



Appeal Decision

Site Visit made on 22 June 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2021

Appeal Ref: APP/B1415/W/20/3266090

17-18 Kings Road, St Leonards-On-Sea TN37 6DU

- 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 Mohammad Akmol Ali against the decision of Hastings Borough Council.
 - The application Ref HS/FA/19/00916, dated 11 November 2019, was refused by notice dated 29 June 2020.
 - The development proposed is "Erection of a 2 storey rear extension at the Lower Ground and Ground Floor. Formation of a residential unit at lower ground floor level and alterations to elevations to include the installation of windows at the rear lower ground floor"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of proposed development from the Council's decision notice as this more accurately describes the proposal. The appellant has used this description in their appeal form, confirming it is the development they are seeking planning permission for.

Main Issues

3. The main issues are: (i) whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to light; and (ii) whether the proposed development would provide appropriate waste storage facilities.

Reasons

Living Conditions for Future Occupants

4. The appeal site is a restaurant set over ground and lower-ground floor levels. It is proposed to extend the property to the rear, converting part of the lower-ground floor level into a studio flat with private outside space. The proposed studio would have three sets of glazed sliding doors facing into the private outside space and one long high-level window along the rear elevation that abuts a neighbouring service passage.
5. Due to the confines of the appeal site, the proposed studio would only benefit from windows and access to natural light at its eastern end. The appellant has

- submitted a Daylight and Sunlight Assessment¹ which concludes the proposed studio would achieve an Average Daylight Factor (ADF) of 2.26%, annual probable sunlight hours of 36% and winter probable sunlight hours of 15%.
6. The Daylight and Sunlight Assessment refers to the relevant BRE guidance², which in turn refers to British Standards and advises an ADF of below 2% would make a room appear dull, resulting in electric lighting being turned on, and recommends minimum ADF values of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. This is not policy and there is no accompanying guidance recommending minimum ADF values for studio flats where kitchen, living and bedroom spaces are all combined with no partition walls, as is the case with the appeal proposal.
 7. Figure 8 of the Daylight and Sunlight Assessment shows the ADF plot for the proposed studio flat, demonstrating that its ADF of 2.26% is recorded at the eastern end, closest to its glazed sliding doors in the lobby and bedroom areas of the proposed studio flat. It also shows much of the western end of the proposed studio flat would have an ADF of less than 0.667% in the areas annotated 'kitchen' and 'living area'. No calculations have been made to confirm the depth of the proposed studio flat accords with the BRE guidance, as referred to at Appendix C of that document.
 8. In my view, for a studio flat of this depth, it would be inappropriate to rely on the ADF levels at one end of the flat and ignore the very low ADF levels at the other end. This is especially so when consideration is given to the annotated positions of the bedroom, living and kitchen areas and the likelihood that some of the glazed sliding doors may need to be obscured by residents to prevent actual or perceived overlooking from the rear of the site at any point in the future.
 9. The acceptable levels of natural light that would be experienced within the bedroom and lobby areas would not outweigh the harm caused by the unacceptable levels of natural light that would be experienced in the kitchen and living areas. Overall, the proposed studio flat would fail to provide acceptable living conditions for future residents.
 10. Policy HC1 of the Council's Development Management Plan³ relates to the conversion of existing dwellings, and is not therefore directly relevant to the proposal, which comprises the conversion of part of an existing restaurant. However, part (c) of the Policy is consistent with the aims of the Framework⁴ in seeking to provide sustainable development which includes ensuring new residential accommodation should provide acceptable living conditions for future residents. The proposal therefore fails to accord with Policy HC1 which seeks to ensure new dwellings within converted basement areas have adequate light, amongst other things.

Waste Storage

11. The submitted plans show a relatively large utility room and an outside courtyard. The Council have claimed that the utility room is not adequately vented. On account of the size of the proposed studio flat which limits its likely

¹ Elmstead Energy Assessments and Building Services, Issue 2 dated 13 July 2020

² Site Layout Planning for Daylight and Sunlight: A guide to good practice, Building Research Establishment (2011)

³ Hastings Local Plan Development Management Plan (2015)

⁴ National Planning Policy Framework (2019)

waste storage needs, the possibility that the utility room could be ventilated, and the opportunity to store waste securely within the outside courtyard, I am satisfied that appropriate details showing amended waste storage facilities could be required by condition. The proposal therefore would provide adequate space for the storage of waste in accordance with Policy DM3 of the Council's Development Management Plan.

Conclusion

12. The proposal would provide adequate space for the storage of waste and its bedroom and lobby areas would receive acceptable levels of natural light, but this does not outweigh the harm that would be caused by the proposal's failure to provide acceptable living conditions for future residents on account of the poor levels of natural light that would be experienced within its kitchen and living areas.

L Douglas

INSPECTOR