
Appeal Decision

Site visit made on 20 October 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Appeal Ref: APP/M3645/W/20/3254016

Haxted Kennels, Dwelly Lane, Edenbridge TN8 6QA

- 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 Verity Child against the decision of Tandridge District Council.
 - The application Ref TA/2020/329, dated 11 February 2020, was refused by notice dated 30 April 2020.
 - The development proposed is demolition of existing kennel buildings and replacement with six dwellings, with access and parking.
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Decision

1. I dismiss the appeal.

Application for Costs

2. An application for costs was made by Verity Child against Tandridge District Council. This application is the subject of a separate Decision.

Main Issues

3. These are;
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on the living conditions of prospective residential occupiers.

Reasons

Preliminary Findings

4. Permission was granted for 3 dwellings on 7 August 2019 (Ref TA/2018/2128) subject to conditions. The appeal scheme is for 6 dwellings, but the increase is achieved by a subdivision of the approved buildings and gardens, with no additional built form, no change to the scale and appearance, and only limited change to the site layout. The principle of built form in the Green Belt through the removal of the various kennel buildings, as set out in the Officer's Report for the extant permission holds true and there has not been any real change to Green Belt Policy in the meantime and the Development Plan appears to be the same.
5. The 2019 permission was granted subject to conditions including number 11) which stated '*no development shall start until details demonstrating how the development would satisfy the 10% reduction of carbon emissions through*

renewable resources have been submitted to and approved in writing by the District Planning Authority. The renewable energy provision shall thereafter be implemented and retained in accordance with the approved details’. That condition was discharged by Notice dated 19 June 2020. As a result, the Council’s third Reason for Refusal of the current scheme can similarly be dealt with by condition, although the details required to discharge it may well differ from previously due to there being 6 dwellings. There is no reason why the requirements of Core Strategy Policy CSP14 should not be met.

6. The 2019 permission, being extant and capable of being carried out with conditions discharged, is a substantial material consideration in this appeal, and the Main Issues identified above will concentrate on those changes brought about by the increase in dwelling numbers and any change to the layout resulting.

Character and Appearance

7. Policy CSP18 of the Tandridge District Core Strategy on character and design requires new development in the countryside to be of a high standard of design, and Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies sets out various criteria to be effectively met. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
8. The present arrangement of built form on the site is poorly distributed and of indifferent visual quality, although its loss is not contested, and any benefit will have been taken into account in the previous grant of permission. It is however difficult to gain a public view of the present buildings other than the cottage which would remain due to the narrow entry onto the road and the substantial boundary treatment. The proposal would alter the entry and would open the site more to view. That again would have been taken into account previously, but that view is however fleeting due to the lack of footway on the road and the nature of the highway layout.
9. The internal driveway would remain much the same, but with some change to the location of parking spaces. Instead of the required total of 6 spaces originally being close to the dwellings, 6 of the 8 spaces now required would be out in the more visible open front area. However, taking account of the actual visibility and the nature of the site and its surroundings, as well as the variable use of the spaces, no real harm can be identified and new landscaping details could be sought to further integrate the spaces into the site.
10. Any changes to the fenestration and doorways, future decoration and window dressings would be limited and acceptable, and the additional activity from 6 dwellings, as opposed to the 3 permitted would not cause harm given the size of the site and the layout. That finding is reinforced by the later grant of permission for 6 detached dwellings (Ref TA/2020/1125 dated 28 August 2020).
11. There would be subdivision of the plots to provide 6 gardens, but much of the effect would be to the rear of the buildings and would not be readily seen and certainly not harmful to the character and appearance of the wider area. The layout would be more fragmented than previously and there could be more fencing for privacy between gardens, but that would not be an incoherent

pattern of development as alleged and with a condition requiring a revised landscaping scheme, the proposal would meet the requirements of the stated Development Plan policies and national guidance.

Living Conditions

12. It is the case that the original Plots 1 and 2 can be subdivided by rearranging the parking in a way that results in no change to the roadway and parking between the dwellings, adding the 4 new spaces only to the front near the shared driveway. However, to provide the 2 spaces for the new Plot 3B close to the dwelling, the layout shows those cars passing closely alongside the building of Plot 3A and to the rear of the garden to Plot 2A.
13. The Reason for refusal is specific as to the harm being caused by the proximity of the drive to living room windows, and the movement of vehicles leading to disturbance to the occupiers of Plot 3A, *especially* in winter months when lights from passing and turning vehicles would be of particular nuisance. That claim is not therefore restricted to the matter of headlights. Nevertheless, while the high-level windows would avoid direct light intrusion, that risk would remain with regard to the front windows of plot 3A, serving a study and bedroom, due to the turn into the driveway from the shared access.
14. There would also be a real risk of harm through noise and hence disturbance due to the proximity of the drive to both the high-level windows and the front windows. Unlike the subdivided Plots 2 and 3, the parking and access arrangements for Plot 3B are poorly arranged and would not reach the standard of design sought in criterion 6 of Policy DP7 as the proximity of the driveway would significantly harm the amenities of the occupiers of Plot 3A.
15. The extant scheme is for 3 single-storey dwellings with a low-pitched roof and an arrangement of rooflights. In order to subdivide each building into 2 dwellings, rooms are now proposed in the roof, but apparently retaining the same pitch, the same 5.3m overall height and much the same arrangement of rooflights, although this time lighting the upper floor. The Council is critical of the headroom thus provided, referring to the Government's Technical Guidance Nationally Described Space Standards as a guide to good practice, whilst accepting that they have not been adopted into the Development Plan. The appellant queries their relevance but accepts that in the absence of any standards used by the Council to determine whether accommodation is adequate or not, a balanced judgment should be made.
16. Be that as it may, Policy DP7 whilst not as prescriptive, includes at criterion 8 the requirement that proposals provide a satisfactory environment for the occupier of new development, with the supporting text at 7.5 stating that the Council will always seek to secure good standards of new amenity for all future occupants of buildings. The requirement in paragraph 124 of the Framework for good design should not be restricted to visual effects and paragraph 127f also seeks a high standard of amenity for future occupiers.
17. There is no cross- or longitudinal-section, but drawing HH-HAX-S3-P1-EL (for instance) indicates the extent of first floor accommodation superimposed on the gable elevation, with drawing HH-HAX-S3-P123-FF-PL showing the first floor layout with headroom annotated as reducing from 2.3m, and then only at an apex. Various devices have been used to optimise the space, including a deep covering to the cistern in the wet-room to push the wc pan forward, a

boxing behind the bed-head in the double bedrooms, and the use of eaves cupboards, but there remain areas of openly accessible floor space that would be severely restricted, down to a headroom of approximately 1m. Whilst the Space Standards are not adopted, and the 75% requirement for 2.3m headroom in 10.i operates over an aggregation of the full 2-storey Gross Internal Area, leading to the appellant describing the shortfall as *de-minimis*, and the Council identifying only the A units as failing, the proposed bedrooms on the first floor would feel unpleasantly confined and the very low headroom in places could seriously limit the utility of the space, the placing of furniture and the reasonable area of circulation space.

18. Turning to outlook, the proposal includes a line of rooflights close to the ridge interspersed with solar panels, together with 2 rectangular rooflights set lower on the roof-slope over only bedroom 2 in the A units and bedroom 3 in the B units. The bottom edge of the high-level lights would be set on the 1.8m line and whilst providing light and air, would be too high to allow any but an upward view of sky. The 2 larger lights have the bottom edge just above the 1.2m line which would allow a view other than of sky, and due to the site layout, this would not give rise to privacy issues.
19. Nevertheless, these rooflights are the only openings serving the bedrooms, and the two outer rooms, bedroom 3 in the A units and bedroom 1 in the B units would have no view other than sky, despite being adjacent to an outside gable wall. This lack would be particularly unfortunate in the case of the B units where the bedroom is annotated and sized to indicate it being the master bedroom.
20. To conclude, there are shortcomings resulting in the re-use of the previously approved building form through the site layout of parking in Plot 3B and the first floor design in all 6 plots, that does not reach the standard of design that should reasonably be expected further to Policy DP7 and the statements in the Framework on design and amenity.

Planning Balance and Conclusions

21. The Officer's Report states that the Council are unable to demonstrate a 5-year supply of housing land as required by the Framework, and hence the 'tilted balance' in paragraph 11 applies. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
22. Whilst a location within the Green Belt could trigger the first limb of this quotation, no harm has been identified and the Report confirms that the appeal proposal is not inappropriate development. With regard to the second limb however, although no harm has been identified to the character and appearance of the area, harm has been found to the living conditions of future occupiers.
23. There are benefits in the provision of 3 additional dwellings to that previously permitted, and this would make better use of previously developed land and

assist the 5-year supply. However, while apparently seeking to take advantage of the 2019 scheme's compliance with Green Belt policy with no additional built form, no change to the scale and appearance, and only limited change to the site layout, the resulting design is deficient in significant respects, particularly through design compromises in the first floor layout. Whilst the provision of 6 dwellings is to be welcomed, the need for a more radical redesign is indicated. The subsequent grant of permission for 6 detached dwellings (Ref TA/2020/1125) on 28 August 2020 confirms this.

24. In the balance the conclusion is that the adverse impacts of permitting the scheme would significantly outweigh the benefits, when assessed against the policies in this Framework taken as a whole, and that has been demonstrated in the reasoning to this Decision. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR