

Appeal Decision

Site visit made on 9 March 2020

by **S M Holden BSc MSc CEng MICE CTPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/T1410/W/19/3243937

Glebe Cottage, 4 Grassington Road, Eastbourne BN20 7BU

- 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 Urban Developments SE Ltd against the decision of Eastbourne Borough Council.
 - The application Ref PC/190264, dated 14 March 2019, was refused by notice dated 26 June 2019.
 - The development proposed is demolition of existing dwelling. Proposed 16No block of flats with associated parking to rear.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs has been made by Urban Developments SE Ltd against Eastbourne Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - (a) the effect of the proposal on the character and appearance of the area;
 - (b) the effect of the proposal on the living conditions of neighbouring residents with particular regard to outlook, noise and disturbance;
 - (c) whether or not the proposal should contribute towards the provision of affordable housing;
 - (d) the effect of the scheme on the risk of surface water flooding.

Reasons

Character and appearance

4. Grassington Road lies within a well-established residential area of Eastbourne. It is predominantly characterised by detached and semi-detached properties set back from the street in generously proportioned plots. Interspersed within the older buildings are more modern, purpose-built flats. Many of the original buildings have also been subdivided. Building heights vary from 2 to 5 storeys. The appeal site is immediately opposite Grange Gardens an area of open space enclosed by walls. Street trees also make a positive contribute to this high quality urban environment.

5. No 4 is a two-storey dwelling of simple design in a good-sized plot. The rear garden is laid to lawn and there are significant gaps between the house and the shared boundaries with No 6, the adjacent pair of semis to the south, and Saffron Meads a 5-storey apartment block immediately to the north.
6. The proposed building would be of a contemporary design and 5-storeys high. The gable ended elements to the front and rear elevations would reflect similar features on both original and more modern nearby buildings. The ridge height would be similar albeit marginally smaller, than Saffron Meads, while the outer edge of the gable would approximately align with the ridge of No 6. This would help to integrate the increased height of the building into the street scene.
7. However, the building would be considerably wider than the existing dwelling, occupying the site to within 1m of the boundaries. Consequently, the gaps between the buildings that contribute to the spacious character of the street would be significantly reduced. This would be harmful to the street scene. In addition, a 4-storey featureless flank elevation would be introduced close to the 2½ storeys of No 6. This would be unlike the existing relationship between Saffron Meads and No 4 where, as well as the gap between them, the flank wall of the taller building is punctuated by windows which reduce its dominance in the street scene.
8. In addition, almost the entire garden would be replaced by hard surfacing in order to provide adequate car parking for the flats. Only small areas in the far corners of the plot and immediately to the rear of the building would remain available for landscaping. The existing row of conifers would be lost and opportunities for replacement planting and hedging would largely be restricted to areas adjacent to the site's boundaries. I acknowledge that there are communal parking areas serving other flatted development in the vicinity. However, from the evidence presented, these sites also retain significant areas of grass and trees which provides a more appropriate allocation of space between hard surfacing and landscaping.
9. The appellant suggested that the number of parking spaces could be reduced from 16 to 12 and still comply with the adopted parking standards. However, no alternative drawings were presented with the appeal and neither the Council nor interested parties have had an opportunity to comment on the implications of such an amendment. I have therefore given this matter little weight in reaching my decision.
10. For all these reasons, I conclude that the proposal would harm the character and appearance of the area, contrary to saved Policies UHT1, UHT4 and UHT5 of the Eastbourne Borough Plan 2007 (EBP) and Policy D10A of the Eastbourne Core Strategy Local Plan 2013 (CS) which seek to promote high quality design that harmonises with the local environment. It would also fail to comply with the Framework's approach to design which requires development to be visually attractive as a result of good architecture, layout and appropriate landscaping.

Living conditions

11. The areas to the rear of all the properties on the western side of Grassington Road, including Saffron Meads, are currently used as amenity space. They are not penetrated by vehicles. By contrast the use of the garden of No 4 as the car park for the flats would significantly intensify the activities at the rear of the buildings. There would be noise and disturbance from engines, car doors

and light pollution from vehicles associated with the comings and goings of future occupants. In my view this would make the garden of No 6 and the amenity space to the rear of Saffron Meads less pleasant places to be.

12. There are a number of windows in the side elevation of No 6. However, these appear to be secondary openings and all of them have obscure glazing. No 6 also has a good-sized rear garden and the principle rooms and conservatory all appear to look out on this garden. The introduction of a much taller and bulkier building on the adjacent plot would alter the outlook from the house. However, I am not persuaded that this would significantly harm the living conditions of the occupants.
13. Nevertheless, notwithstanding the lack of harm in relation to outlook, I conclude that the proposal would result in unacceptable noise and disturbance from vehicles for the occupants of the adjacent properties. This would be contrary to saved Policies HO20 and NE28 of the EBP which require new development to respect residential amenity.

Provision of affordable housing

14. Paragraph 62 of the Framework states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site, unless off-site provision or an appropriate financial contribution in lieu can be robustly justified. Policy D5 of the CS reflects this insofar as all residential development is required to contribute to affordable housing. However, this requirement is only applied to sites where there is a net gain of 10 or more residential units to reflect the advice of Paragraph 63 and the threshold set out in the Planning Practice Guidance (PPG).
15. The appeal site lies within a high value neighbourhood where Policy D5 seeks 40% of all new development to be affordable. The Policy is supported by the *Eastbourne Affordable Housing: Supplementary Planning Document 2017* (SPD). This sets out a hierarchy of alternative affordable housing provision where a scheme would be rendered unviable by the requirements of Policy D5. The SPD provides clear guidance on how any viability assessment is to be undertaken.
16. In order to fully comply with Policy D5, it would be necessary for 6 of the 16 proposed units to be affordable, combined with a commuted sum towards 0.4 units. The appellant has indicated that it would not be possible to provide any affordable units within the building. This was on the basis that registered providers would not support the proposal without the provision of a separate access to the affordable units. However, this is not supported by any specific evidence of correspondence or negotiation with any of the providers. It is therefore a matter to which I can give only limited weight.
17. According to the hierarchy set out in the SPD, if the requisite number of affordable homes cannot be provided on site, it may be possible to agree an alternative mix, a reduced level of provision or a commuted sum. Table 3 of the SPD and the following worked examples suggest that a commuted sum of £209,040 would be required as an alternative to 6 units on site. The starting point for this scheme would be a little more to meet the 6.4 unit requirement. There is no evidence before me to suggest that a figure of this order was the subject of discussion or negotiation with the Council.

18. Instead the appellant prepared simple Financial Viability Assessment (FVA), set out on just over one side of A4. This appeared to demonstrate that the development would not be capable of supporting such a sum but could offer only £65,939. Section 7 of the SPD sets out how FVAs should be carried out and provides a template as guidance. The appellant's FVA followed this structure to some degree. However, there was no evidence to confirm that the assessment had been made by a qualified valuation officer or an organisation that is a full member of the Royal Institute of Chartered Surveyors. Furthermore, there was no supporting evidence to justify any of the figures within the FVA. In these circumstances, and as the commuted sum suggested fell woefully short of the policy requirements, the Council did not commission an independent scrutiny of the FVA. However, the officer's report set out some other cogent reasons as to why the contribution was considered unacceptable.
19. The PPG states that the weight to be given to a viability assessment is a matter for the decision maker, having regard to the circumstances of the case and the assumptions behind evidence submitted as part of the assessment. In this case no additional information to support the underlying assumptions, or to justify the figures set out in the FVA, were provided with the appeal. It is therefore not sufficiently robust for me to be confident that its conclusions can be relied upon. I am therefore unable to assess the reasonableness of the contribution that was on offer with the application. Furthermore, no Unilateral Undertaking has been presented with the appeal, so even if I was to conclude that a contribution of £65,939 was acceptable, there is no mechanism to secure it.
20. My attention has been drawn to a recent appeal decision for a scheme of 17 units elsewhere in the Meads area of Eastbourne¹. In that case the Council's failure to challenge the appellant's FVA led the Inspector to conclude that the provision of any affordable housing would render that scheme unviable. However, I do not have information about the quality of the FVA that was presented in respect of that scheme, or how any of the evidence was tested as part of the Hearing. The conclusions reached by the Inspector in that case are therefore not directly comparable with the appeal proposal.
21. For these reasons I conclude that the proposal fails to make adequate provision for affordable housing. It conflicts with the requirements of Policy D5 of the CS set out above. It also fails to accord with the Framework's objective of providing affordable housing where there is a demonstrable need.

Flood risk

22. The site is within Flood Zone 1 so the risk of fluvial or coastal flooding is low. Information from the Environment Agency also indicates that the risk of surface water flooding is low. Nevertheless, it is necessary to consider how surface water could be discharged from the site without causing increased flood risk elsewhere.
23. The existing site has approximately 25% hard cover. The proposal would increase this to 73% arising from the increased footprint of the building and the introduction of the car parking area at the rear. The drainage report submitted with the application suggests that, subject to percolation tests, the most appropriate means of dealing with surface water would be through the

¹ APP/T1410/w/19/3229465

provision of soakaways. If this did not prove to be adequate, it would be possible to use attenuation tanks beneath the parking areas.

24. I accept that the provision of a sustainable drainage system is essential to the acceptability of the scheme in view of the significant increase in hard cover. The drainage report does not provide sufficient information to be certain which of the possible methods of attenuation would be the most appropriate in this case. However, in the absence of any objection from the Environment Agency or the Lead Local Flooding Authority, it seems to me that there should be a technical solution which would enable the matter to be resolved.
25. Furthermore, there was evidence that testing was underway in order to find an appropriate design solution. On this basis, and in the absence of any objection in principle from the statutory consultees, a condition requiring a scheme to be agreed before any works could begin, including any demolition, would appear to be an appropriate way to proceed. Had I found the scheme to be acceptable in all other respects, I would have sought agreement to the precise wording of an appropriate pre-commencement condition, prior to issuing my decision.
26. I therefore conclude that, subject to a condition to secure a suitably designed drainage scheme, the proposal would not give rise to unacceptable flood risk. It would comply with saved Policy US4 of the EBP, which requires new development to make adequate provision for surface water drainage, so as to minimise the risk from flooding and not increase flood risk elsewhere. The scheme would also be capable of complying with the Framework's requirement to incorporate sustainable drainage systems within development.

Other Matter

27. The boundary of the College Conservation Area (CCA) runs along Grassington Road. I therefore have a duty to consider the effect of the proposal on the CCA, whose significance is derived from its quality as a wealthy planned suburb dating from the late 19th century. It comprises a series of straight streets enclosing urban blocks characterised by large dwellings interspersed with generous amounts of public open space. Grange Gardens, immediately opposite the site, is a key feature of the CCA.
28. The appeal site is within the setting of Grange Gardens, but the proposal's effects primarily relate to its relationship with the existing buildings on the opposite side of Grassington Road. On that basis the Council was satisfied that there would not be any adverse effect on the setting of the CCA and I see no reason to come to a different view.

Planning Balance

29. The Council acknowledges that it is unable to demonstrate a five-year supply of deliverable housing sites. The evidence suggests that the shortage of housing sites is acute. In these circumstances Paragraph 11(d) of the Framework is engaged and planning permission should be granted unless the adverse impacts of so doing significantly and demonstrably outweigh the benefits.
30. The provision of a net increase of 15 units on the appeal site is a significant public benefit which weighs heavily in the scheme's favour. There would also be moderate economic benefits arising from the creation of jobs during the construction phase, spending by future residents in the local economy and increased revenue for the provision of local services.

31. However, in my view the failure of the proposal to make any contribution towards the provision of affordable housing, either on the site or by means of an adequately justified commuted sum, considerably reduces these social and economic benefits.
32. Each flat would provide future residents with adequate space, outlook and accessibility by stairs and a lift. The proposal would therefore provide suitable living conditions for future occupants. However, as these are requirements of the development plan, they are neutral in the planning balance.
33. On the other hand, I have found that the scheme would harm the area's character and appearance and the living conditions of neighbours would be adversely affected. These are factors which weigh significantly against the scheme, particularly as the area has been identified as one of High Townscape Value.
34. This leads me to conclude that the adverse impacts of the scheme would 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 does not apply in this case.

Conclusion

35. I have found that the scheme conflicts with the development plan and there are no other considerations, including the advice of the Framework, which outweigh that conflict.
36. For this reason, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR