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# Appeal Decision

Site visit made on 24 October 2023

**by C Butcher BSc MA MRTPI**

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

**Decision date: 4 December 2023**

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**Appeal Ref: APP/C1435/W/22/3312140**

**63 The Drive, Uckfield TN22 1DB**

- 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 and Mrs M Malyon against the decision of Wealden District Council.
  - The application Ref WD/2022/0820/F, dated 28 March 2022, was refused by notice dated 20 September 2022.
  - The development proposed is a new build, end of terrace 2 bedroom house together with new porch and access to existing dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. It does not appear that the Council and appellant agreed to change the description of development that was provided on the application form. However, in the interests of clarity, I have used the description from the Council's decision notice as it describes the proposed development more accurately.

## Main Issues

3. The main issues are the effect of the proposed development on; (i) the character and appearance of the area; and (ii) the living conditions of the current and future occupiers of No. 63 The Drive, with particular regard to private outdoor space and outlook.

## Reasons

### *Character and Appearance*

4. The appeal site is located in a residential area that predominantly comprises semi-detached or terraced dwellings that are two storeys in height and have red brick exteriors and pitched tile roofs. The buildings are generally set well back from the road, and in combination with the significant gaps between blocks of dwellings, this provides the area with an open and spacious character.
5. The site itself occupies a prominent corner plot at the junction between The Drive and Manor End. The proposed development would effectively extend an existing staggered row of terraced houses on The Drive by adding one additional two storey dwelling within the existing curtilage of No. 63. The proposed dwelling would be set back from the road, and its pitched tile roof would extend down to a porch, thereby reducing the mass of the building. However, the development would add a significant amount of additional built

form to the immediate area which would create a sense of enclosure to the street scene and make it feel much more crowded. This would result in clear harm by significantly eroding the open and spacious character of the immediate area. The fact that the site is a prominent corner plot, and is therefore easily visible, would exacerbate the visual harm. The proposed corner window would provide very little mitigation in this regard.

6. The proposed dwelling would be two stories in height and would have a red brick exterior and tiled roof. As such, when considered in isolation, its design would conform with the general character of the area. However, this does not overcome the harm that I have identified.
7. I therefore conclude that the proposed development would harm the character and appearance of the area. As such, it conflicts with Policies EN18 and EN27 of the Wealden Local Plan, December 1998 (LP), and Spatial Planning Objective SPO13 and Policy WCS14 of the Wealden Core Strategy Local Plan, February 2013 (CS). Taken together, the relevant aspects of these policies seek to ensure that development is sustainable, and that it is well designed and preserves character and appearance.
8. The proposal would also conflict with paragraphs 124, 126 and 130 of the National Planning Policy Framework (the Framework) which have similar aims.

#### *Living Conditions*

9. The proposed dwelling would significantly reduce the amount of private outdoor space available to the current and future residents of No. 63. Indeed, the remaining rear garden for that property would be substantially smaller in size than the standards set out within the Wealden Design Guide Supplementary Planning Document, November 2008 (the SPD). While the SPD does not form part of the development plan, it is a material consideration. In this instance, I find that the rear garden of No. 63 would be too small to adequately perform its function as a private recreation space and would result in a very cramped space.
10. The proposed dwelling would also extend several metres beyond the rear elevation of No. 63. As a result, a substantial two storey wall would immediately adjoin the rear garden of the existing house. This would provide an unpleasant sense of enclosure to the garden and would significantly erode the existing outlook, both from the garden itself and from the rear windows of the house. While the reconfiguration of the ground floor of No. 63 may provide some benefits to the occupiers, the same result could be achieved without the proposed new dwelling.
11. I accept that the appellant currently owns No. 63. However, this does not mean that the identified harm would be acceptable. Indeed, given the permanent nature of the proposals, the harm to living conditions would inevitably be experienced by future residents.
12. I therefore conclude that the proposed development would harm the living conditions of existing and future residents of No. 63, with particular regard to private outdoor space and outlook. It therefore conflicts with LP Policy EN27, Spatial Planning Objective SPO13 and Policy WCS14 of the CS. In part, these policies seek to ensure that development is sustainable, and is of a good design that does not harm existing living conditions.

13. The proposal would thereby also conflict with paragraph 130 of the Framework which, in part, has similar aims.

### **Other Matters**

14. The Council has set out that the appeal site is within the zone of influence of the Ashdown Forest Special Protection Area (SPA). The lack of suitable mitigation formed a further reason for refusal. I note the willingness of the appellant to enter into a legal agreement to satisfactorily address this issue. However, as I am dismissing this case, there is no requirement for me to consider this matter any further.

### **Planning Balance and Conclusion**

15. There is no dispute between the parties that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing, which it indicates is currently 3.92 years. Indeed, the current shortfall is significant, and I have no evidence before me to suggest that this position is likely to improve in the short-term. As a result of the shortfall, policies related to the location and supply of housing are deemed to be out of date. In such circumstances, Paragraph 11d and footnote 8 of the Framework require that 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 as a whole.
16. In this instance, the benefits of the proposal include the provision of a single new home that would assist in meeting need in the area, support for local facilities, and the creation of jobs during the construction phase. However, despite the level of shortfall in housing land supply which leads me to attribute increased weight to the benefits, I still only afford limited weight to them overall given that they are relatively minor in nature given the small scale of the proposed scheme.
17. I have concluded that there would be material harm to the character and appearance of the area and to the living conditions of the current and future occupiers of No. 63 The Drive. The support for the principle of development within the Framework is countered by the importance it places on the provision of development that preserves character and appearance and living conditions. In this instance, the collective harm would be significant and enduring, and as a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits.
18. Consequently, for the reasons given, the proposed development conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm. The appeal is therefore dismissed.

*C Butcher*

INSPECTOR