



Appeal Decision

Site visit made on 4 September 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/G2245/W/22/3310841

2 Woodview Road, Swanley, Kent BR8 7ET

- 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 Valeri Kalatchev of SVR Property Investments Ltd against the decision of Sevenoaks District Council.
 - The application Ref 22/01837/FUL, dated 30 June 2022, was refused by notice dated 7 September 2022.
 - The development proposed is the subdivision of the plot into two parts. Existing dwelling will remain unchanged on one part of the site, with 1.5m passageway to the side to connect to the rear garden. A new 4 bedroomed detached dwelling is proposed to be constructed on remaining part of site.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on living conditions of the occupants of No 3 Crescent Gardens, with particular regard to outlook and privacy.

Reasons

3. The appeal site comprises No 2 Woodview Road, an existing semi-detached dwelling, and an irregular parcel of land to the side of it that is largely undeveloped. A single garage is present on site and is accessed from Woodview Road via an area of block paving which extends across part of the front of the site. The land is overgrown to the side and rear of the garage where the site abuts the boundaries with No 1 Crescent Gardens and No 3 Crescent Gardens (No 3). The land rises from Crescent Gardens towards the site, resulting in the neighbouring properties at Nos 1 and 3 Crescent Gardens sitting at a lower level than the land where the new dwelling is proposed.
4. The proposed two-storey dwelling would be positioned much closer to the boundaries of the site that are primarily shared with the rear garden of No 3. The close proximity to No 3 and the significant difference in land levels would combine to emphasise the height, bulk and massing of the proposed dwelling. The proposal would therefore appear as a dominant and oppressive feature visible immediately above the boundary, significantly harming the outlook of the occupants of No 3.
5. The proposal would include windows within the rear elevation, including a first floor window and a window within the stairwell. The first-floor window would allow for overlooking of the rear part of the garden of No 3. Although mutual

overlooking between properties is more prevalent in urban areas such as this, the proximity of the proposed dwelling in addition to the raised level of the land at the site would result in a significant loss of privacy to the rear garden of No 3, which would unacceptably impact upon its enjoyment by occupants of the property.

6. It is suggested that a condition could be included requiring the secondary window to be obscure glazed and fixed shut. Whilst this may limit the harm caused, the presence of the window would result in a sense of overlooking experienced by the occupants of No 3. I therefore consider that the use of alternative glazing or opening restrictions would not overcome the harm identified.
7. In reaching the above findings, I have taken into account that the proposal has been revised in seeking to address the Inspector's concerns resulting in a previously dismissed appeal¹ at the site for two semi-detached dwellings. However, whilst I have necessarily determined the appeal on its own merits based on the evidence before me, I find the siting and scale would have a similarly harmful relationship with No 3 and its rear garden as the previous Inspector.
8. I conclude that the proposed development would have an unacceptable effect on the living conditions of the occupants of No 3 Crescent Gardens due to a loss of outlook and privacy. The proposal therefore fails to accord with Policy EN2 of the Sevenoaks District Council Allocations and Development Management Plan (ADMP), adopted February 2015, which requires new development to safeguard the amenities of existing residents.

Planning Balance

9. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with Policy EN2 of the ADMP, with the associated conflict reflecting harm to the living conditions of occupants of neighbouring properties. Proposed development which conflicts with the development plan should be refused unless other material considerations indicate otherwise.
10. With regard to the above, whilst the policy to which I have found conflict is consistent with the Framework, based on the evidence before me, the Council cannot currently demonstrate a five year supply of housing land that the Framework requires. Paragraph 11 d) of the Framework explains that in these circumstances the policies which are most important for determining the application are out-of-date. In this instance, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
11. The proposal would make a positive contribution to housing supply within walking distance of services and facilities with associated social and economic benefits during the period of construction and once the dwelling is occupied. However, the contribution of a single dwelling to meeting housing need in Sevenoaks through a more efficient use of land in the urban confines of

¹ APP/G2245/W/20/3244355

Swanley and the associated benefits are limited by the scale of development proposed.

12. Consequently, in the particular circumstances of this case, I find that the adverse impact of the proposed development arising from the identified harm to the living conditions of occupiers of the No 3 Crescent Gardens, significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

13. The proposal conflicts with the development plan when considered as a whole. The material considerations in this case do not indicate that the application for planning permission should be determined otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR