



Appeal Decision

Site visit made on 5 February 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021.

Appeal Ref: APP/B1415/W/20/3271630

Hatherley Road Garages, rear of 111 London Road, St Leonards on Sea, TN37 6LB

- 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 Convert against the decision of Hastings Borough Council.
 - The application Ref HS/FA/19/00932, dated 19 November 2019, was refused by notice dated 22 June 2020.
 - The development proposed is the construction of a first floor flat over existing garages with a garage, entrance hall and utility room, reconfiguration of the ground floor garages including a reduction of the forecourt space to provide more internal space.
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Application for costs

1. An application for costs was made by Mr Convert against Hastings Borough Council. This application is the subject of a separate Decision.

Preliminary matters

2. The appellant submitted amended drawings with the appeal showing a proposed roof terrace. My decision as to whether to accept this amendment rests on whether the 'Wheatcroft Principles'¹ have been met. The main, but not the only criterion on which that judgement should be exercised, is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. The amendment shows a redesigned scheme that provides an amenity space for the intended dwelling and occupants, which has not been properly considered by the Council or third parties. For these reasons, I find that accepting the amended drawings would potentially prejudice the interests of interested parties. As I must essentially make my Decision on the scheme that was originally before the Council, I will not accept the revised drawings.

Decision

3. The appeal is dismissed.

Main issues

4. The main issues in this appeal are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area;

¹ *Bernard Wheatcroft Ltd v SSE* [1982]

- b) the living conditions of existing residents, with particular reference to outlook; and
- c) the living conditions of future occupants, with particular reference to amenity space.

Reasons

Effect on character and appearance

- 5. The appeal site is a row of single storey garages that lies to the rear of the tall terrace of properties fronting London Road to the west. Those four storey London Road buildings are a dominant feature in the streetscene, both in their front and rear elevations; when looking along Hatherley Road and Alexandra Road it is clear that attention was paid to the rear elevation of the terrace with three storey bays looking eastward across the gardens, which slope downward away to the two storey houses of Alexandra Road. The current low height of the garages allows for views of the rear elevation of the terrace and contributes to that relationship between the London Road and the Alexandra Road buildings, and this is a positive feature of the area.
- 6. The proposed development would see an additional storey to the garage building. This additional height to the building would significantly disrupt the relationship between the form of buildings in the area. The extended building would appear as an incongruous and overly dominant feature in an area of the streetscene which does not see any isolated two storey buildings. The incongruity would be emphasized by the proportions of the proposed building: the length of the first floor elevation to Hatherley Road would be longer than the depth at first floor to the London Road property fronting that road. This, when combined with the height and narrow depth of the proposed building, would create a building that would not sit comfortably on its plot or in the wider area.
- 7. The design of the proposed development sees a largely blank elevation to the north, with a single conventional window and two high level slit windows, with a small slit window on the west elevation. Long views of the northern wall would be possible from Alexandra Road, and the blank feature of this wall at first floor would be unattractive and dominant in the street. The proposed bay projections would overhang the ground floor, rather than sit atop bays as is seen with the bays at the London Road and Alexandra Road properties. These design features would further accentuate the development being out of character with the surrounding area.
- 8. I accept that the existing row of garages is not an attractive elevation to the road. But the modest proportions of that building mean it does not impose upon the wider area. The proposed works would lead to a building poorly related to adjoining properties in terms of scale, proportions and design. Thus, I do not concur with the appellant that there is an improvement to the area.
- 9. On the first main issue it is concluded that the proposed development would be harmful to the character and appearance of the surrounding area, contrary to Policy DM1 of the Hastings Local Plan: Development Management Plan 2015 (DMP), Policy SC1 of the Hastings Planning Strategy 2014 (HPS) and C1, C2 and I1 of the National Design Guide 2019, which seek a high quality of design in all development proposals that responds to its local context.

Effect on living conditions of existing residents

10. To the west of the appeal site is the short garden to the flat of 111A London Road. I saw at my site visit that the outlook from the garden and the rear windows of that flat is across the roof of the existing garage and beyond, due to the slope of the land meaning that the garage effectively is below garden level. There is an existing shed in the rear garden to the flat but I saw this has a very limited effect on the outlook from that flat and garden. It is evident to me that the outlook across the garage is important to provide adequate living conditions to the flat and garden due to the short length of the garden, and submissions from the occupier of that flat confirm my opinion.
11. The proposed development would lead to a building located at the end of No. 111A's garden with a height of around 5.4m, filling the full width of the garden. This scale and close proximity would be a substantial and obtrusive feature to the outlook from the garden and the property of No. 111A, leading to an appreciable diminishment in the living conditions for the occupiers of that dwelling.
12. The proposed development would also adjoin the garden to No. 113A London Road. The length of the development, when combined with the height, would be an overly dominant feature to that garden.
13. The position of windows in the proposed development would ensure no material effect on privacy to occupiers of existing properties. However, the size, height, proximity and scale of the proposed extension would be overbearing and harmful to outlook for the reasons given above. Thus, on the second main issue it is concluded the proposal would conflict with Policy DM3 of the DMP that requires new development to avoid adverse impact on the amenity of neighbouring properties, and with paragraph 127 of the Framework that requires a high standard of amenity in new developments.

Effect on living conditions of future occupants

14. The proposed dwelling would satisfy the internal space standards as set out in Policy DM3(f) of the DMP and the Nationally Prescribed Space Standards.
15. No private amenity space is shown for the proposed new dwelling. Policy DM(g) of the DMP states that appropriate levels of private external space should be included, especially for proposed larger homes designed for family use, which is defined as those of two or more bedrooms. The proposed dwelling falls into such a category.
16. The appellant states that the location of the appeal site close to the town centre and to areas of public open space mean this deficiency is acceptable, and that other flats do not have gardens. However, it is apparent Policy DM(g) shows a degree of flexibility in seeking amenity space since it is for family dwellings where provision is especially sought; the wording of the Policy indicates to me that it is smaller dwellings where a relaxation of requirements might occur. Thus, whilst there are public areas of open space that can be walked to, that would not adequately provide for the typical day-to-day needs of a family dwelling that would be provided by direct access to a private amenity space. Whilst there may be other flats in the vicinity without private amenity space, I have no information regarding the size of those flats and hence if they are comparable to the current appeal.

17. Based on the information before me, I am therefore not persuaded that the absence of private amenity space for the size of the dwelling proposed in this appeal would be acceptable to amenity considerations. Thus, on the third issue, it is concluded that the proposed development would not provide a satisfactory standard of accommodation and so have an adverse effect on the living conditions of future occupants, contrary to Policy DM3 of the DMP and paragraph 127 of the Framework.

Other considerations and planning balance

18. I acknowledge the planning process has been long for the appellant and that the current scheme has sought to address concerns expressed by the Council with previous submissions. I must determine the scheme before me on the basis of the evidence I have read and seen, and with regard to the development plan and other material considerations.
19. The proposed development would lead to the provision of an additional dwelling in the Borough. The Framework seeks to significantly boost the supply of housing. The Housing Delivery Test also shows that the delivery of housing by the Council has been substantially below the housing requirement over the previous three years. The additional dwelling is a matter that weighs in favour of the proposal.
20. I have found on the main issues that there is conflict with the policies of the development plan. This degree of harm, and the conflict with the development plan, is not outweighed by the material consideration of an additional dwelling in the Borough.
21. The Council is unable to demonstrate a five year supply of deliverable housing sites and, as noted, has seen housing delivery substantially below the housing requirement over the previous three years. In accordance with paragraph 11d) and footnote 7 of the Framework, this means that the policies which are most important for determining the application are out of date unless two circumstances apply. With regards to d)i), there are no policies in the Framework that protect areas or assets of particular importance that are relevant to the development before me. Paragraph 11d)ii) therefore states that, in such circumstances, 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 the Framework taken as a whole.
22. The benefit of the proposed development is the provision of a dwelling, which I have found is consistent with the Framework. Balanced against this is the harm to the character and appearance of the area, and harm to the living conditions of existing and future occupants, all of which conflicts with the Framework. It is my judgement that these matters attract more weight than the benefit from the additional dwelling.
23. My assessment of the proposal against the policies of the Framework taken as a whole therefore demonstrates that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Thus, the proposal does not benefit from the presumption in favour of sustainable development as set out in paragraph 11(d) of the Framework. My decision is taken in accordance with the development plan and, for the reasons given

earlier, I have found that the proposal conflicts with the development plan as a whole. The appeal is therefore dismissed.

C J Leigh

INSPECTOR