
Appeal Decision

Site visit made on 26 June 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 12th July 2017

Appeal Ref: APP/G2245/W/17/3172477

Land East Of 5 Ellerby Mews, Ash Road, Hartley DA3 8ER

- 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 Daniel Espinoza of Group One Investments Ltd against the decision of Sevenoaks District Council.
 - The application Ref SE/16/03183/DETAIL, dated 17 October 2016, was refused by notice dated 21 February 2017.
 - The development proposed is details pursuant to condition 7 (construction method statement) of SE/15/03987/FUL.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised in respect of the appealed decision is the effect of the construction method on the living conditions of the adjoining occupiers, with particular regard to disruption and safety.

Reasons

3. Ellerby Mews is a residential terrace. Most of the dwellings in the terrace are accessed from the narrow pathway that runs in front of the development. The pathway is enclosed on its northern boundary by a tall closeboard fence. The front entrances of four of the dwellings open directly onto the pathway. Landscaped beds in front of the dwellings reduce the width of the pathway, as does the strip of gravel running alongside the fence that incorporates lighting posts. Flower baskets are also attached to the fence.
4. The new dwelling is to be erected to the east of this existing Ellerby Mews development and would be accessed by the pathway running alongside Ellerby Mews.
5. The applicant's construction method statement proposes to use the pathway to transport construction deliveries to the appeal site. The appellant has explained that during deliveries the pathway would be separated into two parts, one part dedicated to the deliveries and the other providing access for the residents. A temporary barrier would be constructed along the pathway but would only be in place for the duration of the delivery or deliveries which would be at pre-arranged times with the residents informed of the time in

- advance. The landscaped beds and flower baskets would be removed and reinstated once the dwelling has been completed.
6. I consider there is potential for the occupiers of neighbouring properties at Ellerby Mews to experience noise disturbance as a consequence of construction works. It is, however, necessary to consider whether the adjoining occupiers living conditions can be safeguarded whilst enabling the construction to take place.
 7. The pathway is narrow and would still be narrow even if the landscape beds and flower baskets are removed. I share the Council's Environmental Protection Officer's concerns about the practicalities of installing and removing the temporary barrier. The pathway is constrained either side by the existing dwellings and the high fence. Even with the installation of temporary fencing the proposed construction method would bring the trolley movement of materials, waste and equipment to and from the construction site within extremely close proximity to the entrances of the residential properties in Ellerby Mews. To my mind this would be very likely to cause disruption to movements by the existing occupiers.
 8. In addition, the movement of materials, waste and equipment would create noise disturbance directly outside the existing occupiers' front windows and entrance doors. This could take place with a high degree of frequency over the period of the construction works. I also consider the narrowness and enclosed nature of the passageway could, to some extent, amplify the noise of trolley movements and that of other equipment being transported along the pathway.
 9. Furthermore, the installation and removal of the temporary fencing would also cause some disruption and noise disturbance to the occupiers.
 10. Whilst the Health and Safety Executive regulate construction sites, I am not persuaded on the basis of the evidence before me that the proximity and relationship of the movement of materials and waste would be appropriately safe for residents and visitors to Ellerby Mews or that this would create a fully 'dedicated' access route for both construction operations and existing residents.
 11. The appellant highlights that the principle of the development to erect a dwelling at the appeal site has been accepted by the Council. He also draws my attention to the Council's delegated report which acknowledged that the development would likely cause some degree of disturbance to adjacent occupiers taking into account the restricted access to the site but this would be limited to the construction phase of the development. This justified the imposition of a condition relating to a construction method statement.
 12. However, I consider that the proposed construction method would create harmful noise and disturbance to existing occupiers even if the construction works are limited to a three month period and a full time site manager/trade supervisors being present at the site and advanced notice of construction activity provided to residents. Furthermore, this harm would not be overcome by the small scale nature of the development, off-site prefabrication of construction elements and operations being limited to normal daytime working hours.
 13. I acknowledge the opinion of the appellant's qualified independent assessor that the separation barrier would be adequate to protect the residents and

facilitate access for both residents and construction related trolleys and equipment. However, for those reasons given above, I do not share this view.

14. In addition to the above the applicant has indicated that the allocated parking space for the new bungalow would be used for drop-off, with a lay down area adjacent to the car park entrance with wheel wash facility. The car park space would be surrounded by 2m Herras fencing. The carpark and driveway access are small and there would likely be some conflict between vans/lorries and residents and their vehicles within the restricted space available. This could cause some disruption to the occupiers. However, I consider that with timed deliveries and resident notification of delivery disruption, construction related operations could be satisfactorily managed. Also, the potential disturbance to existing occupiers relating to drop-off and other activity at the carpark would be less pronounced than that of the use of the pathway as these activities would be further from residential properties.
15. The appellant has advised that the alternative option to provide access to the construction site through the adjoining garage premises is not possible. Whilst I sympathise with the appellant that negotiations with the owner of the adjoining site has not result in this option being forthcoming at this present time, this does not justify the use of the pathway to provide construction access to the appeal site or outweigh those concerns identified above.
16. For the above reasons the proposed development would have a harmful effect on the living conditions of the adjoining occupiers, particular in relation to disruption and safety. The proposed development would therefore conflict with Policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan that seek to secure satisfactory means of access for pedestrians, to create safe and secure environments and to provide adequate residential amenities for existing occupiers of nearby properties, amongst other matters.

Conclusions

17. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR