

Appeal Decisions

Site visit made on 26 January 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 02 March 2017

Appeal Ref: APP/G2245/W/16/3162846

1 Tri Officers Mess, Armstrong Close, Halstead, Kent TN14 7BS

- 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 Fort Halstead Estates Ltd against the decision of Sevenoaks District Council.
 - The application Ref SE/16/01254/FUL, dated 22 April 2016, was refused by notice dated 21 September 2016.
 - The development proposed is demolition of existing buildings on site, removal of enclosure around former tennis courts and hardstanding, and introduction of 14 dwellings of two storey design comprising 6 three bedroom and 4 two bedroom houses and 2 two bedroom and 2 one bedroom apartments, associated parking, gardens and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An executed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was provided with the final comments, which seeks to overcome the reason for refusal relating to contributions toward provision of affordable housing. I will consider this further in my reasoning below.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposed dwellings and surrounding trees on the living conditions of prospective occupiers with particular regard to privacy and light;
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the trees adjacent to the site;
 - The effect of the proposal on flood risk;
 - whether or not the proposed development would make adequate provision for affordable housing;
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- Whether there are other considerations weighing in favour of the proposal; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The proposal would replace the existing buildings and tennis court at the Tri Officers Mess and in close proximity to the wider Fort Halstead development with a development of ten houses and four apartments. The National Planning Policy Framework (the Framework) confirms that new buildings should be considered inappropriate within the Green Belt with a number of exceptions, including the redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Policies LO1 and LO8 of the Sevenoaks District Council Local Development Framework Core Strategy (CS) confirm that the Green Belt will be protected and maintained within the district.
5. The site currently comprises an L shaped building that was formerly used as Officer's accommodation and Mess for the wider Fort Halstead development. To the rear is a single storey building, along with two double garages and a tennis court beyond. It is located within the Green Belt and Kent Downs Area of Outstanding Natural Beauty (AONB), which is heavily wooded in this area. The proposal would comprise demolition of the existing buildings and removal of the tennis court, replacing it with a residential development of 14 dwellings, four of which would be apartments.
6. The proposed buildings containing the four apartments and five of the houses would be in a similar position to the existing buildings. They would have a smaller footprint with gaps between the component buildings. However, they would be taller, with a mix of hipped and gabled roofs.
7. The remaining five houses would be located in the position of the existing tennis court. The tennis court is an essentially open structure, with hard surfacing and tall chain link fence surrounding. The existing fencing is transparent, such that it has limited visual effect on openness especially when compared to other forms of development such as dwellings, and the proposed dwellings would be built at the same level as the tennis court, which is above the level of the road adjacent and the other proposed dwellings, albeit lower than the car park on the opposite side. As a result, the dwellings would be a more harmful form of development than the tennis court in terms of openness.
8. As a result of the location of the proposed houses that would replace the tennis court, and the height and shape of the roofs of the proposed dwellings, the proposed development would extend buildings over more of the site such that they would reduce the openness of the Green Belt in this location. The wooded surrounds limit views of the site and the proposed buildings may have a smaller footprint than the existing buildings, but these factors would not overcome the harm to openness that I have identified. For these reasons, I conclude that the proposed development would constitute inappropriate

development in the Green Belt which is, by definition, harmful to the Green Belt.

Living conditions

9. The proposed layout would include apartments in the corner of the L shape of development comprising plots 1-9. The Council suggest that the closest houses of plots 10-14 to the rear of plots 1-7 would be in close proximity and result in overlooking and loss of privacy between the closest house, plot 10, and the apartments at plots 4-5 (although as plot 6 is above plot 4 and closer to plot 10, it is assumed that should be plots 4 and 6). These would be orientated almost at right angles to one another and the Council suggest that there would be a minimum of 17m gap between the windows of these buildings. This orientation and distance would ensure that there would not be overlooking or a loss of privacy within the internal spaces of those properties, although there may be some effect on the outside amenity space.
10. Taking account of the topography of the land and fencing likely to separate the properties, residents within the ground floor flat at plot 4 would not overlook the garden of plot 10. However, the upper floor flat at plot 6 would do so and this would result in some loss of privacy to prospective future occupiers of plot 10. Whilst mutual overlooking of rear garden areas is not unusual within development such as this, given the relationship between these properties almost at right angles to one another, the proposed development would result in a greater degree of overlooking than is normal such that it would harm the living conditions of prospective occupiers of that house. Although there is likely to be some overlooking of the outside space of the apartments from plot 10, this is a shared space that is overlooked by all the apartments, such that this overlooking would not have a material effect on the privacy of occupiers of the apartments.
11. Plots 10-14 would have modest rear gardens that back onto protected woodland to the rear, which is protected by Tree Preservation Order (TPO). The branches of those trees currently encroach over the tennis court and would encroach over the proposed modest gardens of these houses. As such, this woodland would substantially shade these properties, resulting in a loss of sunlight and daylight to the rear windows and gardens of these dwellings.
12. For these reasons, I conclude that the layout of the proposed dwellings and surrounding trees would result in poor living conditions of prospective occupiers in regard to the privacy of occupiers of plot 10 and in regard to light to the occupiers of plots 10-14. As such, the proposed development would be contrary to Policy EN2 of the Sevenoaks Allocations and Development Management Plan (ADMP) that seeks to protect the living conditions of existing and future occupiers of development.

Trees

13. As set out above, branches of the trees to the rear of plots 10-14 would extend over their modest proposed gardens and these trees are protected by a TPO. As a result, the trees would affect the living conditions of occupiers of those dwellings and it is likely that future residents would wish to prune or remove those trees in order to improve their living conditions. This would have an adverse effect on the wooded backdrop to the site that is an important

characteristic of this area within the AONB, where the Framework confirms that great weight should be given to conserving landscape and scenic beauty.

14. I note that the trees would be protected during development and that they would not need to be pruned or removed during the course of development to accommodate the proposed houses. In addition, the Council would have some control over works to the trees, given the TPO. However, this would not reduce the likelihood of future residents seeking to carry out works to the trees.
15. For these reasons, I conclude that the proposed development would adversely affect the character and appearance of the area. As such, the development would be contrary to Policies SP1 and LO7 of the CS and Policy EN1 of the ADMP that seek high quality design that responds to the character of the area, including sensitively incorporating natural features such as trees.

Drainage

16. Policies SP2 of the CS and EN1 of the ADMP seek to ensure sustainable drainage systems (SUDS) are provided where practical, together with arrangements to secure their long term maintenance. In this case, an outline SUDS drainage design has been provided with the appeal documents that sets out how such a scheme could be provided and maintained. However, the Council remain concerned that the methodology within the report is insufficient to support this appeal. They remain concerned that the measures proposed have not been demonstrated to be feasible, given other constraints such as the surrounding trees, and the alternative solution may not be available.
17. I note that there is existing development on the site and the amount of hard surfacing may reduce through the proposed development. This would have an effect on the amount of surface water run-off from the site. There is an existing drainage system, although I understand that this may not be a SUDS system that complies with current policies. Given this and the contents of the outline SUDS drainage design, the appellant suggests that a condition requiring further details would be satisfactory in this instance.
18. On the basis of the evidence submitted, I agree with the Council that the outline SUDS drainage design is not sufficient to support the proposed development in this instance and a condition would not be sufficient to overcome this deficiency. As such, it is not clear that surface water would be appropriately managed such that flood risk may be exacerbated by the proposed development, such that it would not comply with Policies SP2 of the CS and EN1 of the ADMP.

Affordable housing

19. I understand that the unilateral undertaking submitted with the final comments on this case addresses the Council's reason for refusal related to affordable housing provision, in accordance with Policy SP3 of the CS. That policy requires 30% of dwellings on sites of 10-14 dwellings with a net gain in the number of units to be affordable. However, the Council have confirmed that a financial contribution would be acceptable in this instance and this is provided by the unilateral undertaking. On this basis, I conclude that the affordable housing contributions are necessary, directly related to the development, and fairly and reasonably related in scale and kind in accordance with the Framework and would comply with Policy SP3 of the CS.

Conclusion

20. In conclusion, I have found that the proposed demolition of existing buildings on site, removal of the former tennis courts, surrounding fence and hardstanding, and introduction of 14 dwellings would be inappropriate development that harms the openness of the Green Belt. In addition, it does not provide adequate living conditions for occupiers of the proposed dwellings 10-14 through overlooking and loss of light and there would be a potential need to prune or remove trees by future occupiers that would harm the character and appearance of the area. Although the design of the proposed dwellings would reflect the character and appearance of surrounding development and the development would provide contributions toward affordable housing provision, my attention has not been drawn to any other factors that might overcome the harm that I have found. For these reasons, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policies LO1 and LO8 of the ADMP and the Framework that seek to protect the Green Belt from inappropriate development.
21. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR