



Appeal Decision

Site visit made on 7 October 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Appeal Ref: APP/G2245/W/24/3343221

9 Crownfields, Sevenoaks, Kent TN13 1EF

- 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 & Mrs David Light against the decision of Sevenoaks District Council.
 - The application Ref is 23/02649/FUL.
 - The development proposed is the erection of a detached dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - flood risk with particular regard to the application of the Sequential Test; and,
 - the living conditions of occupiers of 21 The Dene with particular regard to outlook.

Reasons

Flood Risk

3. The existing two-storey detached dwelling sits within a large plot located to the south-east corner of Crownfields, a residential cul-de-sac. It is proposed to sub-divide the plot and erect an additional dwelling and parking area on what is currently the front garden of the existing house. There is a large depression within the front garden area, which given its location and surrounding topography, acts as a reservoir for surface flood water. The house would be constructed over part of this depression, with a large basement void to act as a container for flood water.
4. Although the site is located within Flood Zone 1, the location is nevertheless identified as being at high risk of surface water flooding as shown by the Environment Agency surface water flood risk maps provided in evidence¹. With regard to flood risk, Planning Practice Guidance (PPG) and the National Planning Policy Framework (the Framework) classifies housing as a 'more vulnerable' use. Paragraph 165 of the Framework states that inappropriate

¹ Figure 3 of the Flood Risk Assessment by Sevenoaks Environmental Consultancy Ltd Ref: 5806 24 03 15 Rpt 02 Rev A TI BB

development in areas at risk of flooding should be avoided by directing it away from areas at highest risk. Paragraph 167 requires a sequential approach to the location of development, taking into account the potential and future risk of all sources of flooding to avoid, where possible, flood risk to people and property. The aim of the Sequential Test is to steer development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The Framework is clear that the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

5. The flood risk assessment provided to support the appeal scheme states that the proposed house is sequentially located within the site boundary to be well above the predicted surface water flood levels. Nevertheless, no specific Sequential Test, in line with the requirements of the Framework and PPG, has been provided in evidence to support the appeal proposal.
6. As such, there is no substantive evidence to suggest that there would be no other reasonably available sites suitable for a development of this type, in areas at a lower risk of flooding. I note the consultation response from the Lead Local Flood Authority, along with the Council's evidence, focus on the proposed mitigation measures. However, the Sequential Test would need to be passed before mitigation measures are considered. PPG is clear that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the Sequential Test still needs to be satisfied.
7. In conclusion therefore, the proposal has not demonstrated that it is located in a sequentially preferable location with regards to flood risk. It therefore conflicts with the aims of the Framework to ensure development is located in areas with the lowest risk of flooding from any source.

Living Conditions

8. The house at 21 The Dene shares a boundary of its rear garden with the appeal site. There is currently a very open aspect to the rear of No. 21 with views over the appeal site to Crownfields beyond. Due to the topography, the rear garden at No. 21 is terraced and steps down towards the appeal site. The proposed house would be located reasonably close to the boundary of around the first third of the rear garden of No. 21. Whilst it would not be directly in front of No. 21's rear windows, the side wall of the proposed house would be sufficiently close to be an overbearing presence particularly to the ground floor and garden levels. Given the low level of No. 21's garden at its closest point to the boundary, the blank elevation of the proposed side wall would appear as a particularly dominant presence and would be visually intrusive.
9. Along with the existing planting within the garden of No. 21, the proposed planting to the boundary would assist in softening the overbearing effect of the proposed building. However, this would take time to establish and would not necessarily be a permanent feature. Whilst I acknowledge the proposal would not result in any harmful loss of sunlight or daylight to the windows of 21 The Dene, this does not mean that it would necessarily have an acceptable effect upon outlook.

10. I note the appellant's view that the outlook from the front windows of 9 Crownfields towards 21 The Dene would be a similar angle to the relationship of the proposed house with the rear of 21 The Dene. Whilst this may be the case, I note that the front and rear aspects of 9 Crownfields remain very open, to a greater extent than that currently experienced by the occupiers of 21 The Dene given the density of development in that location. As such, it would not be a reasonable comparison.
11. Due to its proximity and dominance in relation to 21 The Dene, the proposed building would be overbearing and would therefore harm the outlook of the occupiers of 21 The Dene. This would conflict with the aims of Policy EN2 of the Sevenoaks Allocations and Development Management Plan 2015 which aims to safeguard the amenities of existing and future occupants of nearby properties by ensuring that development does not result in, amongst other things, visual intrusion.

Other Matters

12. The Council is satisfied with the effect of the proposal on the character and appearance of the area, standard of accommodation, trees, living conditions of neighbouring residents with regard to light, overshadowing and privacy, highway safety and biodiversity, subject to appropriate conditions. I see no reason to disagree with these conclusions.
13. I have had regard to other matters raised by interested parties including, but not limited to, the effect of the proposals on biodiversity, highways, overdevelopment, trees and other non-planning matters. As I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

14. Set against the harm identified, the proposal would deliver a net gain of one self-build dwelling. The scheme would be an efficient use of land in a sustainable location. This would support the Government's aim of significantly boosting the supply of homes. However, the addition of a single dwelling would provide a limited contribution in this context and I attach limited weight to this benefit.
15. There would be temporary and ongoing economic benefits from the development through construction and use of local shops and services, but given the single dwelling delivered, those benefits would be limited. There would be some sustainability benefits including the use of an air source heat pump, electric vehicle charging and photovoltaic panels, to which I again attach limited weight given the modest scale of the scheme.
16. The Council acknowledges that it cannot demonstrate a 5-year supply of deliverable housing sites; the reported supply is equivalent to 3.46 years and the Housing Delivery Test has not been met. Therefore, paragraph 11d) of the Framework is applicable. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date and permission should be granted unless, as set out in 11d)i the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusal. Footnote 7 lists these policies which include, amongst other things, areas at

risk of flooding. The appeal site is located in an area at risk of surface water flooding and I have found that the proposal conflicts with the aims of the Framework to ensure development is located in areas with the lowest risk of flooding from any source. As the Framework provides a clear reason for refusal, the presumption in favour of sustainable development does not apply in this case.

17. Given the proposed development comprises only a single additional dwelling, the benefits described above are very small scale and the harm I have identified in relation to flood risk and to the living conditions of the occupiers of 21 The Dene would outweigh the benefits when assessed against the development plan read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with the development plan.
18. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR