



Appeal Decision

Site visit made on 12 May 2021

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2021

Appeal Ref: APP/C1435/W/20/3256956

Orchard Lane, Hailsham, BN27 3YN

- 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 Kitewood Estates Limited against the decision of Wealden District Council.
 - The application Ref WD/2019/0403/F, dated 7 February 2019, was refused by notice dated 17 June 2020.
 - The development proposed is the erection of 6no. dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on living conditions for neighbours.

Reasons

Living conditions

3. The appeal site is an open area with a rough grass, weed and shrub covering which forms the north east part of a larger area of undeveloped land lying between a recent housing estate and the A22. This area of land specifically lies alongside the estate's No 32 Orchard Lane, and a longer established large detached property known as The Pines, which fronts Arlington Road East. The appeal proposal is as described above and would embody 4 detached properties and a pair of semi-detached homes. The dwellings appear to be sited as far east as possible given the constraining presence of a major power line which runs north south across the open land.
 4. Five of the six properties would have their two storey rear elevations at right angles to the side boundaries of The Pines and No 32. Generally, these two storey homes have been set around 13 metres off these boundaries. In most new-build situations this separation could be acceptable and in compliance with this Council's, and others, oft-used practice and policy. However, in this situation the effect would be one of unreasonable intrusion because of the almost solid 'wall' of unremarkable development, prevailing
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ground levels, amount of planned fenestration, and orientation. There would be over-looking or perceived overlooking. There would be a sense of being hemmed-in. Occupiers of both of the existing neighbouring properties have a reasonable expectation of some sense of space beyond their boundaries. In particular The Pines is part of a well-established road of superior low density detached homes and to my mind development within proximity should respect and protect higher amenity standards than might prevail or be deemed reasonable in other circumstances. Furthermore, the rear garden of No 36 is lower than the appeal site which would not be helpful to living conditions for its residents.

5. Saved Policy EN27 of the Wealden Local Plan 1998 (LP) seeks, amongst other matters, to ensure that a proposal would not adversely impact upon amenity enjoyed by those in adjoining developments. I would conclude that the scheme would run contrary to this policy.
6. However, both main parties agree that there is not a five-year housing land supply and that the presumption in favour of sustainable development within the National Planning Policy Framework (the Framework) would apply. The case is made that the development plan policy cited above is out-of-date albeit I do have some sympathy with the Council that the wish to protect residential amenity is a key consideration which would be consistent with the Framework's stance.
7. Nevertheless, and in any event, I must assess whether the appeal scheme falls within the sustainable development category, which embodies economic, social and environmental objectives. As the Framework (paragraph 11) makes clear the development should be approved unless adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the document taken as a whole.
8. The scheme would clearly have some economic, social, and environmental merits which would weigh in favour and the Appellant reasonably sets these out. However, with the flaws I have identified above I would assess the proposal as a real failure to create a well-designed built environment and achieve the social objective of fostering a good quality community for present and future generations; the built environment would not be protected or enhanced.
9. Having carefully considered all matters I conclude that the scheme would not represent sustainable development in accord with the purpose of the planning system and the central thrust of the Framework. The adverse impacts I identify above would significantly and demonstrably outweigh the benefits of the scheme including the contribution which would be made to housing land supply.

Other matters

10. The Council 'added' concerns about loss of open space within the appeal paperwork, this mirrored some objections from nearby residents. The Appellant has had an opportunity to respond to this and in any event the

'calculation' of necessary open space for the residential estate clearly goes back some time and so is well-rehearsed. I can see how ground area standards used generally in policy and practice by the Council are met without the appeal site. On the other hand, good quality design should not all be about the maths. At the time of the appeal decision on the wider site (APP/C1435/A/07/2039564, 13 September 2007), and many years beyond, there was the prevailing concept and expectation of a 'buffer strip' to the A27 starting from the side of The Pines. To my mind there was amenity and aesthetic logic to that approach. There was also a pleasing connectivity across part of the land in question shown for pedestrians and cyclists and space around power-lines. Whilst therefore the matter of open space quantum and quality may not be a determining factor in its own right in this case the approach taken to it does add weight to my concerns which primarily lay with the main issue above.

11. I would agree with the Appellant that there would be a clean bill of health on a number of technical and environmental detailed matters including some specific concerns raised by third parties. I have carefully considered these and all other points raised by the Appellant and these matters do not outweigh the concerns which I have in relation to the main issue identified above.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would have unacceptable effects on living conditions for neighbours. Accordingly, the appeal is dismissed.

D Cramond
INSPECTOR