



Appeal Decision

Site visit made on 9 February 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/C1435/W/22/3301629

The Cedars, London Road, Uckfield TN22 1HY

- 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 Macve against the decision of Wealden District Council.
 - The application Ref WD/2021/2774/F, dated 3 November 2021, was refused by notice dated 24 December 2021.
 - The development proposed is construction of a two storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity and ease of reference when referring to 'The Cedars', the property adjoining the site I will refer to it as "Cedars". From here onwards, when referring to the "The Cedars", I am referring to the road name and the collection of properties.

Main Issues

3. The main issues of the appeal are:
 - the effect of the proposed development on the character and appearance of the area; and,
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with particular reference to outlook, privacy and sunlight.

Reasons

Character and Appearance

4. The Cedars is characterised by terraced properties fronting the road parallel to London Road, with a variety of different styled properties behind the terraced houses. Most of the houses benefit from relatively large gardens, in particular Cedars has a substantial garden to the rear and side of the property.
5. The appeal scheme would represent infilling of a relatively redundant piece of garden land and achieve an appropriate density of development for the area. Likewise, the materials, height and design of the proposed dwelling would be similar to neighbouring properties and in keeping with the wider area. However, the size and massing, as well as the siting of the proposed dwelling to the rear corner of the plot and relatively small rear garden would make it

appear cramped and an incongruous feature within the wider setting of the area.

6. The proposal would be screened from public vantage points by the terraced houses, such that the effect was very localised. Therefore, there harm arising in this regard would, necessarily be limited but would nevertheless result in conflict with saved Policies EN1 and EN27 of the Wealden Local Plan (LP), December 1998 and Policy SPO13 of the Wealden District (incorporating part of the South Downs National Park), Core Strategy Local Plan (CS), February 2013. These policies seek to promote good design, including through respect for local distinctiveness and the character of surrounding development. It also conflicts with Paragraph 130 of the National Planning Policy Framework (the Framework) which indicates decisions should ensure developments are visually attractive as a result of good architecture.

Living Conditions

7. When viewed from Foxgloves the proposed dwelling would rise significantly above the existing fence line. Foxgloves is sited close to the boundary of the appeal site and benefits from a significant amount of glazing to the front of the property. Despite the proposed dwelling being angled away from neighbouring properties, the relatively blank façade of the rear elevation would still be sited closed to the boundary with Foxgloves. The front driveway and windows of Foxgloves already feel somewhat enclosed by the tall vegetation along its boundary with the appeal site. The tall, relatively blank, rear elevation of the proposed dwelling would further increase the feeling of enclosure for the occupiers of Foxgloves. The proposed dwelling would therefore be overbearing on Foxgloves' residents.
8. Given the height of the proposed dwelling, alongside the relatively flat ground and significant distance to other properties, there would be no overbearing impact on the residents of Little Orchard, The Annexe and terrace properties on the Cedars.
9. Whilst the existing fence close to Little Orchard and The Annexe would limit the amount of overlooking from the proposed dwelling, the proposed window from Bedroom 3 would overlook the ground floor of Little Orchard and provide angled views of the external amenity space. It has been put to me that Bedroom 3 would be a guest room and would therefore not be used as intensively as other rooms within the proposed dwelling. However, this does not overcome the harmful effect of the overlooking, as the future use of the bedroom cannot be guaranteed or secured by a reasonably enforceable condition in perpetuity.
10. Due to the distance between face-to-face windows and the proposed construction of a fence along the boundary with Cedars, the future occupiers of the proposed dwelling would not overlook Cedars to an unreasonable extent. Residents of Foxgloves would also not be overlooked to an unreasonable extent by future residents of the proposed dwelling, as there are no first floor windows in the rear elevation and the ground floor doors and window would be largely screened by the existing fence and vegetation.
11. The terraced properties along the Cedars would not be overlooked to an unreasonable extent by future residents of the proposed dwelling, given the distance between properties and the presence of the garage and garden of the

proposed dwelling. Also, the windows facing these properties from the proposed dwelling would be obscurely glazed.

12. It has been suggested to me, that the installation of further windows could be controlled by a condition restricting permitted development rights. A control on the installation of further windows would not overcome the harm caused by the proposed windows or the sense of overbearing.
13. The proposed dwelling would lead to an increase in overshadowing of the external areas of Foxgloves and the terrace properties on the Cedars, as well as the conservatory at 3 The Cedars. However, the increased overshadowing would only be for limited parts of the day and to much less of an extent in summer months. Therefore any increase in shading would not result in harmful living conditions to the occupiers of these properties.
14. The proposed development would have a significantly harmful effect on the living conditions of neighbouring residents with particular reference to outlook and privacy. The proposed development is therefore contrary to LP Policy EN27 which indicates that proposed developments should not create an unacceptable adverse impact on the privacy and amenities of adjoining developments.

Other Matters

15. My attention has been drawn to planning permission for a denser development of three dwellings at Maidens Head. That permission concerns an appeal site which is located closer to the town centre, where there is a higher density pattern of development. The surrounding uses of those three houses vary, whereas the appeal site is wholly surrounded by residential properties, the relationship between the development and surrounding buildings is also different. As such it is materially different to the appeal scheme and does not lead me away from my above findings.
16. I note that the appellant wishes to live in the proposed dwelling and therefore wishes to respect the existing harmony with neighbouring residents. Also, the pre-application engagement between the appellant and neighbouring residents is commended. However, engagement does not overcome the harm caused by the proposed development.
17. The acceptability of alternative proposals, including those previously submitted to the Council, does not affect my assessment of the acceptability of the appeal scheme. Likewise, the conduct of the Council during the determination of the planning application has little to do with the planning merits of the scheme and so do not weigh in favour of the proposal.
18. The proposed development comprises the redevelopment and efficient use of brownfield land within the development boundary. It would provide a three-bedroom family home in a safe and accessible location. The future residents of the property would assist with the vitality and viability of existing and future services in Uckfield. There would also be economic benefits associated with the construction of the dwelling. Similarly, the provision of renewable energy sources and environmentally friendly features would provide benefits. Whilst these factors weigh in favour of the scheme, given the relatively modest scale of development, only minor weight can be applied to them.
19. A lack of objection to the parking arrangements, vehicle access and drainage scheme from relevant consultees and the appeal site being located within Flood

Zone 1, are neutral factors. Similarly, a lack of harm resulting from a loss of sunlight experienced by neighbouring residents is a neutral factor.

Planning Balance

20. The harm caused to character and appearance of the area and living conditions of neighbouring residents, is contrary to LP policies EN1 and EN27 and CS Policy SPO13. These policies are consistent with Framework Chapter 12, in particular Paragraph 130. I give significant weight to the conflict with these policies. I therefore conclude that the proposed development conflicts with the development plan when considered as a whole.
21. The Council cannot demonstrate a five year housing land supply, it has also underperformed in relation to the Housing Delivery Test and therefore a 20% buffer has been applied to the housing need figure. Also, the application of policies, detailed within footnote 7, in the Framework that protect assets of particular importance do not provide a clear reason for refusing the development. As such, Paragraph 11dii) falls to be considered.
22. The proposed development would lead to significant harm to the living conditions of neighbouring residents, with respect to outlook and privacy and limited harm to the character and appearance of the area. Given the tangible effect that it would have on the quality of existing housing, the harm to living conditions, in particular, is of substantial weight and is contrary to Chapter 12 of the Framework.
23. The proposed development would help address the shortfall in housing supply, provide economic benefits during the construction, increase the population which would aid the vitality and viability of services within Uckfield and provide a dwelling with environmentally friendly features. These benefits weigh in favour of the scheme and are consistent with chapters 5 and 11 of the framework, with particular reference to paragraphs 69c), 119 and 120b). Nevertheless, the extent of these benefits is limited given the scale of the proposed development, and the delivery of a single dwelling.
24. I therefore conclude that the adverse impact of allowing the appeal for the proposed development, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Conclusion

25. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
26. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR