



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: 11 June 2021

Appeal Ref: APP/M2270/W/21/3270016

3 Queens Gardens, Royal Tunbridge Wells, TN4 9NB

- 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 Johnson (Avenue Direct Ltd) against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/03273/FULL, dated 5 November 2020, was refused by notice dated 4 February 2021.
 - The development proposed is the demolition of existing dwelling and garage; two new semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The final paragraph of the appellant's statement refers to seeking outline planning permission, subject to reserved matters of appearance and landscaping. However, it is clear from the appellant's submissions and appeal statement, and the Council's decision, that the proposal is for full planning permission. I have accordingly assessed it as a full, detailed proposal.
3. There appears to be a slight anomaly on the South West Elevation drawing with regard to how the staggered position of the proposed dwellings would appear. However, having regard to the other elevations and the site plan I am satisfied that this has not prevented me from fully understanding the proposal or its effects in relation to the main issues.

Main Issues

4. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the effect on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.

Reasons

Character and Appearance

5. The appeal site is located in an existing, backland cul-de-sac of four houses, set between Stephens Road and Queens Road. The appeal site comprises a two storey detached dwelling. It is located between a pair of semi-detached two storey dwellings and a detached bungalow. Unlike these other properties, the existing building on the appeal site is positioned to the rear of its plot, on the boundary with Nos. 83-85 Stephens Road.

6. Despite Queens Gardens being a backland area, it has a relatively spacious character by virtue of the positions of the properties to one another and the extent of the planting/vegetation around the properties.
7. The proposed houses have been designed to accommodate three floors of accommodation. Although the catslide roof would help to reduce some of the building's bulk at the site boundaries, the steep sides and, what appears to be a crown roof, are necessary in order to accommodate the overall scale of development. The result is that it would comprise a significant built form. The proposed houses would be similar in footprint to the neighbouring properties at Nos. 1 and 2 Queens Gardens but the overall appeal site does not appear as wide as these two neighbouring plots when combined. As a result, the proposed houses would be positioned noticeably closer to their side boundaries than the other properties in the cul-de-sac and would appear squeezed within their plots when compared to the neighbouring properties in Queens Gardens.
8. I also note that the proposed dwellings have been designed with the second floor rear bedroom windows being obscurely glazed. This is required in order to avoid potential overlooking of the neighbours in Stephens Road. The fact that it is necessary to do this to a habitable room in order to achieve the desired quantum of development, appears to me, to be a clear demonstration that the proposed scheme is too large for the site.
9. Cumulatively, the factors I have identified would erode the spaciousness of the cul-de-sac as a result and the proposed development would be harmful to the character and appearance of the area. The proposed development would therefore be contrary to Policy EN1 of the Local Plan¹ which, amongst other things, seeks to ensure developments are compatible with the character of their area and that the scale of development respects the context of its site.

Living Conditions

10. The appeal scheme proposes a staggered layout of the houses. The footprint of each house would in turn be stepped back from its front projecting bay window. The result is that the bulk of the proposed house closest to No.4 Queens Gardens would not be positioned directly in front of this neighbour's bedroom window. At its closest point to the boundary with this neighbour, the proposed dwelling would be at its lowest height, by virtue of the catslide roof. Whilst the proposed dwelling would be visible from the neighbour's windows, I am satisfied that given the factors I have identified and the orientation of No.4 Queens Gardens away from the appeal site, the proposed dwelling would not cause harm to the outlook of the occupiers of this property.
11. Although the back-to-back distances between the proposed dwellings and the properties on Stephens Road would be similar to the distances between Nos.1 and 2 Queens Gardens and the properties to their rear, the distances are not extensive. As previously noted, the proposed dwellings include second floor bedroom windows which, despite being obscurely glazed, would be openable. Given the distances involved and the scale of development proposed, I consider that, notwithstanding the proposed obscure glazing or planting on the shared boundary, the proposal would create a perception of overlooking that would cause harm in relation to the living conditions of neighbouring occupiers, with particular regard to the privacy of their rear gardens.

¹ Tunbridge Wells Local Development Framework – Core Strategy (June 2010)

12. Whilst I have not found harm in relation to the outlook from No.4 Queens Gardens, I have found harm in relation to the privacy of neighbours in Nos. 83-89 Stephens Road. Accordingly, the proposed development would be contrary to Policy EN1 of the Local Plan, which amongst other things, seeks to protect the privacy of neighbouring occupiers.

Other Matters

13. I accept that the proposal would offer some benefits to the living conditions of the neighbours in Stephens Road, mainly Nos. 83 and 85. The existing dwelling on the appeal site helps to create privacy for these neighbours but also overshadows their gardens. However, the scale of the proposed development and the perception of overlooking that is likely to occur would impact all of the neighbours at Nos. 83-89 Stephens Road. As a result, I am satisfied that overall, the proposal would represent increased harm to these neighbours.
14. I acknowledge that there are a variety of properties and styles in the vicinity of the site. However, the harm I have identified is due to the form and size of the development proposed rather than the particular aesthetics or heights of the houses themselves.

Planning Balance and Conclusion

15. The main parties accept that the Council is unable to provide a 5 year housing supply. I must therefore have regard to paragraph 11 of the Framework². I have found harm in relation to the effect of the proposed development on the character and appearance of the area and the living conditions of neighbours. These harms would be wide ranging and long lasting and thus would be worthy of significant weight. They accordingly lead to conflict with the Framework, specifically paragraph 127 which, amongst other things, seeks to ensure new development is sympathetic to local character and also provides a high standard of amenity for existing occupiers.
16. The appeal scheme would represent a net addition of one dwelling that would accord with the Framework's support for windfall sites. The provision of a single dwelling would make a small contribution towards housing supply and there would be other benefits associated with the provision of new housing, but these would be affected by the scale of the proposals and some would be time limited. Overall, and for these reasons, I would attach only a small amount of weight to them. As such, it would be the case that the adverse impacts of granting a planning permission would 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. Accordingly, the appeal should be dismissed.

Stewart Glassar

INSPECTOR

² National Planning Policy Framework (2019)