



Appeal Decision

Site Visit made on 23 February 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2021

Appeal Ref: APP/C1435/W/20/3262441

66 Tower Ride, Uckfield, TN22 1NU

- 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 James Hartfield against the decision of Wealden District Council.
 - The application Ref WD/2020/0277/F, dated 3 February 2020, was refused by notice dated 28 August 2020.
 - The development proposed is a one two bedroom residential development to include a cycle store & 1.8 m high fence.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site lies within 7 km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). Developers of residential properties within this distance are required to pay Strategic Access Management and Monitoring and Suitable Alternative Natural Greenspace contributions towards mitigation measures for the likely significant effects of a proposal on the integrity of these designated sites. During the appeal process the appellant submitted a Unilateral Undertaking regarding payment of the relevant contributions. I return to this matter below.

Main Issues

3. Having read all the submitted evidence and from my observations during my site visit, I consider the main issues to be:
 - i) the effect of the proposed development on the character and appearance of the area;
 - ii) the effect of the proposed development on the living conditions of the occupiers of No 57 Viewswood Path; and
 - iii) whether the proposed development would provide satisfactory living conditions for the occupiers of the proposed dwelling, with regard to the garden area.
4. Whilst the effect on the living conditions of the occupiers of No 57 was not a reason for the Council's refusal of the application, those occupiers objected to the application and the appellant has had the opportunity to address their concerns.

Reasons

Character and appearance

5. The appeal site is within an established residential area forming part of the Manor Park Estate, characterised primarily by terraces of 2-storey dwellings fronting on to and enclosing open grassed greens, which gives the area a predominantly spacious character. These dwellings include No 66 Tower Ride, the end property of a small terrace of 4 dwellings. The site currently forms the end of the rear garden to No 66, which is substantially longer than those of the other properties in the terrace. The site currently accommodates a single-storey outbuilding and parking space.
6. The proposed dwelling would be of the same architectural style as the existing properties and of comparable size. However, the site is located at the corner of a large open green, a good example of the designed open plan layout of the Estate, in the gap between terraces fronting two of the sides of the green. Although within the context of a wider built-up area, the open corners to the green form part of the original design ethos of the Estate, allowing views out and providing relief from the enclosing built form of the terraces around the green.
7. These corner gaps therefore contribute significantly and positively to the character and appearance of the area, with the appeal site corner affording a particularly attractive view beyond the houses towards rising land to the south-east, notwithstanding the terrace including No 66 in the background. The Wealden Design Guide Supplementary Planning Document (2008) (the Design Guide) recognises the contribution of spaces between buildings to local character.
8. The proposed dwelling would be in a prominent position and, being 2-storey, result in a significant loss of the openness of the corner of the green. Furthermore, as the dwelling would be detached rather than terraced, it would be at odds with the prevailing pattern of development in the area.
9. The more recently constructed detached dwelling to the east of the appeal site is not characteristic of the area but is set back from the corner of another green and fronts the road. In allowing the appeal for the detached dwelling at No 11 Viewswood Path¹, the Inspector considered that the dwelling would be a natural extension of a line of existing dwellings, which is not the case with the proposal before me. These other detached dwellings are therefore not directly comparable to the proposal.
10. I therefore conclude that, overall, the proposal would cause significant harm to the character and appearance of the area. Accordingly, in this respect, it would conflict with saved Policy EN27 (1) of the Wealden Local Plan 1998 (the Local Plan) which requires proposals to respect the character of adjoining development and, where appropriate, promote local distinctiveness. Saved Policy EN27 is consistent with the policies of the National Planning Policy Framework (the Framework) on design.
11. The proposal would also fail to accord in this respect with Spatial Planning Objective SPO13 of the Wealden Core Strategy Local Plan (2013)² which

¹ APP/C1435/W/16/3152250

² Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan

promotes local distinctiveness through good design in all development. It would conflict with Policy WCS14 of the Core Strategy which promotes sustainable development, of which good design is a key aspect.

Living conditions of the occupiers of No 57

12. Contrary to the indication in the Design and Access Statement, there are four windows serving, from the evidence before me, habitable rooms in the south-eastern side elevation of a 2 storey extension to No 57. These would face directly onto the side gable elevation of the proposed dwelling, separated by approximately 5.5 m comprising a narrow strip of garden and a footpath.
13. Although the proposed dwelling would be at a slightly lower level than No 57, its height, depth and proximity to No 57 would result in a significant loss of outlook from the windows in the side elevation of the extension to that property. Given the orientation of the two properties relative to each other, there would also be a significant loss of sunlight to the ground floor windows of the extension, and some loss of daylight. Whilst the rooms served by these windows also have windows to other elevations of No 57, the affected windows are of significant size and allow direct sunlight into the rooms.
14. Although the Council considered the effect on the living conditions of No 57 to be acceptable, I conclude that the loss of outlook and daylight / sunlight would be moderately harmful to the living conditions of the occupiers of No 57. Accordingly, in this respect, the proposal would conflict with saved Policy EN27 (2) of the Local Plan which protects the living conditions of the occupiers of adjoining developments and is consistent with paragraph 127 f) of the Framework.

