The Planning Inspectorate

Appeal Decision

Site visit made on 20 June 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 19 July 2017

Appeal Ref: APP/U1430/W/17/3172068
3-15 Terminus Road, Bexhill on Sea, East Sussex TN39 3LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Devonshire Estates Limited against the decision of Rother District Council.
- The application Ref RR/2016/2108/P, dated 7 August 2016, was refused by notice dated 19 January 2017.
- The development proposed is redevelopment of existing car-sales site to provide 14 No two bedroom flats and on-site parking.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline form with matters of access, appearance, layout and scale being for approval. Only landscaping has been reserved for future consideration.

3. Reference has been made to the Council's emerging Development and Site Allocations Local Plan (the DaSA). However, the DaSA is at a very early stage in its preparation and I therefore consider very little weight can be attached to it for the purposes of the determination of this appeal.

Main Issues

4. The main issues are the effect of the development on: the character and appearance of the area; the living conditions of the occupiers of 46, 47 and 49 Terminus Road (Nos 46, 47 and 49), with particular regard to overbearing; and the supply of employment land.

Reasons

Character and Appearance

5. The development would involve the construction of a block of fourteen, two bedroom flats on four floors, with the upper floor accommodation being in the block's roof space. Fourteen parking spaces would be provided at the western end of the site, while the flat block would occupy the centre and eastern end of the site. The development would replace the second hand car sales business operating from the site, with the site for the most part being an open forecourt area, with there being a two storey sales/office building and a workshop also on site.

6. The block's front elevation would be sited in close proximity to the back edge of Terminus Road's footway and given its height it would be prominent in the streetscene for this part of Terminus Road. Terminus Road's streetscene within the vicinity of the site is varied, although it is characterised for the most part by two storey houses or single storey commercial premises, with the latter either fronting or backing onto the street. The tallest buildings in the area are the three storey police station and the three storey elements of the flats known as Belmont. However, the police station has a marked set back from the road and it has soft landscaped areas along its frontages with Terminus Road and Beeching Road. Belmont has a varied front building line, which has allowed some frontage soft landscaping to be undertaken.

7. The siting of the new block, in such close proximity to the back edge of the footway, would mean that it would not be possible to provide meaningful soft landscaping as relief for its scale. I therefore consider that the siting, scale and height of the block would mean that this development would not be respectful of the area's appearance.

8. Various, now expired, planning permissions for the site's mixed use redevelopment have been granted and those schemes involved blocks that would have had a height equivalent to at least one storey less than the now proposed building. As the other schemes for the site's redevelopment would have involved buildings of a lesser height, I consider the site's planning history does not justify a building of the height now proposed. I am also of the opinion that the design of the block would not be of a quality that would compensate for its undue height. While the site's existing appearance is of no particular merit, I am not persuaded that its appearance is so poor as to warrant granting permission for a development that I consider would not enhance the area's appearance.

9. I therefore conclude that the development would give rise to unacceptable harm to the character and appearance of the area. The development would therefore be contrary to Policies OSS4, BX1 and EN3 of the Rother Local Plan Core Strategy of 2014 (the Core Strategy) and the fourth core planning principle (paragraph 17) and section (Requiring good design) of the National Planning Policy Framework (the Framework). That is because the development would not be respectful of the character and appearance of the area nor would it improve the visual character of the area.

Living Conditions

10. Nos 46, 47 and 49 are two storey houses that back onto the site and the block would therefore be visible from the rear of those dwellings. While the block would be sited 14.0 metres or so from the rear boundaries of the neighbouring houses[1], I consider that degree of physical separation would be sufficient for there to be no unacceptable overbearing effect for the occupiers of Nos 46, 47 and 49.

11. I therefore conclude that the development would not be harmful to the living conditions of the occupiers of Nos 46, 47 and 49. There would therefore be no conflict with Policy OSS4 of the Core Strategy or the fourth core planning principle set out in paragraph 17 of the Framework. That is because the living

[1] As quoted in the third reason for refusal rather than the building to building distances quoted in section 4 of the appellant's appeal statement

conditions (amenities) of the occupiers of neighbouring properties would not be unreasonably harmed by the development.

Supply of employment land

12. Policy EC3 of the Core Strategy concerns existing employment sites. Policy EC3 indicates that, pending a full review of existing and potential sites for employment use, current employment sites should be retained unless it can be demonstrated that there is no reasonable prospect of an employment use being continued or that the use's continuation would be harmful to living conditions. There is, however, a disagreement as to whether Policy EC3 is relevant to this case.

13. The existing car sales use is a sui generis use and I consider it is a use that is more akin to a retail activity than any of the Class B uses, with Class B uses, for development plan purposes, traditionally having been considered to be employment uses. The wording of Policy EC3 does not clearly define the types of land uses that it is seeking to protect. As the wording of policy EC3 does not expressly provide support for the retention of a car sales use I consider that this policy is of very little relevance to the consideration of this case. I therefore conclude that this development would not adversely affect the supply of employment land in the area.

Planning Balance

14. The Council has submitted that it cannot currently demonstrate the availability of a five year supply of deliverable housing sites (HLS). In the absence of an HLS paragraph 14 of the Framework indicates that planning permission should be granted unless '… any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted'.

15. The development would involve the provision of 14 dwellings and it would therefore make a useful contribution to the supply of housing in the area. There would therefore be some economic and social benefits arising from the development. However, I have found that the development would be harmful to the character and appearance of the area and I consider that this adverse impact would significantly and demonstrably outweigh the development's benefits.

Conclusions

16. While I have found that the development would not involve harm to the living conditions of the occupiers of neighbouring houses or adversely affect the supply of employment land, there would be unacceptable harm to the area's character and appearance. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR