



Appeal Decision

Site visit made on 22 December 2021

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 JANUARY 2022

Appeal Ref: APP/G2245/W/21/3275324

Ludham, Woodland Avenue, Hartley DA3 7DB

- 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 & Mrs Meddings against the decision of Sevenoaks District Council.
 - The application Ref 20/03134/FUL, dated 30 October 2020, was refused by notice dated 22 December 2020.
 - The development proposed is for the creation of a new plot in a back garden and erection of a new dwellinghouse in it.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form and decision notice refer to Ludham, while the appeal form refers to Ludham House. For consistency, I have referred to Ludham in the banner heading above and throughout my decision.
3. The decision notice refers to the effect of the proposed development on the privacy of neighbouring properties at Ludham and 70 Wellfield. In their statement, the Council accepts that the issue of overlooking can be controlled via conditions and withdraws its objections on this matter. This does not therefore form part of the main issue for this appeal.
4. Drawing 20-059-DW-401 was submitted with the appeal, however, it appears to have been produced after the Council made its decision. Appeals are generally considered on the basis of the scheme and the plans which were before the Council at the time of their decision in order to ensure that public consultation has taken place. I have not therefore referred to this drawing in reaching my decision.
5. The decision notice refers to the Sevenoaks District Council Residential Extensions Supplementary Planning Document (2009). However, as a new dwelling is proposed rather than a residential extension, I have not had regard to this document.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of neighbouring residents of Ludham and 70 Wellfield with particular reference to outlook.

Reasons

7. Close to the corner of Woodland Avenue and Wellfield, the appeal site is situated on part of the existing rear garden of the two storey-detached house at Ludham. The land rises across the appeal site from Ludham towards 70 Wellfield, where it adjoins the shallow rear garden of the small bungalow at No 70. The bungalow at No 70 has a kitchen window on its rear elevation which faces the proposed development. This is the only window which serves the kitchen at No 70.
8. The proposal is for a two-storey dwelling with a first-floor terrace enclosed by a wall and obscured glass to a height of 1.7m from first floor level. This terrace and the main and second bedrooms would face the rear elevation of No 70. Despite the change in land levels, the obscured glazing, and the proposed first floor being set away from No 70 behind the proposed terrace, the proposed development would be highly visible across the whole width of No 70's plot. As a result, the combination of the shallow garden of No 70, the limited extent of separation, and the width and height of the proposed development would create a dominant and visually intrusive development when viewed from the garden and kitchen window at No 70. For these reasons, the proposed development would have an adverse impact upon the outlook of the neighbouring residents at No 70.
9. Ludham benefits from a deeper garden than No 70 and the majority of ground floor rooms at Ludham have windows which enjoy outlook from more than one elevation. The proposed development, while on higher ground than the house at Ludham, would not occupy the whole width of Ludham's plot at two storey height. Furthermore, the staggered rear wall of Ludham also ensures external amenity areas would be reasonably separated. Consequently, the proposed development would not have an adverse impact upon the outlook of neighbouring residents of Ludham.
10. The appellant makes reference to a "BRE degree rule" test and while I have considered this, the site circumstances for No 70 as set out above are such that any potential compliance with this test would not outweigh the harm I have identified.
11. While my attention is drawn to guidance in respect to separation distances at other local authorities, such guidance is not relevant in this case and I have considered this application on its own merits and in accordance with the development plan for Sevenoaks District Council.
12. Reference has also been made to pre-application advice given by an officer of the Council and the disappointment with the refusal. This is a matter between the Council and the appellant. This does not change my findings on the main issue.
13. Concerns have been raised by interested parties in respect of character and appearance and highway safety. Given my concerns about outlook for neighbouring properties, I have not addressed these matters further.
14. Notwithstanding that there would be no harm in relation to the outlook of neighbouring residents at Ludham, I conclude that the proposed development would have an unneighbourly and harmful effect on the living conditions of neighbouring residents of 70 Wellfield with particular reference to outlook. The

proposal is therefore contrary to the avoidance of visual intrusion aims of Policy EN2 of the Sevenoaks District Council Allocations and Development Management Plan (2015) and paragraph 130 of the National Planning Policy Framework (the Framework).

15. The Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with the Framework. As such, relevant policies for the supply of housing should not be considered up-to-date and paragraph 11 of the Framework should therefore be applied.
16. Paragraph 60 of the Framework refers to boosting significantly the supply of housing and the provision of one additional unit would make a limited contribution in this regard. I also accept this is in an urban area where access to facilities is likely to be greatest and there would be a small social benefit in providing an extra housing unit. There would also be modest economic advantages arising from the construction and occupation of a new house.
17. However, the harm to the living conditions of No 70 identified above would be significant and as a result the environmental role of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

18. For the above reasons, having regard to the development plan as a whole, the approach in the Framework and all other relevant considerations, the appeal is dismissed.

N Praine

INSPECTOR