



Appeal Decision

Site visit made on 02 July 2024

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2024

Appeal Ref: APP/G2245/W/24/3339427

Ellerby Mews, Ash Road, Hartley, Kent DA3 8ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tony Braithwaite against the decision of Sevenoaks District Council.
 - The application Ref is 23/01140/FUL.
 - The development proposed is construction of a one bedroom detached bungalow and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on the relevant implications for the appeal. I have had regard to the revised Framework in reaching my decision.
3. There is a history of planning permissions relating to this site for similar developments as that described within the banner heading above. The initial planning permission was granted but subject to a condition relating to a construction method statement that was refused and dismissed at appeal. I was the Planning Inspector that dealt with that appeal. Since then, the Council have granted several other planning permissions for similar development and refused two further discharges of conditions relating to construction method statements. The planning application, the subject of this appeal, has followed those previous planning permissions and condition discharge refusals.

Main Issue

4. The main issue raised by this appeal is the effect of the proposed development on the living conditions of adjoining occupiers with relation to disruption and safety during the construction of the development.

Reasons

5. Having regard to the planning history of the site a number of construction method statements have been submitted to the local planning authority over recent years but none have been accepted as being a suitable way in which the

building could be constructed. The Council have rejected the planning application, now subject of this appeal, on the basis that there have been three previous construction method statements provided to the Council, all of which have failed to provide suitable provisions for mitigating impacts. This brings into question whether any planning permission for a dwelling could actually be implemented.

6. A Construction Environmental Management Plan (CEMP) dated May 2024 has been submitted in support of the appeal. It is indicated that there is an agreement in principle with the current owners of the adjoining land to use that land to take away spoil and for a limited number of deliveries.
7. It has been advised that there have been meaningful discussions with the owner and occupier of the adjoining garages site. However, there has been no written contract or other documentation that would indicate the owners would agree to access over their land. Whilst the owner may be willing to do this in the future, there is no guarantee this would happen. Therefore, I cannot be certain that matters such as spoil that would accumulate on site could be removed by means of a grab lorry parked on the garage premise's rear car park adjacent to the site.
8. It is accepted that not all requirements for access and egress to the site for construction purposes would be possible over the adjoining land. Therefore there would be many occasions when this would be required to take place along the communal pathway that serves the appeal site and the neighbouring properties. As such, the occupiers of those properties would not be relieved of all inconvenience and disturbance arising from the development.
9. I note the appellant's intention to hold meetings at the Village Hall to discuss suitable arrangements. The appellant has acknowledged that even limiting use of the communal pathway to pre-arranged times could be hard to arrange in practice. Deliveries are reliant on third-party companies arriving at set times and any uncontrollable delays due to traffic or other outside factors would make deliveries unpredictable. It is pointed out that the path is seldom used. Nonetheless, it is the primary access for occupiers and I saw residents accessing their property during my visit.
10. There are some matters highlighted by the Council relating to the CEMP. The CEMP proposes to lay ply hoarding, sized and fitted, made to measure to cover the footpaths. However, the Council contend that this could be a slip or trip hazard for occupiers. The appellant advises that all precautions would be non-slip surfaced and it is intended to cause minimal damage to the pathway and the existing planted areas. Whilst the appellant advises that the measures proposed would ensure resident's safety, from the information provided I cannot be certain that this would be the case.
11. The CEMP indicates that provision for a free-standing chemical toilet for operatives would be located within the car park area allocated for this dwelling. However, that space is also intended to be used as vehicle parking for operatives. It is said there would be no roadside deliveries and arrangements could be made so that no vehicles would be parked on site. However, this does not clearly set out how deliveries would take place or how operatives would access the site as the toilet could potentially prevent the parking of a vehicle within the allocated space. It may be possible to make use of the two visitor parking bays for short periods of time albeit that may result in visitors' vehicles

- being displaced onto the public highway. Overall, this does not illustrate that construction works related vehicles would not park on the public highway.
12. It is set out that water bowser for wheel washing would be provided but no substantive details have been provided. The appellant has latterly advised that this would be stored on the land that would be built on, albeit, there is no substantive indication that this would be acceptable to the local planning authority.
 13. It is advised that strict site rules would be imposed to prohibit the leaving of any plant, materials, spoil, or tools on any communal areas at any time but, as yet, such matters are not set out in any substantial detail. Residents could be given a call system to call the foreman prior to leaving their homes so that works can be stopped. However, this would not work for various visitors, such as, postal workers, deliveries, and so on.
 14. I acknowledge that generally contractors join and subscribe to the 'Safe Constructors' scheme' as part of the development construction process. The appellant would intend to ensure that pre-construction the occupiers of neighbouring properties would be aware of and engaged in the process of setting up rules of behaviour by the contractors. The appellant believes this would be possible to undertake for this site. Whilst such a scheme may be possible to set up, this does not demonstrate that all of those concerns set out above would and could be mitigated.
 15. It has been suggested that some of the above matters could be controlled by way of planning condition. Given the uncertainties pertaining to various aspects of the CEMP I do not consider that it would be appropriate to rely on the imposition of a planning condition as there is no substantive clear indication that a condition could ameliorate the objections sufficiently to allow permission to be granted.
 16. Further to the above, a condition relating to a construction method statement could again be imposed. However, the CEMP submitted in support of the appeal does not provide compelling evidence that would sufficiently demonstrate that appropriate construction management could be achieved that would safeguard the residential living conditions of existing occupiers. Given the history of unsuccessful attempts to discharge the condition, it would be unreasonable to grant planning permission for something that has not satisfactorily demonstrated that harm to existing occupiers living condition would be mitigated.
 17. It is advised that ongoing discussions are taking place with the Water board and an electricity supply company as to how utilities and services may be installed. It is also advised that the utilities companies provide the statutory requirements at the point when development proceeds.
 18. For these reasons, I conclude that the proposed development would have a harmful effect upon the living conditions of adjoining occupiers in relation to disruption and safety during the construction of the development. The proposal would, therefore, conflict with Policy EN2 of the Sevenoaks Allocations and Development Management Plan. That policy seeks, amongst other matters, development to provide adequate residential amenities for existing occupiers of nearby properties.

Other Matters

19. The Council cannot demonstrate a 5-year housing land supply of deliverable housing sites. As such, the provisions of paragraph 11d) of the Framework should be applied.
20. The proposal would boost the supply of housing and could provide a high quality family home. However, even if the housing shortfall is substantial, the benefits associated with a single dwelling would be small. Also any economic benefits during construction would be temporary and limited.
21. The adverse impact of the proposed development on the living conditions of existing adjoining occupiers attracts substantial weight and therefore significantly and demonstrably outweighs the benefits when assessed against the policies of the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

22. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR