advises that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when considered against the policies in the Framework taken as a whole.
20. The proposal would deliver a single dwelling. In social terms, although this would make a minimal contribution to the District's housing need, this is a factor to which I attach moderate weight.
21. In economic terms, the scheme would create a limited amount of employment during the construction period, a matter to which I give moderate weight. It would also generate New Homes Bonus (NHB), Council Tax and Community Infrastructure Levy (CIL) receipts for the Council. Council Tax and CIL are essentially a means for the Council to cover its costs and infrastructure needs arising from an increase in the local population. The NHB is an incentive for local planning authorities to provide housing on suitable sites. However, no direct beneficial link between the spend on the NHB and Crowborough has been established. Therefore, these financial matters carry little weight as benefits in the planning balance.
22. In environmental terms, there is agreement that the scheme is in a location that is accessible to local services and facilities, a matter that also attracts moderate weight. However, weighed against this are the harms I have found to the living conditions of the occupants of The Willow and to the character and appearance of the area. These are harms to which I attach significant weight.
23. I consider, therefore, that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Furthermore, there are no material considerations that outweigh the conflict with the development plan.
24. This leads me to conclude that the proposal would not be a sustainable development and for this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR