



Appeal Decision

Site Visit made on 3 August 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/B1415/W/20/3254483

31-32 Station Road, Hastings TN34 1NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Priory Sussex Limited against Hastings Borough Council.
 - The application Ref HS/FA/20/00028, is dated 24 December 2019.
 - The development proposed is "Change of use of ground floor from Class A4 (drinking establishment) to Class C3 (residential), the conversion of upper floors and the extension of the second floor and creation of a third floor to provide 4 x studio apartments and 4 x 1 bedroom flats"
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appeal follows the Council's failure to issue a decision within the relevant timescale. The Council have confirmed that were they to have issued a decision, they would have refused planning permission and I have been provided with what would have been their five reasons for refusal, which the appellant has commented on. I note the error in the first of those reasons, which incorrectly describes the location of the appeal site; however, this does not undermine the Council's reasoning set out in their appeal submissions.
3. The appellant submitted to the Council amended proposed floor plans to all levels and an amended proposed section plan on 15 June 2020. These were uploaded to the Council's website on 16 June 2020 and an appeal against non-determination was lodged on 17 June 2020. The Council and interested parties have therefore been given an opportunity to comment on the amended plans as part of this appeal, although the Council chose to submit an appeal statement based on the original plans. As the Council failed to issue a decision within the relevant timeframe in respect of the original plans and all parties were given an opportunity to comment on the amended plans as part of the appeal, which only relate to minor changes to proposed internal layouts, I do not consider any prejudice would be caused to any parties if I assess the proposal based on the amended plans, as requested by the appellant. The description of proposed development has therefore been amended to reflect that used in the appellant's appeal form.

Main Issues

4. With the above in mind, the main issues are: (i) the effect of the proposed development on the character and appearance of the area, including the

setting of the Town Centre Conservation Area (CA); (ii) the effect of the proposed development on the living conditions of neighbouring residents, with particular regard to overlooking, outlook and light; and (iii) whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to privacy and outlook.

Reasons

Character and Appearance

5. The appeal site is a corner plot occupied by a vacant nineteenth century public house, with bar areas at ground floor level and landlord/staff accommodation laid out over first and part second floor levels. It presents to the street as a modest Victorian building comprising a more detailed three storey element with a shallow hipped roof behind a parapet on the corner of Devonshire Road and Station Road and a simple two storey section with a twentieth century part second floor extension above. It appears as an historic building amongst its modern neighbouring buildings, where its timber framed single-glazed sash windows, cornices, corbels and chimney stacks reflect elements of other pre-twentieth century buildings nearby and make a positive contribution to the character and appearance of the area.
6. It is proposed to extend the appeal building upwards with a mansard roof extension and convert the building into four one-bedroom flats and four studio flats. A narrow alleyway runs along the southwest boundary, separating the appeal building from the adjacent Haig House, which is proposed to accommodate bicycle and refuse stores accessed through a gate on the Devonshire Road elevation.
7. The surrounding area is made up of a mix of buildings of different styles, scales and ages used for a variety of purposes typical to the town centre location. In its immediate vicinity, the appeal building abuts the twentieth century four storey Haig House and faces the recent six-seven storey Station Plaza development to the northwest and the Victorian terraced houses of Devonshire Road to the northeast. The three-four storey 1990s Priory Meadow Shopping Centre occupies surroundings to the east. In this context, the proposed development would be of appropriate size and scale.
8. The design of the proposed mansard extension would have little regard or sympathy to the existing architectural style of the appeal building. In views from the north and west it would reflect the mansard of Haig House, which is one of a number of uninspiring modern buildings in this area. The Council have referred to the proposed steep vertical mansard sides, which would not resemble a traditional mansard design and would not be set back behind the existing parapet. The proposed extension would replace existing chimney stacks which are a typical feature of buildings of this age and make a positive contribution to the character and appearance of the area. Overall, the proposed mansard extension would appear as a poorly designed and unattractive addition to the building and locality.
9. The proposed plans show windows which would match the appearance of those existing, but this would not ensure they would be of matching materials and detailed design. The existing timber framed sash windows are an attractive feature of the existing building and although it would be preferable for them to be retained, it would be unreasonable to expect single glazed windows to serve

new flats in this location due to the thermal and acoustic benefits that double glazed units could offer without causing any significant harm to the character or appearance of the area. I am satisfied that details of fenestration could be secured by condition to ensure they would be of appropriate materials, design and finish to complement the building.

10. The appeal site is not located within nor does it adjoin the CA. It can be seen from the top of Havelock Road and along part of Cornwallis Terrace, within the CA, but no views of the proposed extension would be available from within Middle Street. The Council have claimed the proposed extension would harm the setting of the CA due to the appeal site's location on a key entrance point to it.
11. As set out above, the combination of old and new buildings surrounding the appeal site contribute to a mixed commercial character where some modern buildings of poor design have a negative impact on the character and appearance of the area. Some of those modern buildings are located within the CA, and with this in mind the proposal would have no effect on the significance of the CA. Although I have found harm would be caused to the character and appearance of the area, the proposal would not significantly affect views into or out of the CA and in the context of surrounding modern buildings it would not harm the setting of the CA.
12. Despite this, and for the reasons I have given, the proposed development would still give rise to harm to the character and appearance of the area on account of the poor design of the proposed mansard extension, which would fail to respect the pleasant historic character of the existing building. This would be contrary to Policy DM1 of the Council's Local Plan¹. This policy requires, amongst other things, all proposals to be of a good standard of design which takes account of protecting and enhancing local character and showing an appreciation of historic context.

Living Conditions of Neighbouring Residents

13. The southwest elevation of the appeal building, which has been incorrectly titled 'southeast' on Plans H 446/19/17A and H 446/19/07A, overlooks a narrow alleyway adjoining Haig House, which is a four storey block of flats, with opposing windows. Many of the existing windows of Haig House on this elevation are obscure glazed, but not all, and most appear to be openable in some form.
14. The appellant has advised that none of the third floor windows of Haig House facing the appeal building serve habitable rooms, but no other parties have corroborated this and no evidence has been submitted to demonstrate this is correct, although I accept the difficulties in presenting plans of buildings outside of the appeal site. I noted that all of those windows are clear glazed and appear to serve at least one residential flat. The appellant has identified two obscure glazed windows at the second floor level of Haig House, which are claimed to be fixed shut and serve a bedroom, referred to as 'Window 1' and 'Window 2' in their appeal statement, which they claim are the only windows of concern in this regard. No mention has been made of the clear glazed window adjacent to Window 1, which I noted appears to serve the living area of a flat. I also noted part of Window 1 was open during my site visit.

¹ Hastings Local Plan Development Management Plan (2015)

15. I noted that there would be clear views into the living area of a flat served by the window adjacent to Window 1 from two windows proposed to serve Flat 6. There would also be opportunities for overlooking into the third floor windows of Haig House from the proposed third floor stairwell window. I note Plan H 446/19/14E showing the proposed third floor includes four windows in this elevation of the mansard to serve Flat 8, below four separate roof lights. However, Plan H 446/19/17A showing the proposed southwest elevation does not include those windows. I shall take it that the error is on Plan H 446/19/19A, which would ensure that the only overlooking from the proposed third floor level would be from the stairwell.
16. The appellant has suggested that mutual overlooking between the appeal building and Haig House could be avoided through the use of obscure glazing on the southwest elevation and that a degree of overlooking already exists. In my view, to avoid unacceptable levels of overlooking into Haig House, all windows on the southwest elevation of the appeal building would need to be obscure glazed and restricted in their opening, apart from the proposed roof lights. This is because although most of the windows at first and second floor level of Haig House appear to be obscure glazed, there is no evidence to suggest their glazing is subject to any planning controls preventing them from being clear glazed in future. The glazing and opening of the proposed southwest elevation windows could be controlled by condition to prevent any unacceptable levels of mutual overlooking, but this would have implications for the living conditions of future occupants of the appeal building, which is addressed below.
17. Plan H 446/19/19A shows a proposed section of the appeal building, with the adjacent outline of Haig House and its top floor windows also shown. I do not know whether Haig House has been fully surveyed to confirm the accuracy of these details outside of the application site, but read alongside Plan H 446/19/018, it is shown that part of the proposed mansard along the southwest elevation would be recessed with a low roof pitch. This would reduce the impact of the built form of the proposed extension on most of the third floor windows to Haig House, but not those nearest to Devonshire Road.
18. I noted a number of windows on the other elevations of Haig House, but it appears to me that the clear glazed windows facing the appeal building at second and third floor levels are likely to make important contributions to the outlook of the flats at those levels. The proposed extension would reduce the outlook from those windows and the recessed pitched roof to part of the extension would be insufficient to appropriately reduce that impact. The effect would be most harmful to the clear glazed second floor window, which would become substantially more enclosed than at present.
19. No detailed light analysis has been submitted by either of the main parties to support their conflicting claims with regard to the effect of the proposed extension on light and overshadowing to neighbouring windows, but it appears unlikely to me that the proposed extension would have any demonstrable effect on light reaching the existing first floor windows of Haig House facing the appeal site. However, it also appears to me that there would be some loss of light and overshadowing affecting all of the second and third floor windows of Haig House facing the appeal site. In the absence of any evidence to convince me otherwise, it appears likely to me that the levels of light lost and overshadowing caused to those second and third floor level windows would be

sufficient to cause unacceptable harm to the living conditions of residents of the flats served by those windows.

20. In conclusion on the second main issue, the proposed development would cause unacceptable harm to the living conditions of neighbouring residents within Haig House on account of the impact of the proposed extension on light received by, and outlook from, windows located at second and third floor levels of that building. The proposal would therefore conflict with Policy DM3 of the Council's Local Plan, which requires, amongst other things, new development to reduce or avoid adverse impacts on the amenity of neighbouring properties.

Living Conditions of Future Occupants

21. The proposed flats would be arranged with one one-bedroom flat and one studio flat on each floor. As concluded above, all windows along the southwest elevation of the appeal building would need to be obscure glazed and of restricted opening to prevent unacceptable levels of mutual overlooking between future occupants of the proposed flats and residents of Haig House. Although the proposed southwest elevation windows which would serve Flat 1 and Flat 2 would be incapable of overlooking into Haig House, there would be clear views into those flats from users of the alleyway accessing bicycle and refuse stores, meaning they would also need to be obscure glazed and of restricted opening to protect the living conditions of future residents.
22. An effect of ensuring all windows on the southwest elevation of the appeal building would be obscure glazed and of restricted opening would be limited outlook from the proposed flats. In the case of proposed Flats 1 and 2, their remaining windows would face directly onto the highway, meaning they too would need to be obscure glazed to protect the privacy of future occupiers. I noted the level of the highway outside the northwest elevation windows of proposed Flat 1 to be higher than the floor level inside the appeal building, which would necessitate full height obscure glazing to prevent views into the flat from passing pedestrians in this busy town centre location. Although the level of the highway falls away along the northeast elevation, all ground floor level windows along that elevation would also need to be obscure glazed up to an appropriate height for the same reason, possibly leaving an opportunity for small strips of clear glazing at the top of each of those windows.
23. Overlooking into the proposed flats can therefore be addressed through the use of obscure glazing. However, in addressing this issue, proposed Flats 1 and 2 would provide accommodation with no reasonable outlook for future occupiers, creating unacceptable standards of accommodation. All other flats would offer future occupants a limited, but acceptable level of outlook, considering the size and likely levels of occupancy of each flat.
24. The proposed development would therefore fail to provide acceptable living conditions for future occupants, contrary to Policy DM3 of the Council's Local Plan. This policy requires, amongst other things, proposals to demonstrate that amenity has been considered and appropriate solutions incorporated into schemes, with dwellings being designed to allow residents to live comfortably.

Other Matters

25. The Council is unable to demonstrate the supply of housing sites required by the Framework². In cases such as this, the most important policies are deemed to be out of date and Paragraph 11(d)(ii) of the Framework states that planning permission should be granted for applications involving the provision of housing 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. I have found harm relating to the effect of the proposal on the character and appearance of the area and the living conditions of neighbouring residents, and the proposal would fail to provide acceptable living conditions for future residents. Whilst I may attribute less weight to the most important policies by virtue of them being out of date, harm arising out of the proposed development would not be affected. This harm would be significant and long lasting and as such I would ascribe substantial weight to it.
26. The proposal would provide benefits in the form of eight residential flats which would make a positive but limited difference to the Council's undersupply. There would be economic benefits during the construction phase of the proposal, but these would be time limited. A vacant building in a sustainable location would be brought back into use. The appellant has claimed that the scheme would offer high quality accommodation, but I have found otherwise. The Framework confirms that good design is a key aspect of sustainable development, which should function well and add to the quality of the area over the lifetime of the development.
27. The proposal would not harm the setting of the CA and concerns relating to any overlooking adversely affecting the living conditions of neighbouring residents or future occupiers could be addressed by obscure glazing. However, these are a lack of harm in each case rather than a benefit. With this and the above in mind, the benefits of the proposed development would attract only limited weight. As such, it is sufficiently clear that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore constitute sustainable development for which the presumption in favour applies.

Conclusion

28. For the reasons given above I conclude that the proposal would fail to accord with the development plan and there are no material considerations, including the Framework, that would indicate planning permission should otherwise be granted. The appeal should therefore be dismissed.

L Douglas

INSPECTOR

² National Planning Policy Framework (2021)