

## Appeal Decisions

Site visit made on 22 September 2016

**by AJ Steen BA (Hons) DipTP MRTPI**

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

**Decision date: 9 November 2016**

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### **Appeal A Ref: APP/B1415/W/16/3151454**

#### **9A North Road, St Leonards-on-Sea, East Sussex TN37 6RD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class P of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Miss Carol Hadian against the decision of Hastings Borough Council.
  - The application Ref HS/PA/15/01080, dated 10 January 2016, was refused by notice dated 11 February 2016.
  - The development proposed is change of use of storage to bedsit accommodation.
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### **Appeal B Ref: APP/B1415/W/16/3151453**

#### **9A North Road, St Leonards-on-Sea, East Sussex TN37 6RD**

- 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 Miss Carol Hadian against the decision of Hastings Borough Council.
  - The application Ref HS/FA/15/00686, dated 4 August 2015, was refused by notice dated 7 December 2015.
  - The development proposed is change of use from storage to bedsit accommodation.
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## **Decision**

### **Appeal A Ref: APP/B1415/W/16/3151454**

1. The appeal is dismissed.

### **Appeal B Ref: APP/B1415/W/16/3151453**

2. The appeal is allowed and planning permission is granted for change of use from storage to dwelling at 9A North Road, St Leonards-on-Sea, East Sussex TN37 6RD in accordance with the terms of the application, Ref HS/FA/15/00686, dated 4 August 2015, and the plans submitted with it, subject to the following condition:
    - 1) Unless within 6 weeks of the date of this decision a scheme for the external storage space for waste and bins awaiting collection and a scheme that reduces the balcony area providing access to the front of the dwelling are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the residential occupation shall cease and all equipment and materials brought onto the
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land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision and an appeal has not been made to, and accepted as validly made by, the Secretary of State either against refusal or non-determination, the residential occupation shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved details specified in this condition, the waste and bin storage and revised access to the dwelling shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

### **Procedural Matters**

3. The development has been completed and the flat is occupied such that I was able to view inside the accommodation when I visited and I have taken this into account when coming to my decision.
4. The application forms describe the proposed unit as a bedsit. However, this implies that it is not a self-contained unit of accommodation such that I consider the description as a dwelling to be more accurate, so I have used that in my formal decision.
5. The Council confirm that the use of the property was investigated in 2013 as the building was then used for residential purposes without planning permission. They confirm that use had ceased when they visited the site in October 2014. Planning permission for that use was refused shortly after their visit, although that decision was not subject to an appeal. The current appeals relate to later applications for planning permission and prior approval.
6. The requirements of Class P of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) include that an application be made to the local planning authority for a determination as to whether prior approval of the authority is required for certain matters and subject to the provisions of paragraph W of Part 3 of the GPDO. Section 11 of paragraph W requires that development must not begin prior to receipt by the applicant from the local planning authority of a written notice that prior notice is not required or giving prior approval within 56 days of application.
7. Two identical decision notices were provided with the appeal, that dated 11 February 2016 was signed, that dated 12 February 2016 was not, but was accompanied by a covering letter. I have relied on the signed copy for the header bar above, but in either case the Council confirmed that prior notice was required and was refused within 56 days of receipt of the application.
8. As a consequence, the development having been begun means that it is not possible to consider appeal A under Class P of Schedule 2, Part 3 of the GPDO further.

## **Main Issue**

9. The main issue in the planning appeal is whether occupiers enjoy satisfactory living conditions.

## **Reasons**

10. North Road is a short street that comprises predominantly terraced dwellings with the side of a furniture shop opposite no. 9A. No. 9A is a workshop currently used for storage and repair of household goods, such as washing machines and other white goods. The upper floor appears to have been used for storage in the past, but is now laid out and occupied as a flat. Access to the flat is via an external staircase that leads to a large timber balcony that I understand is unauthorised and is close to the window in the neighbouring property. This does not form part of the scheme in front of me and an amended access would not change the substance of the development. Consequently, an amended access without the large timber balcony would need to be provided to reduce overlooking of that property and could be required by condition should the appeal be allowed.
11. The flat comprises a kitchen area just inside the entrance door at the front including space for a small table and chairs, with small shower room to the side. The shower room contains a bath of insufficient size for an adult to use as a bath, with shower over. The living space is mainly located in the rear part of the flat with a window to one side, with space for a double bed, sofa, storage, television and circulation space around the furniture. The plans suggest a large utility room would be provided on the ground floor, but this would not be internally accessible from the rest of the flat on the upper floor. However, all the facilities required for day to day living are provided on the upper floor.
12. Natural light is provided to the flat through two side windows, one in the living area and one in the shower room, and a window beside the door in the kitchen area. Whilst the light from these windows is limited, it is adequate to light the living accommodation. There is limited outside amenity space for the dwelling, but it is not unusual for a single person dwelling not to have private amenity space and, therefore, the lack of private outside amenity space does not count against the proposal.
13. Policy DM3 of the Hastings Development Management Plan (DMP) seeks to achieve a good standard of living for future users of development and sets out a number of criteria, including guidelines for minimum internal floor areas. However, on 25 March 2015 the Secretary of State for Communities and Local Government issued a written ministerial statement that confirmed local standards for living accommodation should no longer be applied but that they may be replaced by a new national space standard when new local policies are set. The DMP has been adopted since that statement, but does not refer to the national space standard and does not provide standards for 1 bedroom 1 person dwellings, as is proposed in this instance. The national standard for this size of dwelling with a shower room would be 37m<sup>2</sup>.
14. I have been provided with calculations of the size of the flat measured at first floor level in comparison with the above space standards, the appellant suggesting that it would be 37m<sup>2</sup>, the Council suggesting 35m<sup>2</sup>. Whilst I accept that the size of the flat may be slightly below the national space standard, the

layout of the accommodation demonstrates that it provides adequate living conditions for the occupiers of the dwelling.

15. For these reasons, I conclude that occupiers of the property enjoy satisfactory living conditions and, as such, the development complies with Policy DM3 of the DMP that seeks to ensure dwellings provide comfortable and convenient living accommodation with sufficient space for the residents.
16. I note that the Council has an up to date Local Plan and five year supply of housing land in accordance with the National Planning Policy Framework. The Local Plan seeks to manage housing supply and provide a mix of housing, including avoiding a concentration of poor quality private rented sector accommodation within central St Leonards-on-Sea. However, I have concluded above that the proposed development would provide adequate living conditions to prospective occupiers, such that it would not provide poor quality housing.
17. In coming to my decision I have taken into account government policy on intentional unauthorised development. However, I conclude that the harm caused by the use as small dwelling prior to planning permission being granted can be appropriately mitigated by the use of a condition.

### **Conditions**

18. As noted at paragraph 10 the existing access arrangements by the balcony lead to an unacceptable loss of privacy for neighbouring residents. In addition provision needs to be made for bin storage. Both these elements could be secured by a condition requiring schemes to be submitted.
19. However, as the use is already in place there is a need to comply with a strict timetable for dealing with the matters so that the harm is mitigated as soon as possible. This is not achieved by the conditions suggested by the Council. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.

### **Conclusion**

20. On the basis of the above considerations, I conclude that appeal A should be dismissed, but appeal B should succeed.

*AJ Steen*

INSPECTOR