The Planning Inspectorate

Appeal Decision

Site visit made on 10 June 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2019

Appeal Ref: APP/Q3820/W/19/3221950
Woodend, Forge Wood, Pound Hill RH10 3NH

- 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 Lee Hammond against the decision of Crawley Borough Council.
- The application Ref CR/2018/0666/FUL, dated 27 August 2018, was refused by notice dated 28 November 2018.
- The development proposed is a new dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

    - the effect of the proposed dwelling on the character and appearance of the surrounding area;
    - the effect of the proposed development on existing trees;
    - the effect of traffic relating to the dwelling on the safe and efficient operation of the highway network in the vicinity of the appeal site; and
    - whether or not the proposed development would make adequate provision for affordable housing and tree planting.

Reasons

Character and appearance

3. The site for the proposed dwelling at Woodend fronts Steers Lane. The section of Steers Lane between Balcombe Road and the new development of the Forge Wood Neighbourhood Area has a semi-rural and wooded character and appearance, with the rear gardens of houses fronting Forge Wood, including Woodend, backing onto the road. Most of those rear gardens contain mature trees and hedges on the boundary with Steers Lane.

4. The property at Woodend has a rear garden backing onto Steers Lane. The appeal site comprises an open area at the end of the garden that would have access from Steers Lane. At present, it has a post and rail fence along that boundary.

5. The neighbouring property of Badgers Rest is a detached house with access from Steers Lane but is located in line with the other development along Forge Wood. As a result, this property reflects the character and appearance of other dwellings fronting Forge Wood, albeit with access from Steers Lane and a large garage building between the house and road. The character of Steers Lane changes beyond Badgers Rest and the junction of Forge Wood and Steers Lane from the semi-rural, wooded character and appearance to the suburban development of the Forge Wood Neighbourhood Area.

6. The proposal is a chalet bungalow that would be located significantly closer to Steers Lane than the other houses on Forge Wood and would front that road. As a detached dwelling, it's appearance would be a significantly more substantial than the neighbouring garage outbuilding. As a result, it would have a more suburban character and appearance that would be prominent and appear incongruous on this semi-rural and wooded section of Steers Lane.

7. For these reasons, I conclude that the proposed dwelling would harm the character and appearance of the area. As such, it would be contrary to Policies CH2 and CH3 of the Crawley Local Plan that seek high quality design that relates sympathetically to the surroundings, responding to locally distinctive patterns of development.

Existing trees

8. There are several mature trees in the rear gardens of houses on Forge Wood. These include trees within the gardens of Woodend and Badgers Rest. I understand that these are protected by a Tree Preservation Order. Most of the trees at Woodend are located within the retained garden of that property and the new dwelling to the side. There is one silver birch within the appeal site, along with a number of smaller trees and shrubs. The Arboricultural Method Statement and Tree Protection Plan show the existing trees to be retained and protected during the course of construction. On that basis, I consider that the proposal would not have a direct adverse impact on trees.

9. Nevertheless, the proposed dwelling would be located within the root protection area and partially within the canopy of the silver birch on the site and the root protection area of a sweet chestnut in the garden of Woodend. The parking area, bin and cycle storage would be largely within the root protection area of a mature common oak and partly within its canopy. The proposed garden area would be overshadowed for a lot of the day. The resulting lack of sunlight and daylight would affect the living conditions of occupiers of the proposed dwelling. The proximity of the dwelling, parking, bin and cycle stores and effect on living conditions of prospective occupiers are likely to result in pressure to remove or reduce these trees in the future.

10. For these reasons, I conclude that the proposed development would have an adverse effect on existing trees both on and off the appeal site. As a result, it would conflict with Policies CH2, CH3 and CH6 of the LP that seek high quality design, including protecting landscape character and features, such as trees, that contribute to the significance and distinctiveness of the site and its context.

Highways

11. Access to the proposed dwelling would be taken from Steers Lane. Badgers Wood has a similar access point from this road, rather than Forge Wood. Steers Lane provides a link from the Forge Wood Neighbourhood Area to Balcombe Road with a pavement over which the access would pass and has a speed limit of 40mph. Sufficient parking spaces would be provided to serve the needs of future occupiers of the dwelling. However, no information has been provided as to the extent of visibility splays to ensure that vehicles would be able to access and egress the proposed dwelling safely in order to access that parking.

12. For this reason, I conclude that it has not been demonstrated that access to the proposed dwelling would be provided to maintain the safe and efficient operation of the highway network in the vicinity of the appeal site. As such, it would be contrary to Policy IN4 of the LP that seeks to provide adequate parking.

Affordable housing and new trees

13. Policy H4 of the LP would require a commuted payment from the proposed development in order to contribute to off-site provision of affordable housing equivalent to a 40% provision of affordable housing. No mechanism to secure the provision of affordable housing has been provided, although I note that the appellant has suggested that this could be required by condition.

14. I understand that affordable housing is normally secured by the Council via the planning obligation process rather than a condition. Planning Practice Guidance indicates this is the correct approach.

15. The Council have drawn my attention to the contents of the National Planning Policy Framework (the Framework) that states provision of affordable housing should not be sought for residential developments that are not major developments. However, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires my decision in this appeal be in accordance with the development plan, including the LP, unless material considerations indicate otherwise. The Framework, as an expression of government policy, is a material consideration of considerable weight. Nevertheless, I have no evidence to suggest that would outweigh the statutory weight to be given to development plan policies in this instance. I understand other appeal decisions have come to a similar conclusion.

16. For these reasons, I conclude that the proposed development would not make adequate provision for affordable housing. As such, it would be contrary to Policy H4 of the LP. The conflict with this policy would not be outweighed by the provisions of the Framework.

17. In addition to requiring the planting of replacement trees, Policy CH6 of the LP requires the provision of at least one additional tree either on site or, via a commuted payment, off site. The site is of limited size and it is not clear whether there is sufficient space for provision of an additional tree in accordance with this policy. Neither has a planning obligation been submitted that would secure provision of a tree.

18. For these reasons, I conclude that the proposal would not provide an additional tree. As such, it would conflict with Policy CH6 of the LP.

Conclusion

19. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and there are no material considerations of such weight as to warrant a decision other than in accordance with the aforementioned Local Plan. Consequently, the appeal should be dismissed.

AJ Steen

INSPECTOR