Living conditions of future occupiers

15. The proposed dwelling would have a rear garden area of approximately 50 m², including a patio, which would be compliant in size with paragraph 11.19 of the Design Guide. The parking space to the rear of the property close to the rear elevation of the proposed dwelling would diminish the enjoyment of the garden, but there would be sufficient space for sitting out, play and drying washing. The garden would be of a regular shape, would receive good levels of sunlight and have adequate privacy in an area where a degree of overlooking is to be expected.
16. I therefore conclude that the proposed garden would provide satisfactory living conditions for the future occupiers of the proposed dwelling. Accordingly, in this respect, I find no conflict with saved Policy EN27 (3) of the Local Plan, which requires developments to ensure a satisfactory environment for future occupiers, including adequate provision for garden space.

Other Matters

Ashdown Forest

17. Ashdown Forest is an extensive area of heathland and woodland, designated as an SPA and SAC because of its biodiversity interest, including breeding populations of Dartford warbler and European nightjar, North Atlantic wet heaths with *Erica tetralix*, European dry heaths and the presence of Great crested newts. Ashdown Forest is also a Site of Special Scientific Interest.

18. The designated sites are vulnerable to disturbance from recreational activities and atmospheric pollution. Recreational disturbance is associated with new residential development within 7 km of Ashdown Forest. The proposal would result in an additional dwelling within that distance and, consequently, in combination with other plans and projects, its occupation would lead to a likely significant effect on the Forest.
19. The Conservation of Habitats and Species Regulations 2017 (as amended) require the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of a designated site, either alone or in combination with other plans and projects. I return to this matter below.

Other considerations

20. The appellant suggests that a new dwelling could be provided on the site under Class ZA of Part 20 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, Class ZA only allows the demolition of a detached building and its replacement by a detached dwellinghouse where that building comprises premises established for a use falling within Class B1 of the Use Classes Order 1987 (now Class E). I have no evidence that the use of the existing outbuilding falls within that Class. Consequently, the provisions of Class ZA are not a factor in the scheme's favour.

Planning Balance

21. The Council is unable to demonstrate a 5-year supply of deliverable housing land. From the Planning Officer's report, the supply as at December 2019 was 3.67 years. The shortfall is therefore significant. Consequently, because of the provisions of footnote 7, paragraph 11 d) of the Framework is engaged.
22. I have identified significant harm to the character and appearance of the area and moderate harm to the living conditions of the occupiers of No 57. The Framework sets out that the desirability of maintaining an area's prevailing character should be taken into account. Planning decisions should ensure that developments are sympathetic to local character and create places with a high standard of amenity for existing and future users. The proposal would result in both environmental and social harm.
23. Set against these harms, the Framework recognises that small and medium sites can make an important contribution to meeting the housing requirement of an area. The site is within the retained development boundary for Uckfield and great weight should be given to the benefits of using suitable sites within settlements for homes. Planning decisions should support development that makes efficient use of land. The Council's Strategic Housing Market Assessment indicates that there is a particular shortage of smaller and more affordable dwellings in the district. In addition, the proposed dwelling would provide economic benefits, mainly from the construction and expenditure by future occupiers.
24. However, one additional dwelling and small household would make a minimal contribution to the overall supply of housing and the local economy. The construction benefit would be temporary. The proximity of the appeal site to public transport and facilities and the indicated energy and water efficiency

measures represent an absence of planning harm rather than being benefits of the proposal. Even with the other contended benefits of the proposal, the combined social and economic benefits would therefore be very limited.

25. I therefore consider that, in combination, the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits, when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply in this case.
26. In these circumstances it is not necessary for me to undertake an AA in respect of the effects of the proposal on Ashdown Forest, notwithstanding the appellant's submission of a Unilateral Undertaking.

Conclusion

27. I have found that the proposal would conflict with the development plan taken as a whole. There are no considerations, including the provisions of the Framework, that indicate that a decision should be made other than in accordance with the development plan. For this reason, and having had regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR