

Appeal Decision

Site visit made on 16 January 2017

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: 31 January 2017

Appeal Ref: APP/C1435/W/16/3162935

**Land to the rear of High Noon, Ghyll Road, Crowborough, East Sussex
TN6 1ST**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Latreille against the decision of Wealden District Council.
 - The application Ref WD/2016/1824/O, dated 22 July 2016, was refused by notice dated 16 September 2016.
 - The development proposed is an outline application for one dwelling, all matters reserved bar access.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application was in outline with all matters other than access reserved for future consideration. I have dealt with the appeal on that basis, treating the plan showing the footprint of the dwelling and the location of two parking spaces as illustrative.

Main Issue

3. The main issue is the effect of the proposed dwelling on the character and appearance of the area.

Reasons

4. Ghyll Road is characterised by detached and semi-detached houses set in well-proportioned plots, most of which have direct street frontage. The appeal site is part of the existing garden which lies immediately to the rear of a substantial detached two-storey dwelling, High Noon. Although the house has an attached garage, it also has a second access into the rear garden via a private driveway shared with Forsyte.
 5. A low brick wall and an area of shrub planting currently separates the appeal site from the remainder of High Noon's garden, which rises towards the south. The proposed house and its garden would therefore be sited on higher ground and within 15m of the rear elevation of the existing dwelling. In my view, the difference in ground levels, the limited size of the plot and the proximity of the proposed dwelling to High Noon would give rise to an awkward and unsatisfactory relationship between the two buildings. The orientation of the proposal means that the width of other nearby plots cannot be directly compared with the depth of the appeal site.
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6. In order to provide privacy and prevent overlooking of surrounding dwellings, it would be necessary to maintain the existing boundary treatment to the south and enhance the one between High Noon and the appeal site. Whilst it is clear that this is the appellant's intention, it would result in the site appearing enclosed and cramped. It would also reduce the quality of the amenity space for future occupiers. Any loss of vegetation in the future would not only be harmful to the area's verdant appearance, but would also increase the prominence of the proposed dwelling in the surrounding area.
7. A plan showing a limited number of individual dwellings to the rear of existing properties in the surrounding area was presented with the appeal. However, no other details relating to their construction or planning history were provided. Dwellings in Ashleigh Gardens appear to be part of a larger scale infill development. I accept that Forsyte is an example of a backland development in the vicinity. However, its plot seems to be materially larger than the appeal site and it appears to partially straddle the area to the rear of Ghyll Cottage and Armagh. Furthermore, the distance separating Forsyte from Ghyll Cottage is also greater than would be the case between High Noon and the proposed dwelling. Therefore, whilst I note these various examples of nearby development, none of them is directly comparable with the appeal proposal, which I have determined on its individual planning merits.
8. Considered together these factors demonstrate that the proposal would be out of keeping with the area's spacious and sylvan character. I therefore conclude that the proposal would be harmful to the character and appearance of the area, contrary to Policy SPO13 of the Core Strategy¹ and saved Policy EN27 of the Wealden Local Plan, both of which require new development to be high quality that is locally distinctive, creating attractive places in which to live.

Other Matters

Living conditions

9. The Council's reason for refusal primarily referred to the effect of the proposal on the character and appearance of the area. However, the officer report and appeal statement also refer to the proximity of the proposal having an overbearing effect on High Noon.
10. In my view the position of the proposed dwelling, on higher ground than High Noon, would result in the height and scale of its flank wall dominating the outlook from the rear of the existing dwelling. I therefore consider that the proposal would adversely affect the living conditions of the occupants of High Noon. This adds to my concerns about the harmful effects of the appeal scheme. It would be contrary to the core principle of the National Planning Policy Framework (the Framework) which always seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Ashdown Forest

11. The appeal site is close to the Ashdown Forest Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The Council is satisfied that, if the development was acceptable, its impact on these protected areas could be adequately mitigated through contributions to the Strategic Access, Management and Monitoring Strategy

¹ Wealden District (Incorporating part of the South Downs National Park) Core Strategy Local Plan

(SAMMS) and provision of Suitable Alternative Natural Greenspace (SANG). These forms of mitigation would be secured through the Community Infrastructure Levy (CIL) payment.

12. 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. 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. However, I have some concerns about the use of conditions in view of the Planning Practice Guidance's² (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 issue, this matter is not a determining factor in this case and, therefore, does not need to be considered further.

Planning Balance and Conclusion

13. 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 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, if the development plan policies referred to in this case 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. Nevertheless, in assessing the current scheme I have 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.
14. The proposal would deliver a single dwelling. In social terms, this would make a minimal contribution to the District's housing need and is therefore a factor to which I attach little weight. In economic terms, the scheme would create some employment during the construction period. However, as this would only be short term, the benefit attracts little weight in the overall balance. The proposal would 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.
15. In environmental terms, there is agreement that the scheme is in a location that is accessible to local services and facilities, a matter that attracts moderate weight. However, weighed against this are the harms I have found to the character and appearance of the area and the living conditions of the occupants of High Noon. These are matters to which I attach significant weight.

² Para 010 Reference ID:21-010020140306

16. I therefore consider 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. This leads me to conclude that the proposal would not be a sustainable development in the terms of the Framework. There are therefore no material considerations that outweigh the conflict with the development plan, including Policy WCS14 of the Core Strategy and saved Policy EN1 of the Local Plan.
17. For the reasons given, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR