



Appeal Decision

Site visit made on 7 February 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2022

Appeal Ref: APP/C1435/W/21/3280582

11 Willowmead, Crowborough TN6 1LW

- 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 P Harris against the decision of Wealden District Council.
 - The application Ref WD/2021/0722/F, dated 19 March 2021, was refused by notice dated 25 June 2021.
 - The development proposed is a two bedroom chalet bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the living conditions of occupants at 11 and 12 Willowmead, with regard to loss of daylight, outlook and dominance;
 - the character and appearance of the area; and
 - the Ashdown Forest Special Protection Area.
3. Given the acknowledged lack of an adequate housing land supply in the District, it is also necessary to consider what effect that should have in the appeal. I consider this issue in my conclusion.

Reasons

Living conditions

4. The proposed dwelling would be sited further back than the host dwelling such that its flank elevation would be positioned alongside the new boundary and to its rear. As a result, the flank elevation would be dominant in views from the rear of the host dwelling, particularly from the ground floor rooms. It would also have a dominant effect on the enjoyment of the rear garden of the host dwelling, which would be considerably smaller than its current size. I consider this relation between buildings would have an overbearing impact on the living conditions of occupants of the host dwelling.
5. The proposed dwelling would face the flank elevation of 12 Willowmead, which has a conservatory at ground floor level. Although the land slopes to the south, such that the proposed dwelling would be at a lower ground level than 12 Willowmead, its proximity to the neighbouring dwelling would result in it being dominant in views from that property. Its position directly to the south of 12

Willowmead would also give rise to the loss of some daylight and sunlight, in particular to the conservatory and side garden, that would contribute to its dominating effect.

6. I conclude that the proposed dwelling would cause harm to the living conditions of the host dwelling at 11 Willowmead and the neighbouring dwelling at 12 Willowmead by reason of it being overbearing and dominant in the outlook from those dwellings, and also the reduction in daylight and sunlight to the neighbouring property at 12 Willowmead, which would contribute towards the overbearing effect. Consequently, the proposal would conflict with Policies GD1, EN6, EN27 and HG10 of the Wealden Local Plan 1998 (the 'Local Plan') and spatial planning objectives SP01 and SP013 and Policy WCS14 of the Wealden District Core Strategy Local Plan 2013 (the 'Core Strategy'), which require that new development should not create an unacceptable adverse impact on the privacy and amenities of adjoining development.

Character and appearance

7. Willowmead forms part of a suburban estate of mainly detached houses of similar design and materials fronting onto and set back from the road. Hedges and small trees in front gardens, combined with larger trees in rear gardens that can be seen in views between buildings, provide a mature, green setting to the suburban layout.
8. The proposed dwelling would depart from this established layout. It would occupy a smaller plot than typical for the area, which together with its position in the middle of the plot would mean less opportunity for larger trees and shrubs to be established over time. It would be set back and set down from the road but would nevertheless close one of the gaps between dwellings and limit views of greenery beyond. The construction of a driveway and two more parking spaces would further reduce the area available for soft planting.
9. Taken together, I conclude that these features would result in a harder, more urban form of development that would harm the verdant character and appearance of Willowmead. The proposal would as a result conflict with Policy ENV27 of the Local Plan and spatial planning objective SPO13 and Policy WCS14 of the Core Strategy, which require new development to respect the character of adjoining development and where appropriate promote local distinctiveness.

Special Protection Area

10. The site lies in proximity to the Ashdown Forest Special Protection Area. This area is designated because of its value as habitat for rare ground nesting birds. Development close to Ashdown Forest has the potential to disturb these rare species through additional visitor pressure.
11. The Council in partnership with other bodies has developed a strategy for mitigating the harm from development on the Ashdown Forest Special Protection Area, which involves using financial contributions from new development to provide suitable alternative natural green space and fund a strategic access management and monitoring strategy.
12. The appellant has indicated that he would be willing to contribute towards these mitigation measures and has asked for extra time to produce a unilateral

undertaking. Procedural guidance¹ advises that where an appellant intends to send a planning undertaking and wants to be certain that it will be taken into account they must make sure it is executed and a certified copy is submitted not later than 7 weeks from the start date of the appeal. No such undertaking has been submitted within that time period, and I have therefore proceeded to determine the appeal on the evidence before me.

13. Although it would appear likely that additional visitor pressure arising from the proposed dwelling could be mitigated, there is no undertaking or other mechanism before me to support the strategy adopted by the Council. I therefore cannot be sure that such mitigation would be secured in relation to this development and consequently there remains the risk that it would have an adverse effect on the integrity of the Ashdown Forest Special Protection Area. I conclude that the development would conflict with Policies EN1 and EN15 of the Local Plan and Policy WCS12 of the Core Strategy, which seek to avoid adverse effects on the ecological value of Ashdown Forest.

Conclusion

14. The provision of an additional dwelling on a small site would be of modest benefit, particularly given the unmet need for housing in the area. There would also be a temporary economic benefit during the construction period and longer term afterwards in terms of increased spending in the local economy. However these benefits do not outweigh the harm I have identified above, and I conclude that the development would conflict with the development plan when taken as a whole.
15. The Council acknowledges that it cannot demonstrate that there is a 5 year housing land supply. In the circumstances, for applications involving the provision of housing paragraph 11d) of the National Planning Policy Framework (the 'Framework') says that planning permission should be granted unless policies in the Framework that protect areas of particular importance provide a clear reason for refusal, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
16. In this case protection of habitats sites such as the Ashdown Forest Special Protection Area is one such policy in the Framework, which for the reason set out above provides a clear reason for refusal. It follows that the presumption in favour of sustainable development contained in paragraph 11d) does not apply in this case. Even were that issue to be overcome, I consider that the harm caused to the living conditions of neighbouring dwellings, and that caused to the character and appearance of the area, would significantly and demonstrably outweigh the modest benefits which the development would bring.
17. Consequently, I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR

¹ Procedural Guide: Planning appeals – England, Annex N: Planning obligations, updated October 2021