
Appeal Decision

Site visit made on 25 August 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2020

Appeal Ref: APP/G2245/W/20/3244355

2 Woodview Road, Swanley, BR8 7ET

- 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 Andrew Chapman against the decision of Sevenoaks District Council.
 - The application Ref 19/02273/FUL, dated 2 August 2018, was refused by notice dated 30 October 2019.
 - The development proposed is construction of two new semi-detached two bedroom dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect on the living conditions of the residential occupants of No.3 Crescent Gardens, with particular regard to privacy and outlook.

Reasons

3. The site comprises largely undeveloped land to the side of 2 Woodview Road. Part of it is a hardstanding facing the street leading to a single garage, the remainder is fenced off and overgrown. It is of an irregular shape and shares a boundary to No.1 and No.3 Crescent Gardens to the north, which sit below the site due to a fall in the underlying land. The new building would rise to two storeys in height and would sit close to the curved rear boundary to the side of the rear external amenity space associated with No.3 Crescent Gardens ("No.3").
4. Because of its size, height and close proximity to the shared boundary, the new building on plot 2 would have an imposing presence when viewed from the rear amenity space associated with No.3. It would dominate views from this living space, including the area to the rear of the main building which comprises its core garden space. There would be a significantly greater degree of visual intrusion than that which currently arises due to the proximity of the existing building at No.2 Woodview Road, which is set noticeably further back from the common boundary. Consequently, there would be a significant loss of outlook for the residential occupants of No.3.
5. The rear elevation of plots 1 and 2 would also have rear facing windows at first floor level serving habitable rooms. These would directly overlook the rear part of the garden of No.3 in much closer proximity than the existing windows on

No.2 Woodview Road. Whilst only part of the garden would be significantly affected, the overlooking would occur at a raised position and the separation distance at this point would be very limited. This would also represent a significant level of intrusion through loss of privacy.

6. It is argued that there would be no harmful loss of light and no other residential properties would be significantly affected by the development. However, these are neutral factors that do not outweigh the harm identified.
7. Overall, there would be an unacceptable effect on the living conditions of the residential occupants of No.3 Crescent Gardens, due to loss of outlook and privacy. The proposal therefore conflicts with policy EN2 of the Sevenoaks District Council Allocations and Development Management Plan (2015), which seeks, amongst other things, to safeguard the amenities of existing residents where new development is proposed.

Planning Balance

8. The Council cannot demonstrate a 5-year housing land supply. The National Planning Policy Framework ("the Framework") states that, in these circumstances the policies which are the most important for determining the application are out-of-date. As such, the presumption in favour of sustainable development, as set out in paragraph 11 d) of the Framework, is engaged.
9. In this case the proposal would provide 2 additional dwellings with a good standard of accommodation for future occupiers, in an existing built up residential area. This would address an existing shortfall of housing apparent within Sevenoaks, whilst making efficient use of land. In this respect the proposal would help boost the supply of housing which is an important objective set out in the Framework. There would be associated economic and social benefits, to which I assign a moderate amount of weight.
10. However, the proposal would have an unacceptable effect on the living conditions of existing residents. As a result, it would fail to achieve a well-designed place with a high standard of amenity for the occupants of existing buildings, which is another objective of the Framework. I attach substantial weight to the harm that would arise, in consequence. Overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development does not apply.

Other Matters

11. Concerns are raised about the conduct of the Council and perceived inconsistencies in the officer report. However, the harm in the main issue and associated policy conflict was clearly identified. This outweighs any other local and national planning policies that the proposal is considered to support or comply with¹. It is of a significance that justifies the dismissal of the appeal. The harm relates to the principle of the development as it is currently designed and cannot be overcome by the use of planning conditions.
12. Whilst not part of the Council's reasons for refusal, interested parties also raise other issues including concern about the effect of the proposal on the character

¹ As identified in the officer report, and also in the design and access statement submitted with the original planning application.

and appearance of the area. However, as the appeal is failing on the main issue there is no need to address these.

Conclusion

13. The proposal conflicts with the development plan, when it is considered as a whole, and there are no other considerations, including national planning policy, that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR