

Appeal Decision

Site visit made on 24 April 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 3 May 2017

Appeal Ref: APP/C1435/W/17/3168244

**2 Dunsmore Cottage, Maynards Green Road, Maynards Green, Horam
TN21 0BU**

- 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 & Miss Avann & Taylor against the decision of Wealden District Council.
 - The application Ref WD/2016/2652/F, dated 26 October 2016, was refused by notice dated 14 December 2016.
 - The development proposed is the erection of a new detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - (a) the character and appearance of the area; and
 - (b) the living conditions of adjoining occupiers.

Reasons

Character and appearance

3. I observed that, in general, the properties at Maynards Green are set within reasonably sized plots with space around dwellings. The proposed development would be constructed close to both the northern and southern boundaries of the site. To the south the adjoining two-storey dwelling, known as Dunsmore, is positioned very close to the boundary of the appeal site. Although there would be a gap between the existing and proposed dwellings this would not be significant.
 4. The appeal site and Dunsmore have an elevated position to that of the highway, Tubwell Lane. Dunsmore is clearly visible from this adjacent highway. The proposed dwelling when observed in views from Tubwell Lane, would be positioned part way across the side elevation of Dunsmore. The proposed dwelling located in such close proximity to Dunsmore would, in my opinion, appear cramped and have an uncomfortably tight relationship with this adjoining dwelling. This would detract from the character and appearance of
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the area. This harm would be visible in views from Tubwell Lane and to the occupiers of the adjoining properties.

5. Although, the garden is currently undeveloped and gives the location a spacious character the proposed dwelling would have space between existing dwellings along Tubwell Lane. Although the proposed dwelling would create built development closer to a property known as Clunimore, I do not consider this open gap to be so fundamental to the setting of the lane to justify refusal on this point alone. The development, in respect of its space between 2 Dunsmore Cottages and Clunimore would reflect development in the wider area. Whilst the proposed parking and turning facilities would be shared with 2 Dunsmore Cottages and would be positioned between the proposed dwelling and this existing property, the hard surfaced area would not be substantially larger than that of the existing driveway. In these particular respects I find the proposed development would be acceptable.
6. However, for those reasons set out earlier, the proposed development would be harmful to the character and appearance of the area, and would be contrary to Policy EN27 of the Wealden Local Plan 1998 (the Local Plan) and Policies SPO13, SPO14 and WCS14 of the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (the Core Strategy), which seek development to respect the character of adjoining development and to create attractive living environments for communities in both towns and villages, amongst other matters.
7. The proposal would also conflict with the aims of paragraphs 9, 17, 53, 56, 58 and 64 of the National Planning Policy Framework (the Framework) that seek to ensure development responds to local character and attaches great importance to the design of the built environment as it should contribute positively to making places better for people.

Living conditions

8. The Council is concerned that the proposed dwelling would appear dominant in outlook from and have an enclosing effect upon the living conditions of the occupiers of the adjoining dwellings, Dunsmore and Clunimore, and their gardens.
9. Dunsmore has rear facing windows serving habitable internal living space. I acknowledge that the new dwelling would be visible in oblique views from Dunsmore and would be visible from its garden. However, the height and relationship of the proposed dwelling, along with its rear single storey projection that would be set away from the common boundary, would not, in my opinion, be dominant in outlook or have an enclosing effect, either in views from the internal living environment or the rear garden. The side elevation of the Dunsmore hosts secondary windows that have outlook toward the appeal site but the Council has not raised concern to the proposal in respect of this outlook.
10. The occupiers of Dunsmore also have concerns about privacy and noise. A high level bedroom window and living room patio style doors at ground floor of the proposed dwelling would face toward Dunsmore. I consider the existing hedge along the common boundary would prevent harmful overlooking from occurring. In addition, noise from vehicles parking and manoeuvring would take place adjacent to Dunsmore and the parking area would be close to a

bedroom window. However, the movements generated by the occupiers of one household would not be significant, although I accept some additional noise and disturbance would take place.

11. Cluniemore is positioned to the west of the appeal site and I observed that it is positioned at a lower ground level to that of the appeal site. Cluniemore has kitchen, landing and bedroom windows with outlook toward the appeal site and a garden between. The proposed dwelling would be positioned some way from the boundary of Cluniemore. Whilst the new dwelling would be visible in outlook from Cluniemore and its garden, I do not consider that the proposed dwelling would be so prominent in the outlook from Cluniemore or have a substantially enclosing effect to cause significant harm to the living conditions of the occupiers even though the dwelling is positioned at a lower level to the appeal site. Furthermore, any overshadowing of Cluniemore would only take place for a brief time in the morning.
12. Overall, I conclude that the proposed development would not harm the living conditions of adjoining occupiers, for the reasons given. The proposal would not materially conflict with Policy EN27 of the Local Plan and Policies SPO13, SPO14 and WCS14 of the Core Strategy that seek to ensure that proposed development would not have an adverse impact upon the privacy and amenities of adjoining developments, amongst other matters. The proposal would also comply with paragraph 17 of the Framework that seeks to secure a good standard of amenity for all existing occupants of building and land.
13. With regard to paragraphs 214 and 215 of the Framework, Policy EN27 of the Local Plan pre-dates the Framework but relevant policies of existing plans should be given due weight according to their degree of consistency with the Framework. I consider this Local Plan policy to be consistent with the Framework and I have therefore given it significant weight.
14. The appellant has referred me to the Council's emerging Wealden Local Plan which is intended to replace the 1998 Local Plan in due course. However, this emerging plan is at a very early stage and remains to be fully scrutinised and tested through the adoption process. As a consequence I give little weight to this emerging Local Plan or those documents informing it.

Other Matters

15. Horam Parish Council and a number of residents close by have raised other concerns in relation to the proposal, including highway safety and proximity of the primary school to the appeal site, but in view of my conclusion on the main issue relating to character and appearance, there is no need for me to address these in the current decision. For the same reason there is no need for me to address matters pertaining to the Ashdown Forest Special Protection Area, Special Area of Conservation and the Site of Special Scientific Interest.
16. The Council confirms that they do not have a 5-year supply of housing in place. The Council's policies that relate to the supply of housing are therefore out-of-date. Paragraph 14 of the Framework is therefore engaged, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Further, I am mindful that the Framework and Policy WCS14 of the Core Strategy require decisions to be made with regard to the presumption in favour of sustainable development.

Planning Balance and Overall Conclusion

17. The new dwelling would support the social and economic dimensions of sustainable development, as set out in paragraph 7 of the Framework and construction costs would contribute to the local economy and provide employment during construction. The proposal would provide an additional family home within the District. The proposal would contribute toward the District's targets for housing delivery and 5-year land supply in a location where there is Council support for additional houses. However, given that the proposal is only for a single dwelling, I attach moderate weight to these social and economic benefits.
18. Notwithstanding these considerations, the proposed development would cause substantial harm to the character and appearance of the area placing it in conflict with the environmental dimension of sustainability, as set out in paragraph 7 of the Framework and this weighs very heavily against the scheme. When the Framework is considered as a whole, I find the scheme does not constitute sustainable development. This is because the positive housing supply and other benefits set out above, are significantly and demonstrably outweighed by the identified environmental harm. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.
19. The appellant has referred me to a recent appeal decision at Whitesmith Lane, Chiddingfold, East Sussex (appeal ref: APP/C1435/W/16/3150981). I accept there is similarity to the proposed development before me in that the appeal at Whitesmith Lane also deals with the Council's lack of housing sites. However, the issue highlighted by the appellant relating to that case is the location of that appeal site to services and amenities. The Council has confirmed that the sustainability of the location of the appeal before me is not in dispute.
20. It is appreciated that pre-application advice was sought in this case. However, for the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR