



Appeal Decision

Site visit made on 26 May 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2020

Appeal Ref: APP/C1435/W/20/3246970

Land adjacent to 3 Lakeside Walk, Goodwin Close, Hailsham BN27 3DE

- 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 Oliver Beswick against the decision of Wealden District Council.
 - The application Ref WD/2019/0247/F, dated 1 February 2019, was refused by notice dated 7 October 2019.
 - The development proposed is the erection of 1 House attached onto the side of 3 Lakeside Walk and associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In January 2019 the Council submitted Stage 1 of the new Wealden Local Plan (NWLP) for examination. However, in December 2019 the Council was informed that the submission failed to meet a number of requirements for legal compliance. As a result, in February 2020 the Council decided to withdraw the NWLP with the intention to produce a new Plan. As such, the Council have relied upon Policies from the relevant adopted plans which are the Wealden Local Plan, 1998 (WLP), the Wealden Core Strategy Local Plan, 2013 (CS) and the Wealden Design Guide Supplementary Planning Document, 2008 (SPD). I have proceeded accordingly.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is located in a residential area of two-storey, brick and tile dwellings. The area is typified by properties with both front and rear gardens, grass verges, and a number of path-facing pedestrian footways, including Lakeside Walk. No 3 Lakeside Walk forms the right-hand side of an existing three dwelling terrace, and is bordered by fields, a pond and mature trees, including two protected 'Category A' trees in the rear garden.
5. The proposal is to erect an additional two-storey house that would be attached to the host dwelling. There would be gardens to the front and rear of the property, and it would be similar in style and materials to No 3. As such, the main parties agree that the development would be located in a residential area where the principle of development is accepted, and that the style and appearance of the dwelling would accord with the surrounding area.

6. However, while the drawings show that the proposal would fit on the severed plot available, and that the main parties agree that the 'Root Protection Area' of the trees would not be compromised by the development, the scale and mass of the proposal, which extends to approximately within 1.5m of the side boundary as a two-storey dwelling, in combination with proximity to the protected and surrounding trees would result in a visually cramped development. Indeed, the immediacy of the proposal to the two protected trees, labelled as T1 and T2 on the submitted drawings, despite the proposed landscaping, would compromise the gentle transition into the adjacent fields and the nearby pond, and hence erode the sense of spaciousness in the immediate surrounding area.
7. Moreover, the size and location of the protected 'on-plot' trees, combined with other trees in Lakeside Walk, make an important visual contribution to the area that can be seen from both Lakeside Walk and Goodwin Close. The proposal would limit views of the trees from Lakeside Walk and reduce the juxtaposition of their green and verdant qualities during some months of the year in contrast to the surrounding built environment, and hence erode their contribution to the overall character and appearance of the area.
8. Furthermore, I noted at my site visit that the protected trees overhang the rear garden of No 3, and in part the garden of No 2 Lakeside Walk. Consequently, the size and location of the trees within the rear garden of the proposal would reduce the daylight and sunlight to some rooms within the dwelling at certain times of the day and year. As such, notwithstanding that removal of one or both of the trees would require approval by the Council, and whether the proposal accords with Built Research Establishment (BRE) guidance in some aspects or not, future occupiers are likely to find that the positioning and shadow associated with the trees, on this severed garden plot, would be less than ideal in respect of a residential dwelling.
9. Therefore, as I have little evidence to the contrary, and notwithstanding the Arboricultural Report provided by the Ash Partnership (UK), I cannot be certain whether the protected trees could be retained for the long term or be easily or quickly replaced in this reduced garden space.
10. I conclude therefore, that the scale and mass of the proposal would result in a visually cramped development and erode the spaciousness and green and verdant nature of the appeal site. Hence the development would be incongruous with the character and appearance of the area.
11. Thus, the proposal is contrary to Policies EN12, EN14 and EN27 of the WLP, Policies SP013, SP014 and WCS14 of the CS, and the SPD which say, amongst other things, that development proposals should seek to retain existing trees, and that development which results in the loss of trees which make a valuable contribution to the character of the landscape will be resisted.
12. For similar reasons, the proposal does not meet the aims of Paragraphs 127 and 175-177 of the National Planning Policy Framework which require that developments must function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and are sympathetic to the local character and history, including the surrounding built environment and landscape setting.

Other Matters

13. My attention has been drawn to the fact that there might be an active badger sett near to the appeal site. However, while badgers are protected under the Protection of Badgers Act 1992, the Council has confirmed on their appeal questionnaire that there are no protected species on site. Indeed, whether there are badgers living nearby or not I have little evidence to confirm this.
14. The Council has indicated that despite the failure of the NWLP that the proposal for one dwelling would not adversely impact the Ashdown Forest Special Protection Area. As such, I have not carried out a Habitats Regulations assessment related to the protection of European Sites.

Conclusions

15. The main parties agree that the Council cannot demonstrate a five-year housing land supply, as such Paragraph 11 (d) of the Framework is engaged. However, while I acknowledge that the proposal would result in some public benefit, i.e. the provision of one new dwelling, I find the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
16. For the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR