

4.4 – SE/13/02078/FUL Date expired 1 October 2013

PROPOSAL: Construction of detached dwelling and 2 no. parking spaces.

LOCATION: Land To East Of Badgers Set And Formerly Chart View , West End, Kemsing TN15 6PX

WARD(S): Kemsing

ITEM FOR DECISION

This item has been referred to the Development Control Committee by Councillor Stack who wishes the committee to consider the contribution of this site to the character of the surrounding area in the light of a previous appeal decision.

RECOMMENDATION: That planning permission be REFUSED for the following reasons:-

- 1) The proposed scheme would result in the loss of the gap between 11 West End and Badgers Sett thereby causing harm to the character of the surrounding area, including the adjacent conservation area, contrary to the provisions of policies EN1 and EN23 of the Sevenoaks District Local Plan and policies SP1 and LO7 of the Sevenoaks Core Strategy.
- 2) The proposed development makes no provision for a contribution towards the Councils Affordable Housing initiative and nor has it been demonstrated that such a contribution would render the scheme unviable. This scheme is therefore contrary to the provisions of policy SP3 of the Sevenoaks Core Strategy.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by:

- Offering a duty officer service to provide initial planning advice
- Providing a pre-application advice service
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application
- Where possible and appropriate suggesting solutions to secure a successful outcome
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line.
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and

- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Working in line with the NPPF, the application was refused as the proposal failed to improve the economic, social or environmental conditions of the area.

Description of Proposal

- 1 This application proposes the erection of a 3 bedroom two storey detached house with two off street spaces lying in front of the house. The house would align broadly with the two houses either side lying approximately 4m from the flank wall of the house to the east and just over 2.5m from the flank wall of the house to the west.
- 2 The house would have a traditional design with brick and tile hung elevations and a pitched tiled roof. A single pitched roof dormer window is proposed in the rear roof space.
- 3 The rear garden would be some 5m in length and the rear boundary would align with the green belt boundary.

Description of Site

- 4 The application site is located on the southern side of West End to the west of the junction with Ediths Road, set back from the highway behind a recent development which fronts West End. That development comprises shops and flats at the site frontage, a pair of semi detached houses sitting in front of the site and one detached house lying next to the site. It lies between that house and the original house on the other side of the site - Badgers Sett and forms part of the gardens of both houses.
- 5 The majority of the development site to the north and the east lies within the Conservation Area.

Constraints:

- 6 The site lies within the built confines of Kemsing (the green belt boundary runs across the end of the rear garden), partly within the extended Conservation Area (the boundary runs between 11 West End and proposed house and across the front of the site).

Policies

Sevenoaks District Local Plan

- 7 Policies - EN1, EN4B, EN23, GB1, VP1, H1, H10A

Sevenoaks District Core Strategy

- 8 Policies - SP1, SP2, SP3, L07, H1, H4, H5, T4, BE6

Relevant Planning History

- 9 SE/06/02947/FUL - Demolition of existing commercial, retail and residential property and construction of 170m² of retail and commercial space, 4 x 2 bedroom flats, 3 x 2 bedroom houses, 2 x 4 bedroom houses associated parking and new double garage to Badgers Sett. - Refused

SE07/03190/FUL - Demolition of existing commercial retail and residential property and construction of 170m² retail and commercial space, 4 x 2 bedroom flats, 2x2 bedroom houses and 1 detached 4 bedroom house and new double garage to Badgers Sett. - Approved

SE/09/01041/FUL - 2 New 4-bed detached houses - Refused

SE/09/02723/FUL Detached house – Refused - Appeal lodged and dismissed - reproduced as Appendix 1 to this report.

SE/11/02411/FUL Erection of a two storey side extension to Badgers Sett. Approved.

Consultations

Kemsing Parish Council

- 10 Recommend APPROVAL, subject to the inclusion of the following condition - "Part of the plot is in the Green Belt, and an 'open fence' of either 'ranch style' or 'post and rail' shall be installed to clearly mark the boundary between the garden of the proposed property and the Green Belt beyond and shall be so maintained in perpetuity."

Thames Water

- 11 No objection

KCC Highways

- 12 No objection subject to condition regarding wheel washing facilities.

Representations

- 13 None

Chief Planning Officer Appraisal

Principal Issues

- 14 The main issues concern the impact upon the character and visual amenities of the surrounding area including the Conservation Area, impact upon adjacent highway, neighbours amenities and affordable housing.

Impact upon Character/Visual Amenities of the Area

- 15 The National Planning Policy Framework at Section 12 considers the impact of new development upon the historic environment. Paragraph 126 seeks to ensure

that new development makes a positive contribution to local character and distinctiveness.

- 16 The Conservation Area, Section 72(1) of the Planning Listed Buildings and Conservation Areas Act 1990 provides ‘In the exercise, with respect to any buildings or other land in a conservation area, of any (Planning Act functions)...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’. Policy EN23 seeks to ensure that new development *preserves or enhances the character or appearance of the area* whilst policies SP1 and LO7 both refer to the need for new development to *respect the character of the local character*.
- 17 The site lies partially within the Conservation Area: the Conservation Boundary running through the length of the site close to its eastern boundary and along the northern boundary of the site. The house would be visible from within adjacent private sites within the Conservation Area and clearly visible, at the end of the access road, from West End (lying almost directly opposite the end of the access into this site from West End). At present views of other nearby houses in similar positions are seen from West End and to this extent this development would be no different to those other houses. However as a result of trying to fit another house into this site, this part of the site will have a cramped appearance – accentuated by the modest distance between the flank wall of each new house.
- 18 This issue was considered as part of the previous appeal (see Appendix 1) and the Inspector concluded as follows:
- 19 *“8. The appeal site, which is partly in the Conservation Area, lies within a gap between the 2 detached houses at the rear of the cul-de-sac. It is said to form part of the side garden of one of these houses. Retaining this land undeveloped performs a useful function. It ensures that views are obtained from West End over the access road towards trees and open countryside beyond. This prevents the recently constructed shops and houses, with its otherwise close-knit pattern, and extensive areas of hard standing, appearing unduly harsh and overdeveloped.*
- 20 *9. The benefit this gives would be negated by the presence of the proposed development. This would especially be so given the substantial extent that it would cover the plot and its proximity to the 2 adjoining houses. Added harm would be created by the proposed linked carport. By occupying much of the front garden of the house it would make the scheme as a whole appear an over-development of the plot. This would be so notwithstanding the forward location of the garages for the 2 adjoining houses.*
- 21 *10. Given the above the proposed development would detract from the character and appearance its immediate surroundings.”*
- 22 The scheme to which this decision refers was significantly larger than the current scheme and drawing reference COB/12/534/01B shows the existing proposal compared to the scheme that was refused. A number of differences are evident:
- The ridge height has been reduced by between 1.2 – 2.2m
 - The width of the main body of the house has been reduced by 40cm
 - The projecting single storey garage has been removed

- The gap between the proposed house and the house to the east (no 11) has increased from between 1.3m – 2.3m to 3.8m
 - The gap between the proposed house and Badgers Sett to the west has reduced from 3.8m to 2.7m.
- 23 Overall the previously proposed house clearly had a greater presence than the current scheme.
- 24 The proposed scheme clearly shows a much smaller house that has been moved closer to the western boundary in an effort to provide as much open space as possible on the eastern side of the site, which is the part of the site that is most visible from West End. It would appear as a smaller ‘insert’ between the two larger adjacent houses. However it is not considered that the changes proposed and the increase in distance between no.11 and the proposed house would be so great as to overcome the harm identified by the previous inspector. The house would still be visible from West End and the gap that currently provides easy and unrestricted views through to the countryside beyond would be reduced to just under a 4 m gap between the two houses. Consequently it is still considered that the gap should be retained in its entirety rather than being eroded in the manner proposed: this land is considered of positive benefit to the character of the surrounding area as vacant land rather than as developed land.
- 25 This would be harmful to the character of the surrounding area and Conservation area and therefore contrary to policies EN1 and EN23 which both recognise the importance of the form, scale and height of a development upon the amenities of a locality. EN23 particularly refers to the new development paying special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and its setting.
- 26 Policies SP1 and LO7 both refer to the need for new development to respect the character of the local character. By eroding this space it is considered that this scheme fails to do that and is therefore non compliant with these policies.
- 27 Planning permission has been granted for a two storey side extension to Badgers Sett. This extension is 5m in width but the officer’s report comments that a 9m gap would be retained and the views through the trees and open land would be largely preserved, which would not be the case with the current proposal.

Impact upon Highway

- 28 Although this house would clearly generate more traffic, it is not considered that this one additional unit could be demonstrated to cause such harm to the adjacent highway as to justify a refusal of permission. The parking spaces and access are considered acceptable.

Neighbours Amenities

- 29 The scheme would not adversely impact the neighbours amenities other than affecting the spatial characteristics of the surrounding area.

Affordable Housing

- 30 Policy SP3 seeks to ensure that all new housing development makes a contribution towards the Councils Affordable Housing Strategy either by means of an on or off site contribution. In the case of a single house this should be a financial contribution. This scheme would therefore generate a requirement for an off site contribution towards the Councils affordable Housing scheme. No legal agreement has been supplied although officers are advised that should permission be forthcoming such a contribution would be made. In the absence of completed agreement however this remains contrary to established policy.

Other Issues

- 31 The site plan has been amended to remove that part of the rear garden originally in the green belt so that the rear boundary now runs along the line of the village with the green belt. Consequently this application will have no impact upon the green belt.

Access Issues

- 32 Would be resolved as part of any Building Regulations application.

Conclusion

- 33 This scheme proposes a single detached house on space lying between two other houses, space that currently forms garden space for the adjacent houses. A previous appeal decision for a new house identified that this space has an important role to play in providing views from the High Street through to the countryside beyond and to prevent the quite densely developed scheme in front of the site appearing to be over developed. In officers opinion this scheme would produce just that result and is therefore contrary to established policy.
- 34 Additionally no financial contribution has been made in respect of the Councils affordable housing scheme and the scheme is therefore not in accordance with policy SP3 of the Core Strategy.

Background Papers

Site & Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

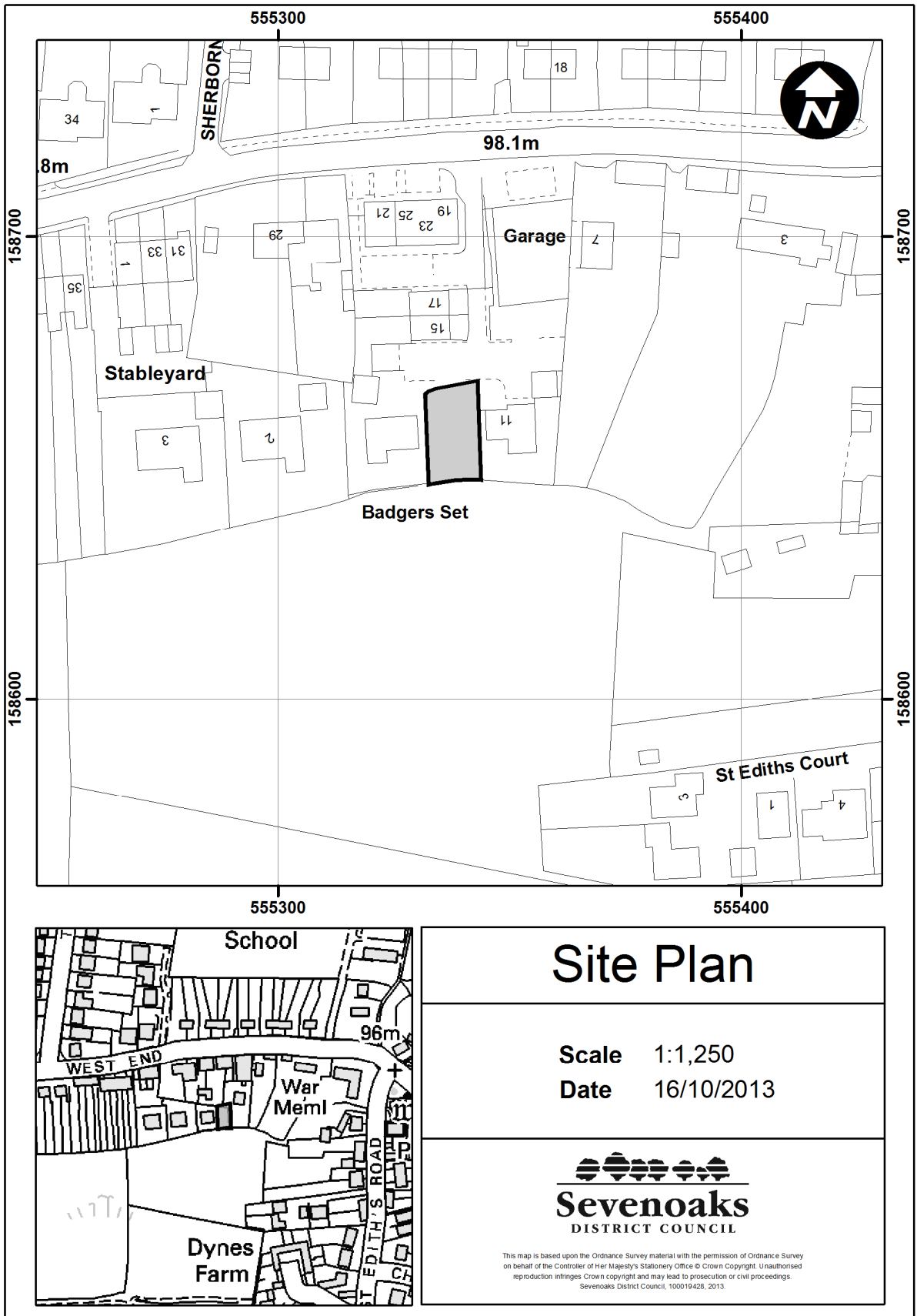
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MPTKGQBKOL000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MPTKGQBKOL000>



