



Appeal Decision

Site visit made on 6 September 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021.

Appeal Ref: APP/B1415/W/21/3271710

335 London Road, St Leonards-on-Sea TN37 6PA

- 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 Daisy Developments South East Ltd against the decision of Hastings Borough Council.
 - The application HS/FA/18/01091, dated 21 February 2020, was refused by notice dated 19 August 2020.
 - The development proposed is demolition of existing dwelling and erection of a block of 9 flats with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and erection of a block of 9 flats with associated parking at 335 London Road, St Leonards-on-Sea TN37 6PA in accordance with the terms of the application HS/FA/18/01091, dated 21 February 2020, and the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the development on:
 - The living conditions of neighbouring occupants at 1 Bohemia Road, with regard to outlook and dominance; and
 - The appearance of the area, with regards to the proposed bin store.

Reasons

Living conditions

3. Because of the fall in the level of the land both to the rear and to the side, the neighbouring property at 1 Bohemia is set below that of the appeal site. 335 London Road, which is of a modest scale in relation to other buildings along this part of London Road, has a flat roofed extension along the boundary with a basement below it at the rear. The side extension and basement project back beyond the neighbouring property's rear elevation forming a flank wall along the boundary, 1 storey high at the front and 2 storeys high at the rear.
4. The proposed development would present a flank elevation to 1 Bohemia 4 storeys high at the front and 5 storeys at the rear. The side elevation would be approximately along the same line as the flank wall of the existing flat roofed side extension and project slightly further to the rear. The front elevation would be approximately level with that of 1 Bohemia.

5. The appellant has submitted a daylight and sunlight study which concludes that there would be no significant loss of daylight or sunlight to forward or rear facing habitable room windows at 1 Bohemia¹. The study assumes that none of the smaller windows in the facing flank elevation of 1 Bohemia are primary sources of light to habitable rooms, which appears to be the case. It also shows that there would be no significant overshadowing of the garden to 1 Bohemia. Having regard to the orientation of the site and my own observations I have no reason to disagree with the findings of this study.
6. In terms of visual impact, the flank elevation would present a significantly greater building bulk, particularly in terms of height, in views from the rear of 1 Bohemia. However, views of the flank elevation of the proposal from rear windows of the neighbouring property would be oblique, at least 45 degrees or more away from the direct line of vision from each window. It would have a greater presence in views from the garden, but there is already a sizeable flank wall that partly encloses the uphill side of the site, and the greater height of the proposed building would be comparable to the height of other buildings along the same side of London Road. The difference in ground levels would exacerbate the perception of height, but in my view not to an extent that would harm the use or enjoyment of the neighbouring garden area.
7. I conclude that although there would be a change in the outlook from the rear of 1 Bohemia, that outlook would not be so dominated by the proposed development as to cause a material loss of daylight or sunlight, or harm the view from the neighbouring property or its garden to the extent that it would be perceived as overbearing. Consequently, the development would accord with Policy DM3 of the Hastings Local Plan Development Management Plan 2015, which requires new development to avoid any adverse impact on the amenity of neighbouring properties.

Appearance

8. The development proposes a waste bin storage area adjacent to the front boundary of the site. Waste bins would be contained within a timber clad compound 1.35m high, which itself would be screened by planting.
9. Although the appeal site does have rear access, given the length of the garden, the difference in height, and the need to keep the bins within 30m of the collection point, positioning the bin storage area at the rear would be impractical from the point of view of future residents.
10. The position of the bin store at the front of the site would meet the requirements of the Council's refuse collection service. It would be more visible than a site at the rear, but I am satisfied that given its height it could be screened such that the bins would not appear prominent in views along the street. A dedicated bin storage area would be preferable to the unscreened storage of bins that takes place in some other properties along London Road. The exact details of the bin storage area, including screen planting, could be controlled through the imposition of a condition.
11. The Council has also expressed concern that litter could be discarded to the detriment of the visual and residential amenities of the area. I have no reason to believe that future occupants of the development would discard litter in such

¹ Right of Light Consulting Chartered Surveyors, Daylight and Sunlight Study, February 2019

a manner, it being in their own interests to maintain a tidy forecourt on the property in which they live. The provision of a purpose built bin storage area, unlike the ad hoc arrangements on some other forecourts along London Road, would help in this respect.

12. I conclude that subject to conditional control over the detailed design of any bin storage compound and screen planting, the position of the bin store at the front of the site would not harm the appearance of the area or appear incongruous. It would therefore comply with Policies DM1 and DM3 of the Hastings Local Plan Development Management Plan 2015, which set out general principles for the design and amenity of new development.

Other Matters

13. Neighbouring residents have raised concerns at highway safety and the use of the access onto the A21 London Road. Notwithstanding the limitations on right turn movements because of the geometry of the road layout, the Highway Authority has raised no objection to the scheme. Given the views of the Highway Authority and the fact that the forecourt is already used for parking, I see no overriding highway safety reason for opposing the development proposal.

Conditions

14. I have considered the conditions suggested by the Council against the tests set out in paragraph 56 of the National Planning Policy Framework and imposed them where they meet those tests, subject to minor rewording in the interests of clarity and consistency. Policies have been reordered in accordance with the advice in the Planning Practice Guidance. I have avoided the use of pre-commencement conditions unless there is clear justification to do so. Where pre-commencement conditions have been imposed, I have taken the appellant's agent's email of 2 September 2021 as written agreement to those terms².
15. In addition to a time limit condition, a condition identifying the approved plans is necessary in the interests of certainty. Conditions requiring a construction management plan and protective fencing are necessary in the interests of safety and to minimise disruption during construction. These conditions need to be agreed prior to commencement of any construction operations on the site. Conditions requiring approval of external materials, soft and hard landscaping and refuse bin storage are necessary in the interests of the character and appearance of the area. A condition requiring remediation of Japanese Knotweed is necessary to avoid the spread of this non-native invasive species.
16. A condition is necessary to ensure adequate drainage from the site. I have combined a number of conditions relating to foul and surface water drainage into one condition for simplicity. It will be for the Council to liaise with other bodies in determining the most appropriate solution. Any consent needed for connection to public foul and surface water drains would be a separate matter under the control of the relevant drainage authority.
17. Conditions requiring installation of bird and bat boxes and control over external lighting are necessary in the interests of the ecological value of the site. A condition requiring approval of the detailed design of the two access points and

² Pursuant to Section 100ZA of the Town and Country Planning Act 1990

associated works such as parking and turning areas is necessary in the interests of highway safety. I have combined a number of suggested conditions into one in the interests of simplicity and clarity.

18. A condition restricting the times during which construction can be carried out is necessary in the interests of the living conditions of neighbouring occupants.
19. A condition protecting birds' nests is not necessary as there is existing legislation that provides such protection. Separate conditions controlling means of boundary enclosure, wheel washing equipment and contaminated land are unnecessary as these duplicate controls in other conditions.

Conclusion

20. The appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, I have concluded that the development would accord with the development plan when taken as a whole, and that there are no material considerations, including highway safety, which indicate otherwise.
21. Accordingly, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
1637/BP1 Rev B Block Plan
1637/P01 Rev B Proposed Floor Plans
1637/P02 Rev C Proposed Front and Rear Elevations
1637/P03 Rev B Proposed Elevations
1637/P04 Rev D Site Layout
1637/P05 Rev B Proposed Front Street Elevation
1637/SP1 Rev A Site Plan
E11609.01 Rev D Drainage Plan
- 3) No development shall take place, including any ground works or works of demolition, until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include the following matters:
 - The anticipated number, frequency and types of vehicles used during construction
 - The method of access and egress and routeing of vehicles during construction
 - The parking of vehicles by site operatives and visitors
 - The loading and unloading of plant, materials and waste
 - The storage of plant and materials
 - The erection and maintenance of security hoarding

- The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway
- Details of public engagement prior to and during construction
- Construction traffic management
- Measures to control the emission of dust, dirt and noise disturbance during construction
- Measures to investigate and remediate any land contamination
- Measures to maintain land stability during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works

The Plan, once approved, shall be implemented and adhered to throughout the construction period.

- 4) No development shall take place, including any ground works or works of demolition, until protective fencing and warning signs have been erected in accordance with the approved Construction Environmental Management Plan. All protective fencing and warning signs shall be retained as approved throughout the construction period.
- 5) No development above ground level shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 6) No development above ground level shall commence until a scheme for the containment, control and removal of Japanese Knotweed on the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of any part of the development hereby permitted.
- 7) No development above ground level shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping, which shall include all existing trees and hedgerows on the site including details of those to be retained together with measures for their protection during the construction period. New soft landscaping details shall include planting plans, written specifications, schedules of plants noting species, plants sizes and proposed numbers and densities where appropriate together with an implementation programme.
- 8) No development above ground level shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard landscaping, which shall include finished levels or contours, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials, incidental structures and existing and proposed utilities above and below ground.
- 9) All soft and hard landscape works shall be carried out in accordance with the approved details prior to occupation of any part of the development

hereby permitted or in accordance with the approved implementation programme, whichever is later.

- 10) No development above ground level shall commence until details of the proposed means of foul sewerage and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. Such details shall include confirmation of whether surface water discharge is greater than existing and if so how excess surface water will be managed safely without discharge onto neighbouring land including the highway, the design of any structures for on-site surface water storage and its controlled release, and responsibility for future maintenance of such structures. Once approved details of foul sewerage and surface water drainage shall be implemented prior to occupation of any part of the development and thereafter retained.
- 11) Prior to occupation of any part of the development hereby permitted, details of the compound for the storage of refuse and recycling bins, screen planting associated with the compound, and secure bicycle storage shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the storage compound, screen planting and secure bicycle storage shall be implemented prior to the occupation of any part of the development hereby permitted, and thereafter retained.
- 12) Prior to occupation of any part of the development hereby permitted, the recommendations contained in the Preliminary Ecology Appraisal prepared by The Mayhew Consultancy, dated October 2018, for the installation of bird and bat boxes shall be implemented and thereafter retained.
- 13) Prior to occupation of any part of the development hereby permitted details of the layout and construction of the vehicular accesses to Upper Clarence Road and London Road shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include visibility splays, gradients, turning areas and dimensions of parking spaces. The approved details shall be implemented prior to occupation of any part of the development hereby permitted and thereafter retained for their intended purpose.
- 14) With the exception of internal works, the building works required to carry out the development hereby permitted shall only be carried out within the following times:
0800 – 1800 Mondays to Fridays
0800 – 1300 on Saturdays
No external work on Sundays or Public Holidays
- 15) There shall be no external lighting within the site without the prior written approval of the Local Planning Authority.

***** End of Conditions*****