



Appeal Decision

Site visit made on 7 December 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2024

Appeal Ref: APP/G2245/W/23/3317460

25 Main Road, Hextable, Kent 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 22/02062/FUL, dated 20 July 2022, was refused by notice dated 25 November 2022.
 - The development proposed is the erection of a detached 3 bedroom dwelling with ancillary car parking, cycle and bin storage facilities.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 20 December 2023 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework was accompanied by a written ministerial statement (WMS). Having regard to the main issues in this appeal, it has not been necessary to invite submissions from the parties on the revisions that have been made to the Framework.

Main Issues

3. The main issues are the effect of the proposed development on 1) the living conditions of the occupants of no. 70 Panters with regard to outlook, and 2) the character and appearance of the area.

Reasons

Living conditions

4. The appeal site comprises land to the rear of 25-27 Main Road which currently forms part of the rear gardens of these properties. The site extends to the boundary with Panters which is a street comprising of an arrangement of residential properties of various designs and sizes.
5. The proposed dwelling would sit between nos. 70 and 73 Panters. There is a sudden drop in land levels from the appeal site down towards the properties on either side.
6. The Council have not found that there would be harm to the living conditions of the occupants of no. 73 Panters, and due to the separation that would be

maintained, and the size and scale of the proposed dwelling, I have no reason to form a different view.

7. No. 70, however, sits much closer to the appeal site and the specific location of the proposed dwelling. Although the proposed dwelling would be sited towards the rear of the plot, it would be significantly off-set from the building line of the adjacent property. No. 70 has a dormer window in the rear elevation at the first-floor level, and a rear conservatory with habitable room windows in the rear elevation at the ground floor.
8. Due to the size, scale and siting of the proposed dwelling, including its roof, when combined with the elevated nature of the site, it would have an overbearing impact when viewed from the neighbouring property and its garden. For these same reasons it would appear as a dominant and oppressive feature when viewed from the neighbouring property and its garden.
9. The proposed development would therefore cause significant harm to the living conditions of the occupants of no. 70 Panters with regard to outlook. It would be contrary to the amenity protection aims of Policy EN2 of the Sevenoaks Allocations and Development Management Plan (2015).
10. The development would also be contrary to the requirement of the Framework that developments create a high standard of amenity for existing and future users.

Character and appearance

11. The appeal site comprises the rear gardens of nos. 25 and 27 Main Road. The garden extends to Panters which is a residential street to the rear of the appeal site. The surrounding area contains a wide range of residential properties in terms of their design, size and siting. The appeal site is elevated above the properties to either side when viewed from Panters. It has a number of trees and landscape features.
12. The proposed dwelling would be sited towards the bottom of the rear garden. Although it would not be accessed from Panters, due to its siting, it would be visible from within Panters and form part of the street scene. It would be closest to no. 70 Panters which is a bungalow with a large roof expanse providing accommodation over two floors. It would also be close to nos. 73 to 75 Panters which are three detached properties, each of a similar size and design. The rear garden of no 23 Main Road is adjacent to the appeal site and this also runs the full length to Panters. This would form a degree of separation with the detached properties of nos. 73 to 75 Panters.
13. The proposed dwelling would be single storey. Although it would occupy an elevated position, the street-scene elevation shows how the overall height of the dwelling would be similar to the properties either side. The plans show how much of the existing landscaping to the boundaries would be retained, and whilst the dwelling would be visible, the landscaping would provide a notable degree of screening of the development and alleviate its prominence.
14. I therefore find that in this area of properties of various designs, scales and positions, the proposed development by reason of its design, scale and siting, would not appear as an incongruous feature in the area. It therefore would not cause harm to the character and appearance of the area. It would comply with Policy SP1 of the Sevenoaks Core Strategy (2011) and Policy EN1 of the

Sevenoaks Allocations and Development Management Plan (2015). These policies require, amongst other things, that developments are of high-quality design.

15. The development would also comply with the requirement of the Framework that developments should be sympathetic to local character, including the surrounding built environment and landscape setting.

Other Matters

16. The proposal would deliver housing on a site that is in a sustainable location. It would result in a minor increase in the Council's overall housing number. It would also bring a small number of additional residents to the area who would contribute to the local economy. These are benefits of moderate weight in favour of the appeal.
17. I have nevertheless identified that it would conflict with those policies designed to ensure there is not unacceptable harm to living conditions. These policies are consistent with the aims of the Framework in terms of ensuring good standards of amenity. This alignment increases the weight given to the policy conflict. Therefore, the conflict with those policies results in the development conflicting with the development plan when taken as a whole.
18. Paragraph 11 (d) of the Framework requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, developments should be granted planning permission 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.
19. This applies to applications involving the provision of housing in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council are unable to demonstrate a five-year supply of deliverable housing sites. It therefore follows that paragraph 11 d) of the Framework is engaged.
20. In terms of the proposed development, the starting point is therefore that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits.
21. In this case the adverse impacts of the proposal in terms of the harm to the living conditions of existing occupants of nearby residential properties, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. These policies include a requirement for developments to provide a high standard of amenity for existing users.
22. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.

Planning Balance and Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

24. The outcome of the Framework paragraph 11 d) process above indicates that the decision should be taken in accordance with the development plan.
25. The proposed development would result in a minor increase in the Council's overall housing number and would be in a sustainable location. It would also bring a small number of additional residents to the area who would contribute to the local economy. When combined with the Council being unable to demonstrate a five-year housing land supply, collectively, I give these matters significant weight in favour of the proposed development.
26. However, the harm that I have identified that would be caused to the living conditions of occupants of existing residential properties attracts greater significant weight that outweighs the benefits associated with the proposed development.
27. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
28. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR