
Appeal Decision

Site visit made on 6 January 2020

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2020

Appeal Ref: APP/H2265/W/19/3238971

Land part of 63-65 Western Road & 50 Sevenoaks Road, Borough Green, Sevenoaks, TN15 8AN

- 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 Chris Bergdahl of KC Management SE Ltd. against the decision of Tonbridge & Malling Borough Council.
 - The application Ref: TM/19/00656/FL dated 12 March 2019, was refused by notice dated 7 May 2019.
 - The development proposed is erection of 3 bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form gives the address as '63-65 Western Road, Borough Green, Sevenoaks, TN15 8AN'. The Council's decision notice and the appeal form refer to the address as 'Land part of 63-65 Western Road & 50 Sevenoaks Road, Borough Green'. This more accurately reflects the address of the appeal site and I have therefore referred to this in my heading above.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of future occupiers of the approved development at 63-65 Western Road in terms of outlook and existing occupiers of 50 and 52 Sevenoaks Road in terms of privacy and outlook.

Reasons

4. The appeal site comprises an area of land adjacent to 63-65 Western Road (Nos. 63-65) and part of the rear garden and garage to 50 Sevenoaks Road (No. 50) which lies to the south of the site. No. 50 and 52 Sevenoaks Road (No. 52) have windows in their rear elevation facing towards the appeal site. Currently there is nothing separating the appeal site from No. 50. A high fence and vegetation runs along the boundary between Nos. 50 and 52.
5. The proposed development is for a two-storey detached house with a frontage to Western Road adjacent to the boundary with No. 65. It would have windows in its front and rear elevations. The garden to No. 50 would be sub-divided

- and separated by a 2-metre-high close board fence to form a garden for the proposed house.
6. Nos. 63-65 have planning permission for an extension and conversion into 2 houses. The main window of the second bedroom to No. 65 would face towards the appeal site and the side wall of the proposed house which would be a very short distance from this window. Due to its proximity, it would severely restrict outlook from this window. Whilst this bedroom would benefit from a second window, facing rearwards towards the garden, this would be a very narrow window that would only provide very limited outlook. It would not compensate for the loss of meaningful outlook from the main window. This would result in a poor outlook and harm to the living conditions of future occupiers of this house.
 7. The first-floor windows of the proposed house would face towards the rear gardens and windows of Nos. 50 and 52. Due to the short length of the gardens to both No. 50 and the proposed house, there would only be a limited separation distance between the rear elevations of both properties. Furthermore, the ground level of the appeal site is slightly elevated which would make the proposed house higher. Consequently, the first-floor windows in the rear elevation would directly overlook the rear garden and windows of No. 50 and to a lesser extent those of No. 52. With the area of garden overlooked to both properties being the part closest to the house where occupants are most likely to be sitting out and relaxing, this would cause an unacceptably harmful loss of privacy to occupiers of both these properties.
 8. Additionally, the proximity and elevated position of the proposed house, would make it appear large and overbearing when viewed from these properties to the rear. This would have an enclosing and dominating effect on these properties which would be harmful to the living conditions of occupiers, causing significant harm to their outlook.
 9. The appellant has suggested that the separation distance between this house is directly comparable to that of the approved scheme at Nos. 63-65 and is therefore acceptable. However, the gap between the appeal proposal and Nos. 50 and 52 is closer than that between Nos. 63-65 and the rear of properties fronting Sevenoaks Road, which are additionally separated by a rear access. Furthermore, these buildings are existing where there is an established relationship between properties to the rear with mutual degrees of overlooking. The appeal site is currently occupied by a garage and garden and there is no overlooking from this site. The adjacent scheme is not therefore comparable to the scheme before me.
 10. I conclude that the proposed development would significantly harm the living conditions of future occupiers of the approved development at Nos. 63-65 in terms of outlook and existing occupiers of Nos. 50 and 52 in terms of privacy and outlook. It would therefore conflict with Policy CP24 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007 which does not permit development which would be detrimental to amenity. It would also not accord with the National Planning Policy Framework (the Framework) which seeks to ensure that developments provide a high standard of amenity for future and existing users.

Other Matters

11. The appellant has referred to his pre-application discussions where the proposed scheme was viewed positively by the Council with no reference to any amenity concerns. However, I am mindful that provision of pre-application advice is not binding on the Council. Furthermore, it would seem that the submitted scheme differed from the one on which pre-application advice was sought. In any case, this is essentially a procedural matter that does not relate to the planning merits of the appeal proposal.
12. The Council accepts that it is not able to demonstrate a 5-year supply of deliverable housing sites. The proposed development would provide an additional house in a location with good accessibility to shops and services, and would make a small contribution to the provision of houses. These are benefits of the scheme.

Planning Balance and Conclusion

13. Where a 5-year housing land supply cannot be demonstrated, paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission. I acknowledge that provision of a detached dwelling contributes to the supply of housing. However, that contribution in this case is very modest and my finding is that the harm to living conditions would significantly and demonstrably outweigh the tilted balance in favour of granting permission.
14. For this reason, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR