



Appeal Decision

Site visit made on 31 August 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2021

Appeal Ref: APP/B1415/W/20/3266013

20 Branksome Road, St Leonards-On-Sea TN38 0UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Brown against the decision of Hastings Borough Council.
 - The application Ref HS/OA/20/00146, dated 12 February 2020, was refused by notice dated 2 November 2020.
 - The development proposed is for the demolition of an existing dwelling house. Proposed construction of 4 x 3 bedroom and 1 x 4 bedroom dwelling houses with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline form with matters relating to appearance, access, landscaping, layout and scale reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as indicative and show what may, not necessarily what will, be constructed.
3. On 20 July 2021, the Government published its revised *National Planning Policy Framework* (the Framework). The Framework represents the Government's up-to-date planning policies for England and how they should be applied. Planning decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is such a material consideration where it is relevant to a planning application or appeal. I note however, in this case, that the main parties have made no further comments in respect of these changes. I have proceeded accordingly.
4. For clarity and the avoidance of doubt, the drawings and documents for consideration as part of this appeal are: Site Block Plan – 19.062.03B, dated May 2020, Proposed Plans – 19.062.02A, dated October 2020, Proposed Site Plan – 19.062.01B, dated October 2020, a 'Preliminary Ecological Appraisal', dated November 2019 and an 'Arboricultural Report', dated November 2019.
5. The Appellant asked for a site survey to be considered as part of this appeal. However, as the survey was submitted too late to be considered as part of the Council's decision-making process, I see no reason to accept it. Therefore, I have proceeded with the submitted and timely evidence before me.

Main Issues

6. The main issues are the effect of the proposal on:

- the character and appearance of the area,
- the living conditions of neighbouring occupiers,
- waste and refuse collection, and;
- the existing trees.

Reasons

Character and appearance

7. The appeal site is located in a residential area of linear development that is set either side of Branksome Road that runs up from Gresham Way to meet with Filsham Road. The area is characterised by predominantly detached dwellings with generous separation distances to each side that are set back behind hedges and trees with parking areas and/or gardens to the front.
8. The immediate area is further typified by large garden spaces to the rear, including the host property of 20 Branksome Road. No 20 is a two-storey, detached property that is sited on a wide plot set back from the road behind a mature tree, hedges and a raised lawned area, that has driveways to either side which help to separate the host dwelling from the neighbouring properties of 18 and 20a Branksome Road.
9. The driveway to the right-hand side of No 20, when viewed from the road is a tarmacked driveway/parking area, and on the left-hand side there is a concrete path/drive that runs along the low-hedged side boundary with the neighbouring property of No 20a Branksome Road and through a timber-gate that leads to the substantial 'L-shaped' garden to the rear.
10. The sloping host garden borders the rear boundaries of Nos 20a, 22 and 24 Branksome Road to the left-hand side, and has a mature tree and hedged boundary both to the rear and the right-hand side boundary adjacent to No 18 Branksome Road. I noticed at my site visit that the appeal property has a similar forward building line to the detached dwelling at No 18 and sits slightly deeper on its plot in comparison to Nos 20a, 22 and 24.
11. The proposal is to demolish the appeal property, and to create a new access for the construction of five new detached dwellings with parking and a turning head. Unit 1 of the proposal would be positioned in a similar but slightly offset position to the left-hand side of the host property, and units 2-5 of the proposal would be positioned as two detached pairs to either side of the host rear garden.
12. The development is located in an established residential area. As such, the general principle of development on the appeal site is not at odds with the surrounding area. Indeed, while I have limited details before me, the Appellant has brought to my attention a potential development site included in the Council's development plan for 68 dwellings to the rear of the host garden on the former Westerleigh School site.

13. Moreover, the submitted drawings show that the positioning of the five proposed dwellings would be possible on the plot available, and that the forward building line on Branksome Road, notwithstanding the diminutive size of the units in comparison to the neighbouring and host properties, would be broadly maintained by virtue of the positioning of unit 1 to the side of the host dwelling. Furthermore, the four units to the rear of the site would have a generous separation gap to the properties on Branksome Road, and would only be glimpsed in part from the highway.
14. However, while there are fluctuating density levels in the built environment along Branksome Road, that may or may not be increased by future development on the adjacent school site, the fact remains that the unit to the front of the appeal site would be in close proximity to the side flank of No 20a, and would be smaller than many of the neighbouring dwellings. Furthermore, while there is a mature tree to the front of the appeal site that would be retained as part of the proposed development, the low-hedging to the side of the appeal site, notwithstanding the final footprint of the unit, is likely to be partially obscured by the positioning of unit 1 that, in my view, could not be resolved, whether imposed by condition or not, by the Appellants' suggested replacement planting to the side boundary in this location. As such, the siting of the smaller unit to the front of the appeal site would be incongruous with the immediate surrounding area, which is typified on either side of the road by generous dwellings with spacious and verdant separation gaps to the side boundaries.
15. I conclude therefore, that in this specific location that the proposal, when considered as a whole, would be a cramped form of development that would erode the separation gap between No 20 and 20a, and be at odds with the spacious and verdant character and appearance of the surrounding area.
16. Accordingly, in respect of the character and appearance of the area, the proposal is contrary to Policy DM1 of the Hastings Local Plan, Development Management Plan 2015 (HLP), and Policy SC1(i) of the Hastings Local Plan, The Hasting Planning Strategy 2014 (HPS), which say, amongst other things, that all proposals must reach a good standard of design, which includes efficient use of resources, and takes into account protecting and enhancing local character.
17. For similar reasons, the proposal does not meet the aims of Paragraph 130(c) of the Framework, which aims include that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Living conditions

18. Units 2-5 of the proposed development would have relatively generous gardens and would be set apart from the neighbouring dwellings and the former school land to the rear by established and/or verdant high-level boundary treatments.
19. However, unit 1 of the proposal to the front of the appeal site would be directly adjacent to the side flank of No 20a which includes a side window that, as a consequence of the rising topography between the plots in favour of No 20, is approximately at eye-level to the side path and low-boundary of the host dwelling.

20. Therefore, the new development, which would be in greater immediacy to the side boundary and adjacent garden in comparison to the siting of the host dwelling, would loom over No 20a and create a sense of enclosure, be overbearing and harm the outlook and well-being of the occupiers of No 20a.
21. I conclude therefore, that when considered as a whole, the proposal would harm the living conditions of the neighbouring occupiers of No 20a. It follows then, in respect of the living conditions of the neighbouring occupiers, that the proposal is at odds with Policies DM1 and DM3 of the HLP, which require that in order to achieve a good living standard for future users of proposed development and its neighbours it should be demonstrated that amenity has been considered and appropriate solutions have been incorporated into schemes, and Paragraph 130 (f) of the Framework which says that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Waste and Refuse

22. While the proposal is set back from the highway, the submitted drawings show that there is space for the siting and collection of waste and recycling storage within the curtilage of the proposed dwellings. Nonetheless, I note the Council's concerns regarding the width and length of the access road. However, I am persuaded by the Appellants' submitted drawings, in combination with the comments provided by East Sussex County Council Highways department, that the proposal in this respect would provide adequate access, egress and turning space for waste collection and emergency vehicles.
23. The proposal therefore, accords with the relevant Paragraphs of the Framework, and Policies DM1 and DM3 of the HLP which say that there should be adequate space for storage of waste and the means for its removal, and where appropriate, turning areas for refuse vehicles.

Existing trees

24. A number of trees would be removed in order for the development to be completed. Indeed, while matters of layout are beyond the scope of this appeal, unless an alternative layout can be agreed by the main parties, a Grade B mature oak tree (T9), which is found to the right-hand boundary of the host rear garden when viewed from the road, would be removed in order to facilitate a new access route through to the rear of the site. The removal of T9 as a consequence of a scheme layout would be extremely regrettable. Nevertheless, in the absence of an alternative route, a replacement tree elsewhere on the site could be secured by a suitably worded condition, and therefore, in isolation, this is not a reason to dismiss the appeal.
25. However, there is a protected Grade A mature oak (T1) to the front of the site which appears to have its roots partly overlaid by the concrete and tarmac of the host driveways. As such, the proposal, which has an extensive range of hard-surfaced areas and parking spaces near to T1, would be likely to further compromise the root protection area of the tree. Indeed, even if a site survey found to the contrary or a robust mitigation strategy could be deployed to ensure the health of the tree, the proximity of T1 to unit 1 of the proposal is likely to result in, for example, overshadowing or the dropping of leaf-litter at certain times of the year onto the proposed dwelling below.

26. Consequently, notwithstanding the 'Tree Protection Order'¹ attached to T1, or the tolerance of the tree by the occupiers of No 20 over a number of years, I cannot be certain whether the future occupiers of unit 1 of the proposed development would lobby the Council to prune or carry out other works to T1 or not, which if successful, might harm its health and longevity, that is estimated by the submitted 'Mayhew Consultancy' arboricultural report to be at least 40 years.
27. As such, I conclude that the development would be contrary to Policy HN8 of the HLP and Policy EN3 of the HPS, as supported by Paragraph 131 of the Framework, which recognises that trees make an important contribution to the character and quality of urban environments.

Planning Balance

28. The Council cannot demonstrate a five-year housing land supply. As such, Paragraph 11(d) of the Framework is engaged. However, while the proposal would provide a net gain of 4 units towards the Council's housing land supply, in this case, I find the adverse impacts of the proposal that include; harm to the character and appearance of the area, the living conditions of the neighbouring occupiers and tree T1, significantly and demonstrably outweigh the benefits, which include the provision of five new dwellings.

Conclusions

29. Whilst I have found in favour of the Appellant on the third main issue, this does not justify the harm identified in the first, second and fourth main issues. Therefore, having considered all matters raised in support of the development, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Accordingly, the development is in conflict with the adopted development plan when considered as a whole, and given the above would also conflict with Policies contained within the Framework, and as there are no other material considerations that indicate a decision other than in accordance with those Policies, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR

¹ TPO 253/T2