



Appeal Decision

Site Visit made on 25 May 2021

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/M2270/W/21/3267826

Land behind 1-10 Highgate Hill, Hawkhurst, TN18 4BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Merritt against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/02797/OUT, dated 21 September 2020, was refused by notice dated 9 December 2020.
 - The development proposed is the erection of a single storey dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of future occupiers with specific regard to the privacy of the proposed garden area.

Reasons

Character and Appearance

3. The appeal site is a parcel of land to the rear of a group of mainly semidetached frontage dwellings with long and spacious rear gardens. It is overgrown and contains outbuildings in a dilapidated state. There are a number of other similar such buildings alongside it, associated with said dwellings, that are accessed by a narrow private driveway. Frontage development and associated outbuildings aside, the area is an edge of settlement location, with open and undeveloped fields beyond. The area therefore has a defined structure in terms of built development and exudes a pleasant semi-rural feel.
4. Whilst outline planning permission is sought for the appeal site, it seems sufficiently clear that a dwelling, even a modestly sized one, would occupy what is a contextually small site. When factoring a meaningful private garden space and off street parking, a building would likely sit close to its boundaries and this, in the context of the others around it, would appear anomalous, somewhat shoe horned into an available space and thus lacking the spaciousness of the immediate area.
5. In addition, the establishment of a dwelling and its associated activity on the appeal site would exist as a backland plot, clearly against the structure and grain of this established group of residential dwellings. It would be sited well beyond other primary buildings, accordingly blurring the defined edge of the settlement, to the detriment of the more open and undeveloped character of

the countryside beyond it. I accept that a dwelling would be sited in amongst other built form, some of a substantial scale. That said, an independent dwelling would function fundamentally differently to an ancillary outbuilding with its own curtilage, access, parking and private garden space and thus its effect on the character of the area would be that much more noticeable.

6. With the above in mind, the appeal scheme would be harmful to the character and appearance of the area. Accordingly, it would be contrary to Policy EN1 of the Local Plan¹, which amongst other things, seeks to ensure developments do not harm the character of their area and that they respect their context.

Living Conditions

7. The Council is concerned that the proposed development would result in poor levels of privacy for users of the proposed garden due to its size and proximity to the access and other buildings.
8. The submitted drawings indicate one possible layout, and I agree that by placing the proposed garden area at the eastern end of the site, leaves it somewhat exposed to overlooking from other users of the area and thus with limited privacy. Whilst a degree of mutual overlooking may be expected in a location such as this, the limited garden size would intensify the effect and impact of any overlooking.
9. This is an outline proposal with all matters except access reserved for subsequent approval. I therefore accept that in theory an alternative layout might be able to provide a garden in a less exposed position. However, given the site's limited size I am not persuaded, based on what I have seen, that any changes in this respect would not then give rise to other such problems in terms of the living conditions of future occupiers.
10. Accordingly, I do not consider that a dwelling on this site would provide acceptable living conditions for future occupiers with regard to the privacy of a proposed garden area. The appeal proposal would therefore be contrary to Policy EN1 of the Local Plan which, amongst other things, seeks to ensure developments would not be harmful to future residents with regard to privacy.

Other Matters

11. The appellants suggest that the proposed dwelling might be suitable for older or less able occupants who may wish for a smaller garden. However, there are no sufficiently robust mechanisms before me to ensure that this would be the case. In any event, I am not persuaded that simply because an occupant may be elderly, they would not appreciate a private and thus meaningful garden to sit out in. Alternatively, it is suggested that it would be for the end user to determine whether the garden was of a suitable size. However, the Framework² makes clear that the planning system has a role to play in ensuring that living conditions of future occupiers of new developments are of a high standard. For the reasons set out above, I do not consider that the proposed development would meet this standard.
12. The appellant has argued that a dwelling in this location would help with anti-social behaviour. However, I have no evidence before me pertaining to how

¹ Tunbridge Wells Local Plan 2006

² National Planning Policy Framework (2019)

this would be the case or indeed exactly what antisocial behaviour the appeal site is currently subject to. As such, I can attribute it only limited weight.

13. I have had regard to the recent proposal for 71 dwellings to which the appellants drew my attention. However, it is of a significantly different character and scale of development that raises very different issues than the scheme for a single dwelling which is before me. Furthermore, the Council's final submissions confirm that the planning application was refused. My findings are therefore unchanged.
14. It is stated that the appeal site is previously developed land and whilst I would attach some weight to this, there is only limited development on it, and the proposed redevelopment, having regard to the particular circumstances of this case, would give rise to other harms. I also note the appeal site is within the defined settlement and thus would have ready access to a range of sustainably accessible services. This would however be a lack of harm which, by definition, would be incapable of weighing against harm. Accordingly, it would be neutral in any balance.

Planning Balance and Conclusion

15. The Council cannot demonstrate a 5 year housing supply. I am therefore taken to the so called tilted balance of paragraph 11 of the Framework which states, in this context, the most important policies are out of date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. I have found multiple harms in relation to the effect of the proposed development. This would be on the character and appearance of the area and the living conditions of future occupiers. These harms would be wide ranging and long lasting and thus worthy of significant weight. The harms I have found would accordingly lead to conflict with the Framework, in particular paragraph 127 which, amongst other things, seeks to ensure that new development is sympathetic to local character and that it provides a high standard of amenity to future occupiers.
17. The appeal site would provide one additional dwelling and the appellants point to the need for smaller units in the area. It would also accord with the Framework's support for windfall sites.
18. The provision of a single dwelling, by its nature, would make only a small contribution towards housing supply. There would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. Overall, and for these reasons, the weight that could be attributed to the benefits would not be sufficient to tip the balance in favour of the appeal scheme. Accordingly, the adverse impacts of granting a planning permission would, in this case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It would not therefore be sustainable development for which the presumption in favour applies. The appeal should therefore be dismissed.

Stewart Glassar

INSPECTOR