



Appeal Decision

Site visit made on 11 March 2025

by **C Coles MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th July 2025

Appeal Ref: APP/D3830/W/24/3351063

2 Greenlands Drive, Burgess Hill, West Sussex RH15 0AZ

- 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 David Shoolheifer against the decision of Mid Sussex District Council.
 - The application Ref is DM/24/0285.
 - The development is described as 'Proposed new single storey two-bedroom dwelling on north/rear section of existing garden, with new vehicular access from adjacent Keymer Road'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council have amended the description of development on the decision notice to reflect the submission of amended plans which show an increase in site area for the proposal and the proposed dwelling in a revised position with changes to the parking and turning layout.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published (December 2024) which is the most up to date expression of National Policy and advanced the Ministerial Statement of July 2024. Both parties were provided with the opportunity to comment on the implications of the Framework for the appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site forms the northern part of the rear garden of 2 Greenlands Drive (no 2), a two-storey detached dwelling which is located on the corner of Greenlands Drive and Keymer Road. No 2 is accessed from Greenlands Drive which contains properties of similar style and age on relatively uniform plots. Properties within the locality are typically detached, two-storey dwellings with parking to the front and larger gardens to the rear.
6. The boundary of the site with Keymer Road is a close boarded fence set behind a grass verge with established trees and shrubs. This part of Keymer Road is characterised by spacious plots with established tree and hedge boundaries which help screen dwellings from view and give the area a verdant feel.

7. The proposed development is for a single storey dwelling on the northern part of the rear garden of no 2, accessed from a new vehicular access and crossover onto Keymer Road. The site is higher to the north and slopes away to the west. Permeable block paving is proposed to the front of the dwelling for parking and the building would be set behind fencing and gates. The proposed development would be located to the west of the plot with a significant percentage of site given over to built form or hard landscaping.
8. Whilst the low profile of the proposed dwelling would minimise the visual impact of the proposal on the street scene and from neighbouring properties, the overall coverage of the site with built development and the lack of rear garden space would be out of character with the proportions of neighbouring properties which typically have more extensive plots with large rear gardens providing the amenity space for the dwellings. The remaining plot depth for no 2 would also be significantly shorter than the depth of neighbouring plots thus altering the established character of the area. The resultant plot size and layout for the proposed development and the host dwelling would be materially inconsistent with the properties on Greenlands Drive where the plots are full depth with large rear gardens which front onto Greenlands Drive.
9. The break in the mature boundary screening, the loss of planting and its replacement with gates to allow for the access would harm the verdant feel of this section of Keymer Road. Views of the proposed development into the site through the access gates would also affect the verdant character of the area. Although sporadic accesses exist along this side of Keymer Road, in this particular section Keymer Road is characterised by an expanse of hedging and established trees which line the road as it transitions into a more rural feel.
10. Whilst Policy DP26 of the Mid Sussex District Local Plan 2014-2031 (LP) encourages active building frontages facing streets, this must be considered within the context of Policy DP26 as a whole which also seeks to protect trees and gardens that contribute to the character of the area, therefore active frontages will not be appropriate in every case.
11. I have been referred to examples of backland development in the surrounding area and I have taken these into account in terms of the influence on the character and appearance of the area so far as I am able to based on the information before me. I have also taken this as evidence the Council is proactive in permitting development where appropriate. The difference between the examples provided and this site is that the access for this site is from a different road to the host dwelling, all the other examples take a tandem form utilising the existing access or creating a new access from the same road therefore minimising the harm to the character of the area from a new access point taken from a different road. In addition the examples provided benefit from rear gardens typical of the character of the area whereas the proposal would have very limited usable amenity space to the rear of the dwelling. I am also unaware of the Development Plan policies in force at the time of the permissions and whether there have been substantive changes.

12. The Council have not refused the application against Policy DP6 of the LP which permits development within built up area boundaries provided any infilling or redevelopment demonstrates it is of an appropriate nature and scale with regard to Policy DP26 of the LP. Whilst the site would be the redevelopment of a plot within the settlement boundary, the proposal conflicts with Policy DP26 due to the impact on the character of the area, therefore Policy DP26 was referenced in the decision notice.
13. I have been referred to paragraphs within the Framework which support development which makes efficient use of land and avoids low densities. However, this must be balanced against the desirability of maintaining an areas prevailing character and setting (including residential gardens), including the surrounding built environment and landscape setting. Each case will be determined on its own planning merits and on the basis of the evidence, particularly in relation to character and appearance.
14. In conclusion, by reason of its layout, access and reduction in size of the garden to no 2 the proposal would have a harmful impact on the spacious and verdant character of the area, thereby conflicting with Policy DP26 of the LP and Policy H2 of the Burgess Hill Neighbourhood Plan insofar as they seek to resist development in back gardens and protect any attractive prevailing character and appearance of the area.

Other Matters

15. The second reason for refusal relates to the adequacy of information in respect of foul water and surface water drainage. The site lies in Flood Zone 1 and there is no evidence to indicate that it falls within a critical drainage area. Had I been minded to allow the appeal, the matter could have been addressed by means of a planning condition requiring the submission of further details of foul and surface water drainage. I am dismissing the appeal for other reasons in any event, and therefore this matter was not determinative in my decision.
16. The proposal would be located within the wider setting of High Chimneys, a Grade II Listed 18th century building which is located on the opposite side of the road to the site and set back from the road frontage. The site influences the character of the context in which the listed building is seen. At present, the character of the site and the setting of the listed building is verdant and semi-rural. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the listed building or its setting. Based on the information provided and my own observations at the site visit, I conclude the setting of the listed building would be preserved due to the sites location on the outer edge of the setting of the listed building and the proportionate effect of the loss of screening within the wider setting of the listed building. There would therefore be no conflict with the statutory presumption under s66(1) or Policy DP34 of the LP which requires special regard to be had to protecting the setting of a listed building.
17. The appellant has referred to a large outbuilding at Clay Hill as an example of the scale of development that can be built within the grounds of an existing dwelling. A large outbuilding could be erected at no 2, but such a building would have to be required for a purpose incidental to the enjoyment of the dwellinghouse and could not be a dwelling with a separate access and curtilage.

Planning Balance

18. The proposed development would conflict with the development plan due to its impact on the character and appearance of the area by reason of its layout, access and reduction in size of the garden to no 2. The development plan policies relevant to these issues are consistent with those of the Framework and therefore I have attached the policy conflicts and harms significant weight.
19. The Council concedes that it is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11(d) of the Framework indicates that in such circumstances 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
20. The Neighbourhood Plan is more than five years old. The relevant policies in the Neighbourhood Plan are not considered out of date as they are consistent with the Framework. The Framework does not say that just because the Neighbourhood Plan is more than five years old, conflict with the Neighbourhood Plan would not significantly and demonstrably outweigh the benefits.
21. The benefits of the development would be the provision of a single dwelling in a sustainable location, which would make a small contribution to the supply of new homes. There would also be benefits to the local economy during construction and for the lifetime of the development through additional spending by occupants of the development in local shops and businesses. I have attached these benefits modest weight.
22. In the overall planning balance, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As a result, the proposal would not constitute sustainable development in terms of the Framework and the presumption in favour of sustainable development does not apply. The proposal conflicts with the development plan taken as a whole and the material considerations in this case do not indicate that the decision should be taken other than in accordance with the development plan.

Conclusion

23. For the reasons given above the appeal is dismissed.

C Coles

INSPECTOR