
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/19/3234178
94 Rye Road, Hastings, TN35 5DG

- 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 P Gallop against the decision of Hastings Borough Council.
 - The application Ref: HS/FA/19/00037 dated 16 January 2019, was refused by notice dated 10 May 2019.
 - The development proposed is a studio dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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 future occupiers of the proposed dwelling and of the occupiers of existing neighbouring dwellings, with particular regard to overlooking.

Reasons

Background

3. A previous application for the demolition of a garden shed and the erection of one bedroom dwelling¹ on the appeal site was refused planning permission in 2012 and a subsequent appeal² dismissed. I do not have the full details of this previous proposal but from the evidence before me it was 2-storey, which distinguishes it from the proposal before me.

Character and appearance

4. Rye Road is part of the A259 between Hastings and Rye and has commercial, community and residential uses in the vicinity of the appeal site. 92 and 94 Rye Road actually front onto Old Top Road, which leads off Rye Road to the north of the site. Nos. 92 and 94 and their neighbouring properties on Old Top Road sit at a higher level than the site as the land falls to the south.
5. Old Top Road is primarily a residential area with dwellings of a variety of age, form and design, with those closest to the appeal site forming a short 2-storey terrace. To the south of the site is another short terrace of 2-storey dwellings fronting Rye Road, the two adjacent to the site being directly at the back edge

¹ HS/FA/11/00983

² APP/B1415/A/12/2177199

of the footway with the others set back slightly with small front gardens. Opposite the site is a large supermarket and associated parking area. There is no predominant architectural character in the wider area.

6. From the evidence before me the appeal site was originally part of the rear gardens of 92 and 94 Rye Road but was fenced off in excess of 7 years ago and no longer serves either property. The size and shape of the site do not reflect the narrow and deep plots of the terraces which form the prevailing pattern of residential development in the immediate vicinity of the appeal site. The wide, horizontal emphasis of the proposed dwelling would be at odds with the narrow, vertical form of the dwellings in the terrace to the south. The proposed development would therefore be inconsistent with the character of the nearby residential properties, within the context of which it would be seen.
7. The appeal site is currently at a higher level than Rye Road, but the proposed dwelling would be set down 0.8 m – 1.0 m lower than the existing ground level. This would provide level access to the dwelling from the footway and reduce its bulk. However, the proposed dwelling would be very close to the southern side and rear boundaries of the site and there would be limited garden area to the north, resulting in a cramped and unsatisfactory form of development.
8. The proposed materials reflect those found in the vicinity. However, on such a modest building the proposed mixture of brickwork, render, wooden cladding and painted timber screening on the front elevation would result in a confused and unsatisfactory appearance. The principle of the proposed dwelling directly fronting the footway is acceptable as it would reflect the positioning of the properties in the terrace to the south. However, the lack of any room for any significant external planting to the frontage does mean that there is limited opportunity for softening the appearance of the dwelling.
9. There is dispute between the main parties as to whether the proposed development would breach the 'building line'. Drawing CL-PG-210 does indicate that the proposed dwelling would just be forward of that line at one point on its front elevation. However, the extent of the breach would be negligible and thus would not significantly increase the prominence of the proposed dwelling nor, in itself, be materially harmful to the character and appearance of the area.
10. I acknowledge that the site in its current state is unattractive and detracts from the appearance of the area due to the dilapidated fence along the road frontage and existing unsightly outbuilding on the site. I also accept that the dismissal of this appeal would not guarantee the reversion of the site to gardens for Nos. 92 and 94 and / or an improvement in the appearance of the site. However, for the reasons given above, the proposed development would not itself be of an acceptable appearance and would be a more substantial and permanent feature in the street scene.
11. The Council contends that the proposed development would not comply with the advice on 'active frontages' in the Homes and Communities Agency publication 'Urban Design Lesson – Housing Layout and Neighbourhood Quality'. I have not been provided with a copy of this document and the Council does not specify in what way the development would not comply. However, from the Council's evidence, the proposed development would largely conform with

the document's advice on active frontages, having windows to two habitable rooms in the front elevation.

12. Nevertheless, I conclude that the development would be contrary to Policy DM1 of the Hastings Local Plan - Development Management Plan 2015 (HLPDMP) which, amongst other things, requires development to protect and enhance local character. It would also be contrary to Policy SC1(i) of the Hastings Local Plan - Planning Strategy 2011-2028 (2014) (HLPPS), which requires high quality architecture that adds to local character and sense of place. The proposed development would not satisfy clause g. of Strategic Objective 3 of the HLPPS; "safeguard and improve the town's environment".
13. It would also be contrary to paragraphs 124 and 127 of the National Planning Policy Framework (the Framework) which require, amongst other things, good design that is sympathetic to local character.

Living conditions

14. The proposed dwelling would provide the internal floor area standard for a one bedroom dwelling in the Technical housing standards - Nationally Described Space Standard (NDSS) of 38 - 40 m² including built-in storage. Although there is no mechanism proposed for restricting the occupancy of the dwelling to one person, it nonetheless provides adequate internal floor space for one person.
15. Clause g. of Policy DM3 of the HLPDMP requires private garden space of at least 10 m in length for proposed family dwellings. However, the Council accepts that the property is not designed to be occupied by a family. The size and configuration of the proposed external garden area is adequate for sitting out and drying clothes given the modest size of the dwelling.
16. There are no windows in the flank elevation of 82 Rye Road, immediately to the south of the site. However, the garden area of the proposed property would be directly overlooked from the first-floor windows of Nos. 92 and 94 and obliquely from the first-floor windows of 2 Old Top Road. The degree of overlooking is exacerbated by the elevated position of these dwellings relative to the proposed dwelling. Furthermore, there would be a loss of privacy for the occupiers of Nos. 92 and 94 and consequent harm to their living conditions due to overlooking by the occupiers of the proposed dwelling when in their garden.
17. Although overlooking of gardens from first floor windows and vice-versa is to be expected in an urban residential area, the proximity of the proposed development to Nos. 92 and 94 would result in an unacceptable lack and loss of privacy. There would be limited room for planting along the northern boundary of the site to provide adequate screening to increase privacy. Whilst it may be possible to erect a higher fence or trellis along this boundary, this is not part of the scheme before me.
18. Accordingly, although the proposed dwelling would not be overbearing or cause harm through overshadowing, the proposed development would not provide acceptable living conditions for the future occupiers of the proposed dwelling or the occupiers of neighbouring existing dwellings due to the lack and loss of privacy.
19. I therefore conclude that the development would conflict with the aim of Policy DM3 of the HLPDMP to achieve a good living standard for future users of

proposed development and its neighbours. It would not provide a 'decent' home and thus would not help meet Strategic Objective 2 of the HLPPS. It would also conflict with paragraph 127 f) of the Framework which requires planning decisions to ensure that developments have a high standard of amenity for existing and future users.

Other Matters

20. The proposed dwelling would contribute to the housing target for Hastings and specifically the target for the Eastern Area of the Borough as set out in Policy FA5 of the HLPPS. The occupiers of the dwelling would provide modest support for existing facilities and services. These factors both weigh in favour of the proposal.
21. The Council is concerned that the proposed development includes no provision for off-street parking. Local residents have highlighted a lack of parking spaces in the locality and I confirmed this during my site visit. However, the development could provide secure undercover storage for a mobility scooter or bicycle. The site is close to a range of facilities and services and bus stops on a bus route into the town centre.
22. As there are alternative transport options, the lack of off-street parking provision does not indicate that the appeal should be dismissed. I note that the Highways Authority did not object to the lack of parking provision due to the accessibility of the site and that the lack of parking provision did not form a reason for refusal of the application.
23. I acknowledge that the proposed dwelling would be suitable for occupation by an elderly or disabled person, for whom the appellant contends that there is a known shortage of suitable housing. I do not have any evidence to confirm the existence or extent of any such shortage in Hastings Borough but nevertheless, the ability for the proposed dwelling to be occupied by a less able person would accord with Policy SC1 c of the HLPPS and weighs in favour of the proposal.
24. The appellant refers to similar applications having been approved elsewhere in Hastings Borough. However, I do not have the full details of any of these other applications and, in any event, it is a well-established principle that each application should be determined on its own merits.
25. The site is close to the Hastings Cliffs Special Area of Conservation (SAC). However, as I am dismissing this appeal on other grounds, I do not need to consider the potential effect of the proposed development on the SAC further.
26. Also, as I am dismissing this appeal, there is no need to examine the implications of the proposed development for the human rights of the occupiers of neighbouring properties.
27. I note the appellant's dissatisfaction with the handling of the application by the Council. However, this matter does not relate to the planning merits of the proposed development. They are therefore outside the scope of this appeal and have no bearing on my decision.

Planning Balance

28. The proposed development would provide an accessible dwelling in a location with access to facilities and services, including public transport, which would be

supported by the occupiers of the dwelling. The development would conform with Policy FA5 and gains some support from Policy SC1 c, both of the HLPPS.

29. However, the development would be cramped and out of keeping with its immediate context in form and plot size. It would be an unsatisfactory form of development due to its appearance, a lack of privacy for future occupiers and the loss of privacy for the occupiers of neighbouring properties. The consequent conflicts with Policy SC1 i of the HLPPS, Policies DM1 and DM3 of the HLPDMP and the Framework outweigh the benefits of the proposed development.

Conclusion

30. Accordingly, for the reasons given above, and having regard to the other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR