



Appeal Decision

Site visit made on 6 August 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2019

Appeal Ref: APP/U1430/W/19/3223866

Rear of 113 London Road, Bexhill-on-Sea, East Sussex TN39 9LB

- 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 M Adam against the decision of Rother District Council.
 - The application Ref RR/2018/2747/P, dated 25 October 2018, was refused by notice dated 19 December 2018.
 - The development proposed is the erection of one dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling at rear of 113 London Road, Bexhill-on-Sea, East Sussex, TN39 9LB in accordance with the terms of the application Ref RR/2018/2747/P, dated 25 October 2018, subject to the conditions set out in the attached schedule.

Main Issue

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

Reasons

3. London Road is fronted by three-storey late C19 and early C20 buildings set on deep, narrow plots with a range of commercial uses at ground floor level. To the rear of these buildings are single-storey and two-storey projections of varied depth and design with an assortment of gardens, areas of parking, outbuildings and dwellings beyond. While the rear part of many of the plots is open, as well as varied rear projections and single-storey outbuildings there are also two-storey terraced dwellings and a bungalow to the rear of No 105-107 London Road, and a tall brick outbuilding to the rear of No 119 which are visible from Beeching Road to the north west.
4. This irregular layout gives the land to the rear of London Road a diverse character and informal feel, although the regular pattern of three-storey buildings stepping up in height away from Beeching Road following the topography of the land is a significant feature in the character of the area.
5. The appeal relates to a plot of land to the rear of No 113 London Road which is approached by an access from London Road between Nos 115 and 117. While it may originally have formed the garden to No 113, the appeal site has been severed from the rear of this property by the access and parking adjacent to the rear of the building. Signage denotes that the site is available as car

parking for the barbers shop within the ground floor of No 113. However, the site appears neglected with areas of hardstanding, mesh and timber sheet surfacing to the front part of the site nearest to No 113 and an overgrown area to the rear.

6. The development would not be visible from London Road but would be clearly seen in views from Beeching Road and would be a change from the current open nature of the site. However, while I note the Council's concern that the development would impact on open land to the rear of London Road, significant separation would be maintained between the development and the rear of No 113, as well as to the rear of the proposed dwelling. This would retain space around the development and views across the site, and the proposal would not obscure or diminish the regular pattern of three-storey buildings stepping up in height along London Road which is the strongest aspect contributing to the character of the area.
7. The dwelling would be seen in the context of the varied built form to the rear of London Road and against the backdrop of the two-storey terraced dwellings running perpendicular to the rear of Nos 105-107. I do not have full details of the circumstances leading to the grant of permission for these dwellings, and acknowledge that they are set slightly further from Beeching Road than the appeal site. However, given their close relationship to the appeal site the introduction of a two-storey dwelling would not appear as an isolated or out of place feature in this area in terms of its scale or position.
8. Notwithstanding the above, as a consequence of the limited width of the appeal site, the dwelling would fill almost the entire width of the site and it would have a depth significantly greater than its width. Glazing would be limited to the front and rear elevations of the dwelling and to two small rooflights to each flank roofslope. Together with the two-storey height of the building and parapet roof form, the elongated footprint would give vertical emphasis to the dwelling and the lack of windows to break up the flank elevations would provide little relief or visual interest. It would therefore be a notable feature and would appear prominent and incongruous in views from Beeching Road.
9. Although the aforementioned impact would be lessened by the set back of the development from the street scene and the backdrop of existing development, the proposal would nevertheless result in some limited harm to the character and appearance of the area. Therefore, and in this regard, the proposal would be contrary to Policies OSS4, BX1 and EN3 of the Rother Local Plan Core Strategy 2014 (RLPCS) and chapter 12 of the National Planning Policy Framework (the Framework). Collectively, these policies require, amongst other things, that development respects and does not detract from the character and appearance of the locality including the distinct and independent character of Bexhill, and that it demonstrates robust design solutions tailored to an understanding of the site and context.

Planning Balance

10. The Council indicates that they are unable to demonstrate a 5-year supply of deliverable housing sites and I have not been provided with any evidence to contradict this.
11. The lack of housing land supply triggers the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework.

This states that where the policies which are most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) 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. In the absence of any applicable policies in 11(d)(i), I have assessed the proposal against 11(d)(ii) only.

12. Achieving well designed places is a key aspect of sustainable development and RLPCS Policies OSS4, BX1 and EN3 are broadly consistent with the Framework in seeking this. Conflict with these policies therefore carries a reasonably significant amount of weight.
13. Although I do not consider that the dwelling would appear as an isolated feature, I have identified that there would be some limited harm to the character and appearance of the area. However, this harm would be moderated by the set back of development from the street scene of Beeching Road where views would be available, and the varied built form to the rear of London Road including the two-storey dwellings rear of No 105-107 which the development would be viewed against.
14. In terms of benefits, the proposal would provide one additional dwelling which would contribute positively to the housing under-supply position. It would also make effective use of an underused and unkempt site located within the development boundary of Bexhill with good access to a range of services and facilities reducing reliance on the private car, representing an environmental benefit. The extent of these benefits is tempered by the small amount of development, but nevertheless I give them moderate weight in the overall planning balance.
15. In the context of paragraph 11(d) of the Framework, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies and is a material consideration that weighs in favour of the development. While the development would not fully accord with RLPCS Policies OSS4, BX1 and EN3, I conclude that there are thus material considerations which indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

Other Matters

16. Third parties have raised concern that the development would impact on privacy. However, given the relationship with properties fronting London Road including the separation maintained between the development and intervening outbuildings limiting views of amenity spaces, there would not be any significant loss of privacy for the occupants of neighbouring dwellings. While concerns have also been raised over additional traffic using the access from London Road, the development is unlikely to result in any significant increase over the current use of the site once completed. Any disturbance arising during construction would be short-term and would not constitute reasonable justification for withholding planning permission.

Conditions

17. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty.
18. In the interests of the character and appearance of the area and to ensure that adequate car parking for the development is available, it is necessary to impose planning conditions relating to materials, landscaping and car parking. I have amended the Council's suggested wording of these conditions in the interests of clarity and precision.
19. The Council have also suggested a condition which would remove permitted development rights. I am mindful that paragraph 53 of the Framework states planning conditions should only restrict national permitted development rights where there is clear justification to do so. However, in this case, given the location of the proposed dwelling and its relationship with its plot, a condition to prevent the construction of outbuildings, and extensions to the roof or rear of the dwelling is necessary in the interests of the character and appearance of the area and to ensure amenity space is maintained for future occupiers. However, in the interests of clarity and precision I have amended the Council's suggested wording of this condition.
20. The Council have also suggested a condition to require a scheme for the provision of surface water drainage works. Given the scale of the development and that I have no evidence pointing to any particular issue in this area, I do not consider that it would be reasonable or necessary to require drainage beyond that mandated by Building Regulations requirements. Therefore, I have not imposed this condition.

Conclusion

21. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4673.SP, 4673.1, 4673.2 and 4673.3.
- 3) No development above ground level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, and the car parking space shown on drawing number 4673.2 shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose

- 4) No development above ground level shall take place until samples of the materials to be used in the construction of the external walls of the dwelling hereby permitted have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement, addition or other alteration, as defined within Class A of Part 1 of Schedule 2 of the Order shall be carried out to the rear of the dwelling hereby permitted, and no enlargement, improvement, addition or other alteration as defined within Class B and E of Part 1 of Schedule 2 of the Order, shall be carried out to the dwelling hereby permitted.