
Appeal Decision

Site visit made on 26 June 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/M2270/W/18/3217474

24 Chieveley Drive, Royal Tunbridge Wells, TN2 5HQ

- 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 Thomas Branczyk against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/02051/FULL, dated 29 June 2018, was refused by notice dated 3 September 2018.
 - The development proposed is conversion of property to create 1 house as existing (4 bed house) and 1x 3 bed flat in annex to left side. Side Extension (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development is partially retrospective as some of the works, including the extension and fenestration changes to the front, side and rear of the building have already occurred. I have considered the appeal on the basis of the plans that were refused by the Council.
3. There was a previous planning appeal that was dismissed on the site¹. This sought retrospective planning permission for the use of part of the host building as a of Multiple Occupation ("HMO"). This previous appeal decision is a material planning consideration in this case.

Main Issues

4. The effect of the proposed development on the character and appearance of the area; and on the living conditions of existing residents with particular regard to noise and disturbance.

Reasons

Character and Appearance

5. The existing building falls within a residential area on the outskirts of Tunbridge Wells. This part of Chieveley Drive is characterised by detached, two-storey dwellings, generally with single front doors, and set in modest sized plots.
6. The proposal involves the creation of a 3 bedroom flat within part of the ground floor of the existing property. However, in addition to the main entrance to the

¹ APP/M2270/W/17/3187992

flat at the rear of the property, 2 of the bedrooms have external doors. One of these is on the front elevation of the building, in a prominent position adjacent to the main entrance of the house. In consequence, the building now appears to have two front doors. The building therefore has an awkward appearance which lacks the visual coherence exhibited by the other detached residential buildings set along this road. In consequence, the building relates poorly to existing development in the surrounding area.

7. The previous Inspector raised concerns about this issue, noting that the presence of two entrance doors means that the proposal is out of keeping with the traditional, single front door provided on the surrounding houses. There appears to have been no significant change to the proposal, in this respect. I share the concern expressed by the previous Inspector in relation to this aspect of the development.
8. Whilst the building previously incorporated an annex, the evidence before me indicates that it did not have any significant effect on the external appearance of the building. Whilst of no particular design merit, the previously existing garage door was an anonymous feature that complimented the appearance of the host property, reinforcing its architectural form as a single dwelling. The changes to the front elevation of the building detract from its appearance and do not represent an improvement over the previous position.
9. In other respects, the side extension is modest in scale and broadly subservient to the host dwelling. Whilst the rear garden would be subdivided, a reasonable amount of external amenity space would be provided for both units and the boundary treatments would not be visually prominent in any important public views. However, the works to the front elevation have resulted in the creation of a building that departs significantly from the prevailing appearance of the surrounding built environment. The resultant harm to the visual character and appearance of the area is unacceptable. In this respect the proposal conflicts with policy EN1 of the Tunbridge Wells Borough Local Plan 2006 ("Local Plan") which requires that, amongst other things, the design of new development including its external appearance respects the context of the site.

Living Conditions

10. Concern is expressed by interested parties regarding noise and disturbance associated with the host property. On this matter, the previous Inspector found that, amongst other things, the HMO use would comprise an unacceptable residential intensification. However, there would be fewer independent households within the 3-bedroom flat now proposed, reducing the likely comings and goings to the property. The Council accept that the additional flat would have a less intensive use than the previous proposal. This is a materially different scheme, which must be considered on its planning merits.
11. The 3-bedroom flat would be of a size whereby it would not be ancillary to the existing building. However, the additional residential property and associated pedestrian and vehicular movements would occur within an existing detached dwelling in a reasonably well contained plot. The Council advise that 4 cars can park on the site. This is likely to absorb much of the car parking demand associated with both properties. In other respects, the residential development and future activity associated with it would reflect the prevailing land use along this road, namely medium to large family sized housing.

12. These considerations lead me to the view that the proposal would not represent a significant change to the quiet character of the prevailing low-density residential environment. There would be no harm to the living conditions of surrounding residential occupants through unacceptable noise or disturbance. The level of intensification proposed would be acceptable. In this respect there is no conflict with policy EN1 of the Local Plan. This seeks to ensure that, amongst other things, the nature and intensity of proposed uses are compatible with neighbouring uses and do not cause significant harm to the residential amenities of adjoining occupiers.

Other Matters

13. The appellant cites policies and supporting text in the development plan which promote the provision of additional housing accommodation within the Borough, at a density appropriate to the specific character of the locality and whilst preserving the locally distinctive sense of place and character. This includes Core Policies 1, 4, 6 and 9 of the Tunbridge Wells Core Strategy Development Plan Document (June 2010), along with policy TP5 of the Local Plan. However, of particular relevance is policy H5 of the Local Plan. This states that, within the limits to built development, proposals for the sub-division of dwellings into smaller units will be permitted. The purpose of the policy is to increase the supply of housing, particularly smaller housing. This is consistent with the National Planning Policy Framework ("the Framework"), which seeks to make effective use of land and boost considerably the supply of housing, supporting the use of underused buildings for housing and optimising the potential of sites.
14. The quality of residential accommodation provided would be good, and the density of the area around the site is comparatively low. In this context, the provision of larger residential accommodation would meet the needs of its occupants. It would occur in an existing built up area close to services and facilities, and this is a consideration that weighs in favour of the development.
15. However, policy EN1 of the Local Plan, as set out above, seeks to ensure the design of new development respects the context of the site. This policy is also consistent with the Framework, as it seeks to achieve well-designed places. For the reasons set out in the first main issue, the proposal conflicts with this policy, and I attach substantial weight to the harm that would arise, in this respect. In consequence, the considerations that weigh in favour of the development, including compliance with other development plan policies including H5 of the Local Plan, do not overcome the harm identified. The proposal conflicts with the development plan, when it is considered as a whole. The presumption in favour of sustainable development does not apply.
16. The appellant argues that the failure of the appeal would give rise to interference with the rights to private and family life under Article 8 of the Human Rights Act 1998 ("HRA"). This is because it would prevent them from using the building in a way that meets the existing and likely future needs of its existing occupants. However, any interference with these qualified rights and consequential hardship that would occur would be justified on this occasion, as it accords with a well-established planning policy aim of achieving well designed places. The interference would be proportionate and would not unacceptably violate rights under Article 8 of the HRA.

17. It is suggested that some of the alterations to the building are immune from enforcement action and therefore lawful. However, the relevant method of establishing such a position is through a certificate of lawful use under Section 191 of the Town and Country Planning Act 1990. On the evidence before me, no such certificate exists in this case. Consequently, I give this argument little weight, and a fallback position has not been demonstrated. As such, this consideration does not justify the proposal.
18. In other respects, to avoid prejudicing future planning appeal proceedings, it would not be appropriate to comment on ongoing planning enforcement issues relating to the property, as cited by the appellant. Nor is it within my remit as part of this decision to investigate complaints about the conduct of the Council, including matters relating to the administration of Council tax.
19. The Council have granted planning permission on other occasions for the subdivision of residential properties. However, the examples cited are located away from the site. On this occasion there would be unacceptable harm to the character and appearance of the area, arising from the changes to the front elevation of the host property. As such, these examples do not justify the development. As the harm relates to the character and appearance of the area, the proposal could not be made acceptable through the use of planning conditions or planning obligations, including those which seek to manage how the building is occupied in the future.
20. There are also objections from interested parties, raising other issues to those cited in my reasoning above. However, as the appeal is failing it is not necessary to address these.

Conclusion

21. Whilst there would be no harm to the living conditions of existing residents, the proposal would result in unacceptable harm to the character and appearance of the area. The proposal conflicts with the development plan when considered as a whole and there are no other considerations that outweigh this finding. For the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

Neil Holdsworth

INSPECTOR