Site Plan

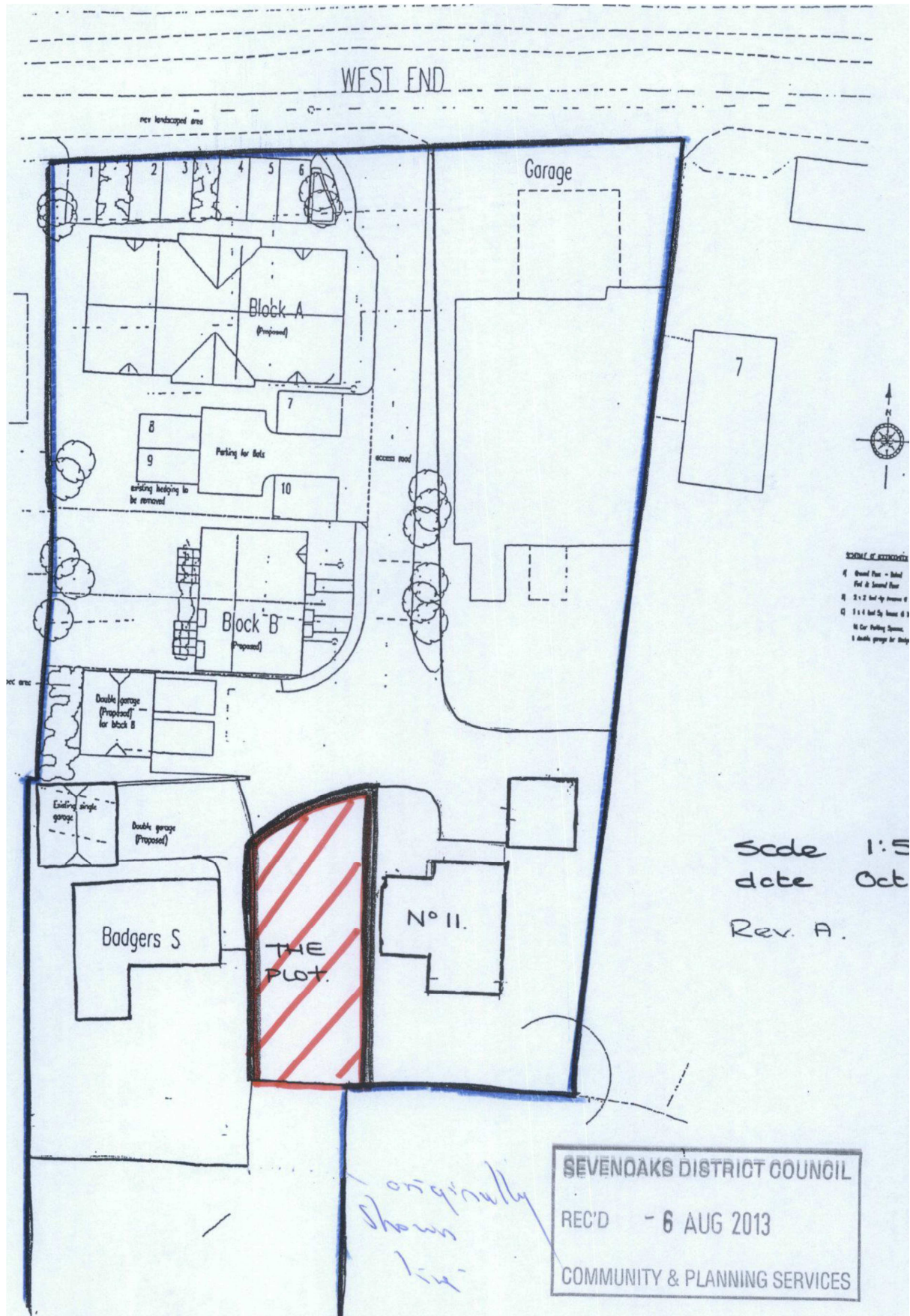
Scale 1:1,250

Date 16/10/2013



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Sevenoaks District Council, 100019428, 2013.

Block Plan





Appeal Decision

Site visit made on 6 July 2010

by **R J Marshall** LLB Dip TP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
7 September 2010

Appeal Ref: APP/G2245/A/10/2122366

Land adjacent Badgers Sett and formerly Chart View, West End, Kemsing, Sevenoaks, TN15 6PX

- 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 Ian McLaughlan against the decision of Sevenoaks District Council.
- The application Ref SE/09/02723/FUL, dated 2 November 2009, was refused by notice dated 4 February 2010.
- The development proposed is "Redevelopment of land between Badgers Sett and formerly Chart View to a new detached 3 bedroom house".

Decision

1. I dismiss the appeal.

Background and main issue

2. Kemsing is an attractive village at the base of the North Downs. Policy H10A of the Sevenoaks District Local Plan (2000) allows for minor development and infill within its confines. The site appears to be within the built-up part of the village and at application stage the Council raised no "in principle" objection. Its sole concern was on the impact of the scheme on the character and appearance of the area.
3. Thus the main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area which includes the Green Belt to the south of the site and the Kemsing Conservation Area which the site partly lies within.
4. I shall also, however, take into account the fact that after the appeal was lodged the Government amended Planning Policy Statement 3: Housing (PPS3). I have now received the views of the principal parties on how or whether this affects their respective cases.

Reasons

Main issue

5. The historic central core of the village is within the Kemsing Conservation Area. This area extends along village roads including the southern side of West End. Along this road, leading away from the village crossroads, are large properties in well landscaped grounds. This gives this part of the Conservation Area a fairly spacious appearance.

6. Further to the west along West End, and still within the Conservation Area, are a commercial garage and an attractive terrace of recently built shops with flats above. Fronting West End to the north of this development is 1920's style housing comprising short terraces and semi-detached properties. Given the fairly sizable front gardens, and the gaps between dwellings, this group of houses has a reasonably spacious appearance.
7. Between the garage premises and the new shops is an access road, in the form of a short cul-de-sac, leading to a new backland development. To one side of this road are newly constructed semi-detached houses. Two modern detached houses face onto the end of the cu-de-sac. The houses off the cul-de-sac and the shops with flats above have the appearance of a comprehensive scheme. The development is attractively set out and the properties well designed.
8. The appeal site, which is partly in the Conservation Area, lies within a gap between the 2 detached houses at the rear of the cul-de-sac. It is said to form part of the side garden of one of these houses. Retaining this land undeveloped performs a useful function. It ensures that views are obtained from West End over the access road towards trees and open countryside beyond. This prevents the recently constructed shops and houses, with its otherwise close-knit pattern, and extensive areas of hardstanding, appearing unduly harsh and overdeveloped.
9. The benefit this gives would be negated by the presence of the proposed development. This would especially be so given the substantial extent that it would cover the plot and its proximity to the 2 adjoining houses. Added harm would be created by the proposed linked carport. By occupying much of the front garden of the house it would make the scheme as a whole appear an over-development of the plot. This would be so notwithstanding the forward location of the garages for the 2 adjoining houses.
10. Given the above the proposed development would detract from the character and appearance its immediate surroundings.
11. I do not share the Council's concern that it would harm the character and appearance of the Green Belt to the south. This is because extensive woodland to the rear of the site would keep any effect on the appearance of the Green Belt to a minimum. However, lack of harm in this respect does not make the proposed development acceptable given the other harm identified.
12. On the main issue, I conclude that the proposed development would detract from the character and appearance of the surrounding area including the Kemsing Conservation Area which the site adjoins and partly lies within. As such it would be contrary to Policy EN1 of the Local Plan which requires new development to be in harmony with its surroundings. It would also conflict with Policy EN23 of the Plan which reiterates the statutory requirement on the desirability of preserving or enhancing the character or appearance of Conservation Areas. This harm would not be outweighed by the alleged advantages of the proposed development being in a reasonably sustainable location and removing the pressure to develop Green Belt land.

Other matters

Amendment to PPS3

13. Amongst other things the amendment to PPS3 makes the following change, "*private residential gardens are now excluded from the definition of previously developed land in Annex B*". This means that the appeal site no longer falls within the definition of "*previously developed land*". Thus the provisions in PPS3 on such land no longer relate to it. However, given the Local Plan Policy support for small-scale development in Kemsing this alone would not have stood against the proposal. The determining factor in this appeal has been the impact of the proposed development on the character and appearance of the surrounding area.

Other matters generally

14. There is local objection to the proposed development on grounds of inadequate car parking and access dangers. However, sufficient car parking spaces would be provided on site and one additional house would not result in substantial additional use of the road junction. However, lack of harm in this respect does not make the proposed development acceptable given the other harm found.
15. The appellant says that as the appeal site is currently the side garden of an existing house that property could be extended over it. I have taken this comment as a reference to a potential fall back position. However, on the generalised observation made I have no substantial evidence on the probability of such development occurring nor upon the impact that it would have. This is a matter to which I therefore attach little weight.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

RJ Marshall

INSPECTOR