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# Appeal Decision

Site visit made on 14 March 2022

**by Robin Buchanan BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> April 2022**

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**Appeal Ref: APP/G2245/W/21/3278824**

**25-27 Main Road, Hextable, Swanley BR8 7RB**

- 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 Sunil Chopra against the decision of Sevenoaks District Council.
  - The application Ref 20/03724/FUL, dated 14 December 2020, was refused by notice dated 12 February 2021.
  - The development proposed is for the erection of a detached four bedroom dwelling with ancillary car parking, cycle and bin storage facilities.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the proposed development on:
  - the character and appearance of the area; and
  - the living conditions of the existing occupiers of No.25 and No.27 Main Road, having regard to privacy, and No.70 Panters having regard to outlook.

## Reasons

### *Character and appearance*

3. The site is most of the long rear gardens of the semi-detached bungalows at No.25 and No.27 Main Road. This part of Hextable has a variety of dwelling types, styles and sizes. The site gently slopes up towards the rear boundary. At this end of the site, and on one side, next to the chalet bungalow at No.70 Panters, there is an abrupt fall in levels. On the other side is a narrow strip of garden at the same level as the site, then a similar sudden fall in level next to the house at No.73 Panters. As a result, the site forms a distinctive plateau.
4. The proposed dwelling would have two floors of living accommodation and be centrally positioned on the site. Albeit facing towards Main Road, the dwelling would follow the staggered building line of the adjoining row of houses in Panters cul-de-sac at the rear. It would also maintain a similar distance to No.25 and No.27, as do these other dwellings in Panters to the row of houses and bungalows along Main Road which they back onto. A single large plot and floorplan would not be out of keeping in this immediate area.

5. However, although the first floor would incorporate part of the roof, the design of the dwelling includes a wide band between the top of ground floor windows and a raised eaves level above. This would give a distinctly one and a half storey form to most of the building with a tall, steeply pitched roof above. The north side elevation would be significantly higher to the bottom of a narrow hipped roof, and part of the south side elevation would extend all the way up to the main ridge. Combined with its floorplan dimensions and square footprint, the dwelling would have significant scale and massing.
6. Despite retained hedgerow, shrubs and trees along the rear boundary of the site with Panters, the proposed dwelling would be in an unusually elevated position. Its overall bulk would, therefore, be unduly prominent and conspicuous in views from Panters, including a jarring juxtaposition with No. 70 and No.73 due to the significant difference in levels and built form. It would not result in an appropriate contrasting or innovative change or create a suitable new identity in this local area, but instead appear incongruous in its immediate context and this streetscene.
7. Consequently, I find that the proposed dwelling would cause appreciable harm to the character and appearance of the area. It would not comply with Policy EN1 of the Council's Allocations and Development Management Plan, adopted February 2015 (the ADMP). This policy includes that the form of development should respond to the scale and height of the area. In addition, layout should respect the topography and character of the site and the surrounding area.
8. It would also conflict with the National Planning Policy Framework (the Framework) which seeks to ensure that development adds to the overall quality of the area, is visually attractive as a result of good architecture and layout and is sympathetic to local character, including the surrounding built environment (paragraphs 130 a), b) and c)). Moreover, it would not accord with the related guidance that I have been referred to in Planning Practice Guidance and in the National Design Guide.

#### *Living conditions*

9. The first floor rear windows of some houses in Panters face towards the rear gardens of some opposing dwellings in Main Road. Despite the reasonably tight separation distances, these houses in Panters are generally at a lower level than these dwellings and gardens in Main Road. As such, the degree of overlooking is reduced and limited. However, most parts of the rear gardens of No.25 and No.27 are not presently directly overlooked from behind. Despite a similar minimum separation distance to the closest parts of the retained gardens, the first floor windows in the dwelling would be significantly higher. The steeper downward angled views from these windows would, therefore, unduly overlook the retained rear gardens of No.25 and No.27.
10. The south side elevation of the dwelling would be in close proximity to the boundary of the site with No.70 Panters. It would also be positioned significantly forward of the rear elevation of this chalet bungalow. Ordinarily such a relationship might be acceptable. However, in this case, there is a significant variation in ground and garden levels and building heights (to eaves and ridge) between these two adjoining properties. In relation to the sunken level of No.70, the dwelling would appear as an inordinately dominant feature and be unduly overbearing in relation to the use of the conservatory and rear garden of No.70.

11. Consequently, I find that there would be appreciable harm to the living conditions of the existing occupiers of No.25 and No.27 Main Road, having regard to privacy, and to No.70 Panthers having regard to outlook. It would not comply with Policy SP1 of the Council's Core Strategy, adopted February 2011, or with ADMP Policy EN1 which seek high quality design in a broad sense. Although not cited in its reason for refusal, both main parties have referred to ADMP Policy EN2 and a copy was provided with the appeal questionnaire. The proposal would not comply with this policy. It seeks to safeguard the amenities of existing occupiers of nearby properties by ensuring that development does not result in an unacceptable loss of privacy, overlooking or visual intrusion.
12. It would also conflict with the Framework which seeks to ensure a high standard of amenity for existing users (paragraph 130 f).

### **Other Matters**

13. The vehicular access onto Main Road that serves No.25 and No.27 has good visibility in both directions and there would be limited additional traffic from one dwelling. There would, therefore, be no significant impact on highway safety for pedestrians using the pavement in Main Road.
14. The appellant has referred to matters relied on by the Council, but not previously raised in its pre-application advice, and I appreciate that the proposal is a re-designed scheme following the Council's refusal of a previous application. I have also been referred to the position on the Council's emerging development plan. However, none of these matters have any bearing on my decision. I have considered the proposed development and the appeal on its individual planning merits.

### **Planning Balance**

15. The Council agrees that it cannot demonstrate a five year housing land supply. As a consequence, and by virtue of footnote 8, Framework paragraph 11 d) is engaged.
16. In terms of benefits, the provision of a dwelling on a sustainably located urban site would make a small contribution to housing supply. It would be aligned with the objective of the Framework to significantly boost the supply of homes. The social, economic and environmental benefits associated with building and occupying the dwelling, including a Community Infrastructure Levy payment, are factors which carry moderate weight in the scheme's favour.
17. The site is not in the Green Belt or a Conservation Area and none of the trees on it are subject to a Tree Preservation Order. The dwelling would provide satisfactory internal and external living space, use an existing access and provide sufficient car parking, including an electric vehicle charging point. There would be satisfactory provision for cycle and bin storage, ecology enhancements, no unacceptable loss of trees and no impact on archaeology. The absence of harm in these regards, and compliance with the Council's development plan or the Framework, are neutral factors in my decision.
18. However, while the Framework recognises that small, windfall sites can make an important contribution to meeting housing requirements, it also seeks to achieve well-designed places, including with regard to the character and appearance of an area and to the living conditions of existing residents. The proposed dwelling would conflict with the Council's relevant development plan

policies and diminish the Council's objectives in these respects. These are consistent with aims of the Framework to balance meeting housing needs with these other aspects of sustainable development. Consequently, I give substantial weight to the significant harm that would be caused in these respects in this appeal.

19. Notwithstanding that the benefits would be aligned with the Framework, and the absence of a five year housing land supply, the adverse impacts of the proposed development would therefore significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.

### **Conclusion**

20. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
21. Therefore, for the reasons given above I conclude that the appeal should not succeed.

*Robin Buchanan*

INSPECTOR