
Appeal Decision

Site visit made on 29 October 2019

by Martin Small. BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Appeal Ref: APP/B1415/W/19/3234717

99 Battle Road, St Leonards-on-Sea, TN37 7AB

- 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 S Nanji against the decision of Hastings Borough Council.
 - The application Ref: HS/FA/18/01093 dated 13 December 2018, was refused by notice dated 7 February 2019.
 - The development proposed is the change of use of a redundant unit to form a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site has a long planning history, including the refusal of planning permission for a previous application for the change of use of the building on the appeal site¹ and the dismissal of a subsequent appeal². The application that has led to this appeal is an amended version of that previous proposal. Following the refusal of planning permission for this revised development the appellant submitted a planning application for a further revised proposal in June 2019. From the evidence before me, the Council declined to determine this application under Section 70A of the Town and Country Planning Act 1990, considering it to be too similar to previous applications.
3. Nevertheless, the appellant has requested that the revised drawings be considered in this appeal. The changes to the external appearance of the building to be converted compared to the refused scheme include a slight reduction in the bulk of the roof by the setting back of the proposed gable on the east elevation. The revised drawings also show a reduction in the number of proposed roof lights in the north-facing roof slope from four to one and an increase in the size and number of rooflights on the south-facing roof slope from three to four. The other external changes are the provision of three windows in the north elevation and a 'hit and miss' timber screen to the proposed porch.
4. In this instance, notwithstanding the Council's view that the revised proposals are substantially the same as those the subject of the previous application, I consider that the increase in number and size of the proposed roof lights in the south-facing roof slope to be a significant difference between the refused

¹ HS/FA/17/00743

² APP/B1415/W/18/3196060

scheme and the revised scheme in regard of the potential effect on the occupiers of neighbouring properties. Overlooking was a concern expressed by the occupier of a neighbouring property in respect of the application the subject of this appeal.

5. Therefore, having regard to the 'Wheatcroft Principles'³ I consider that the revisions to the proposals mean that the development is so changed that to accept and consider the changes now would deprive those who should have been consulted on the changed development of the opportunity of such consultation. I have therefore determined this appeal on the basis of the drawings on which the Council determined the application and which were available to the public for comment.
6. It has come to my attention that, subsequent to the lodging of this appeal, planning permission has been granted for the change of use of the unit the subject of this appeal to form a new dwelling, including minor alterations to No 99 Battle Road⁴. Both parties have been afforded the opportunity to comment on the implications of this permission for the appeal before me.

Main Issues

7. The main issues are the effect of the proposed development on i) the character and appearance of the area and ii) the living conditions of the occupiers of 99 Battle Road, with particular regard to light and privacy.

Reasons

Character and appearance

8. The appeal site is located to the rear of 99 Battle Road, which itself is located on the corner of Battle Road and Menzies Road. Battle Road is a principally a residential area with some commercial uses, with terraced 2-storey dwellings under traditional pitched roofs. Menzies Road leads to the Ponswood Industrial Estate and has a different character to Battle Road, having generally larger commercial and industrial units.
9. The existing building has a utilitarian appearance and has an elevation facing Menzies Road. However, its flat roof gives it a subservient character and appearance which, together with its proximity to No. 99, means that it relates more closely to the residential properties on Battle Road than to the commercial and industrial units of the Industrial Estate.
10. The proposed pitched roof would be a more traditional form than the existing flat roof and would reflect the roof form of the dwellings on Battle Road. However, notwithstanding the reduction in the bulk of the proposed roof compared to that in the proposal before the previous Inspector, the addition of this roof would still increase the bulk and prominence of the building.
11. As a consequence, it would relate awkwardly to and no longer appear subservient to No. 99. The closeness of the gable end of the proposed roof to the rear 2-storey projection of No. 99 would result in a cramped and unsatisfactory relationship and appearance. Also, the proposed development would present a large expanse of blank wall at ground floor level immediately

³ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL 1982 P37]

⁴ HS/FA/19/00662

adjoining Menzies Road with no windows, front door or other features to relieve it, which was a concern raised by the previous Inspector on the earlier scheme.

12. I therefore conclude, for the reasons above, that the proposed development would be harmful to the character and appearance of the area. It would thus be contrary to Policy DM1 of the Hastings Local Plan Development Management Plan (2015) (the DMP) which requires a good standard of design for all proposals and Policy SC (i) of the Hastings Local Plan The Hastings Planning Strategy (2014) which in part requires high quality distinctive architecture and urban design.

Living conditions

13. An existing first floor window in the rear elevation of No. 99 overlooks the appeal building. The existing flat roof of that building allows the room served by the window in No. 99 to benefit from natural daylight and outlook. However, this window in No. 99 would directly face and be approximately 3.1 m from the proposed eastern gable end of the proposed roof. Being so close, the roof would be a dominating feature, unacceptably reducing natural light reaching the window and harming the outlook from the window.
14. I conclude that the proposed development would therefore be harmful to the living conditions of the occupiers of No. 99 due to an unacceptable loss of natural daylight and harm to outlook, contrary in this respect to the aim of Policy DM3 of the DMP to achieve a good living standard for future users of proposed development and its neighbours. It would also be contrary in this respect to paragraph 127 (f) of the National Planning Policy Framework which requires planning decisions to ensure that developments have a high standard of amenity for existing users.

Other Matters

15. I acknowledge that the dwelling would contribute to the local housing stock and that no objections to the principle of residential use have been expressed by the Council. However, the provision of one additional dwelling does not outweigh the harm I have identified above.
16. The recent granting of permission for the change of use of the appeal building to a new dwelling is a material consideration in that it represents a realistic fallback position. However, the approved scheme does not include the addition of a pitched roof but does include three windows in the elevation facing Menzies Road. It therefore differs significantly from the scheme before me. Although it would provide less accommodation, the approved scheme would not cause the harm that I have identified would arise from the proposal I am considering. Accordingly, this fallback position does not justify the granting of permission for the proposed development before me.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

Martin Small, INSPECTOR