
Appeal Decision

Site visit made on 27 September 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal Ref: APP/T1410/W/21/3268754

Land at West Cliff Mansion, St John's Road, Eastbourne BN20 7HR

- 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 Bernard Leach against the decision of Eastbourne Borough Council.
 - The application Ref PC/200375, dated 21 May 2020, was refused by notice dated 23 September 2020.
 - The development proposed is erection of 9 No. dwellings, provision of access and car parking, landscaping and other associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the prior request of the residents concerned and to inform my assessment, my site inspection included visits to various properties within South Cliff Avenue, High View Court and Rustington Court.
3. Subsequent to the appeal being lodged, a revised National Planning Policy Framework ('the Framework') was published. The parties have had an opportunity to comment on the implications for the appeal.

Main Issues

4. The main issues are:
 - a) the effect of the proposal on the character and appearance of the area;
 - b) the effect on the living conditions of the occupants of neighbouring properties, with particular regard to outlook, privacy and sunlight; and
 - c) whether the development would make adequate provision for car parking and safe pedestrian access.

Reasons

Character and appearance

5. West Cliff Mansion is a modern apartment block fronting onto St John's Road, near its junction with South Cliff Avenue. There is a vehicular access to the side of the building and this leads to parking at the rear of the site. The north side of St John's Road is built up with a number of large, flatted developments, with the

land behind displaying a verdant character. The proposal would affect a rank of garages and vehicular hardstanding within this area. The access road leading to the parking is flanked by grassed banks and semi-mature trees which contribute positively to the character and appearance of the area, as it is experienced from the flats in West Cliff Mansion and surrounding dwellings.

6. The proposal is to replace the existing garages and hardstanding with a block of nine apartments. The new building would be four storeys in height with a fifth floor of accommodation contained within a crown roof. It would be much lower than West Cliff Mansion and neighbouring Rustington Court, both of which are built at nine or more storeys and sited on higher ground. However, it would be significantly taller and bulkier than adjoining terraced buildings on South Cliff Avenue. The local topography would accentuate the differences in scale with properties on Silverdale Road to the north, including High View Court.
7. The site forms part of a wider area designated in the Eastbourne Borough Plan 2001-2011 (EBP) as an Area of High Townscape Value. Policy UHT16 of the EBP requires proposals within these areas to generally preserve the character and appearance of the area. Amongst other things, the policy requires schemes to retain amenity spaces where they form part of the established character of the area and retain, wherever possible, the existing trees and other important landscape features.
8. The site comprises an amenity space of sorts. It may be brownfield land in the sense of having been previously developed with buildings and hard surfacing, but it forms part of the grounds to West Cliff Mansion and relates visually to the corridor of green land to the rear of that apartment block and Rustington Court, and beyond that gardens of properties in Silverdale Road. The proposed apartment block would represent a harmful intrusion into this pleasant open space. The building would be close to the site boundaries and its height and mass would dominate those existing properties to the north and east.
9. The felling of existing trees and replacement of grassed banks with car parking and hard surfacing would compound the harm to the character and appearance of the area. The provision of a communal open space in the north-east corner of the site and small parcels of incidental planting in the parking areas would not offset the adverse visual impacts.
10. I conclude that the proposal would cause significant harm to the character and appearance of the area. It would conflict with Policies UHT1, UHT2, UHT4, UHT5, UHT16 and HO7 of the EBP and Policies B2, D1 and D10A of the Eastbourne Core Strategy Local Plan (2013) (ECS). These policies set out various requirements but are consistent with Paragraph 130 c) of the Framework in seeking to ensure that developments are sympathetic to local character, including the surrounding built environment.

Living conditions

11. The site is bounded to the east by a residential terrace in South Cliff Avenue. These properties, a mix of houses and flats, have shallow rear gardens akin to yards. From these areas, and from within their homes, neighbours have a view of the trees within the curtilage of West Cliff Mansion and an outlook over the roofs of the garages towards mature trees in the grounds of Rustington Court.

12. The proposed building would be set back from the garden boundaries by somewhere in the region of 14 m. At this modest distance, the five-storey structure would be overbearing and oppressive. The magnitude of the impact would vary depending upon on the position of the property in the terrace, but in many cases the development would cause very substantial harm to the outlook of the occupants of the affected dwellings.
13. The new apartments would also be sited close to High View Court. The height and proximity of the development to the boundary would make it overpowering for residents of this scheme, within the flats themselves, on the balconies and in the communal amenity areas. Trees and vegetation on the boundary would provide a degree of mitigation, but only when the trees are in leaf.
14. The windows in the east flank of the proposed building could be obscurely glazed to prevent overlooking of properties in South Cliff Avenue. However, those windows on the north elevation, which are shown on the plans as serving habitable rooms and a stairwell, would have views towards Nos 23 and 25 Silverdale Road and High View Court. The appellant contends that the distances involved, angle of view and intervening vegetation would combine to prevent loss of privacy. However, leaf cover is seasonal and the development would lead to some overlooking of gardens and balconies. The proximity of the building to the boundary, number of facing windows and elevated nature of some of the views means that this would be intrusive for neighbouring residents. I acknowledge that a degree of overlooking is not uncommon within urban areas, but that is not presently the case here.
15. The proposed site layout shows a rank of car parking spaces alongside the boundaries with Nos 16, 18 and 20 South Cliff Avenue. The existing garage court provides the opportunity for a vehicle to park adjacent to the boundary, but the appeal scheme would increase vehicular activity within close proximity of the gardens and the orientation of the spaces perpendicular to the boundary would create nuisance from noise, exhaust fumes and glare from headlights.
16. Sun path diagrams supplied by the appellant indicate that the proposal would not overshadow neighbouring properties. It is impossible to verify the accuracy of this information, given that I have not been provided with any details on how it was prepared. Even if the evidence were demonstrated to be reliable, it does not make the appeal scheme acceptable. The cumulative adverse impacts on the living conditions of the occupants of properties in South Cliff Avenue and Silverdale Road through overbearance, overlooking and nuisance from vehicle movements would amount to very substantial harm.
17. Of the policies cited by the Council, Policies HO20 and NE28 of the EBP and Policies B2 and D1 of the ECS are most relevant to this issue. Amongst other things, these seek to protect the residential and environmental amenity of existing residents in relation to matters such as outlook, privacy, noise, disturbance and pollution. The proposal would cause unacceptable harm to the well-being of the occupiers of neighbouring residential properties and it would therefore conflict with the above policies, and with the requirement of Framework paragraph 130 (f) that development should promote health and well-being, with a high standard of amenity for existing and future users.

Car parking and pedestrian access

18. The existing parking to the rear of West Cliff Mansion comprises 11 garages and hardstanding suitable for 14 vehicles. There is another area of hardstanding to the front of the building, adjacent to St John's Road. This was roped off at the time of my visit, but is large enough to accommodate around 11 vehicles.
19. The proposal is to replace the parking at the rear of the site with a total of 15 spaces in a different arrangement. The intention is that 9 of these spaces would be allocated to the proposed apartments (one per unit), whereas the remaining 6 spaces and the area to the front of the main building would be available to serve the occupants of West Cliff Mansion on an unallocated basis. This level of provision would accord with the East Sussex Parking Calculator.
20. The Highway Authority is concerned that occupants of West Cliff Mansion will assume that they have a single allocated space. The parking provision required in such a scenario would be 44 spaces, in which case there would be a shortfall against the relevant standard. The appellant contends that this is irrelevant, as the scheme provides unallocated parking for the existing residents. However, there is no information on car ownership rates for the existing block. In the absence of a parking survey to establish current usage patterns it is impossible to determine whether there would be sufficient free spaces available to support the proposed parking arrangement.
21. Overspill parking onto the access road would be likely to cause obstruction for service vehicles, but it would also create a hazard for pedestrians who would need to share the roadway with moving vehicles, due to the lack of a dedicated footway into the site. Amongst other things, Paragraph 112 of the Framework states that applications for development should give priority first to pedestrian movements and create places that minimise the scope for conflicts between pedestrians, cyclists and vehicles. The proposal would not satisfactorily address this aspect of national policy in that it would have an unacceptable impact on highway safety.
22. To conclude, it has not been demonstrated that the proposal would make adequate provision for car parking, and that pedestrian movements to and from the site would be safe. This weighs against a grant of planning permission.

Other Matters

23. I note that the scale of the appeal scheme is a significant reduction on the plans presented to the Council at pre-application stage. Whilst this demonstrates a willingness on the part of the appellant to compromise, it does not mean that the proposal is acceptable. I must deal with the appeal before me on its merits.
24. The appellant provides an appeal decision for Spring Mead, 25 Meads Brow. I do not have full details of this case or a copy of the approved plans. However, the information before me suggests that there are key differences with the current appeal, notably in relation to the fact that the Spring Mead site does not lie within an Area of High Townscape Value. Furthermore, that site was already occupied by a dwelling on a similar footprint to the proposed building, in contrast to the current site which hosts a modestly scaled block of flat roof garages. The schemes can therefore be distinguished from one another.

Planning Balance and Conclusion

25. It is common ground that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. The officer report references a supply of 1.43 years, but the appellant believes the figure to be lower at only 1 year. Either way, I must assume for the purposes of this appeal that there is a chronic shortage of housing land. The most recent Housing Delivery Test result for Eastbourne is indicative of an extremely poor record on housing delivery.
26. Paragraph 11 d) of the Framework states that where the requisite supply of housing land does not exist, permission should be granted unless; i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) 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. The site is not affected by any designations or constraints which would bring the first limb into play, and therefore it is the second limb (commonly referred to as the 'tilted balance') which applies.
27. The site is located in the built-up area of Eastbourne, in the town's second most sustainable neighbourhood and within walking distance of services and facilities. The principle of residential development is acceptable under the Council's planning policies. The proposal would use previously developed land to provide nine apartments and this would contribute to housing numbers and the Government's objective of boosting the supply of homes. Given the scale of the shortfall, I have attached the benefits of housing delivery considerable weight. There would also be economic benefits during construction and thereafter through additional spending by residents in the local economy. These attract some positive weight in favour of the scheme.
28. Paragraph 125 of the Framework explains that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. Framework Paragraph 124 requires development to make efficient use of land. However, this statement is qualified by sub-paragraphs (d) and (e) which respectively state that the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places are taken into account. The proposal would conflict with both of these criteria due to its impacts on the character and appearance of the area and the living conditions of neighbouring residents.
29. The scale of these harms, when added to the highway concerns, would be very substantial and they would significantly and demonstrably outweigh the benefits, even having regard to the Council's housing land supply position. As such, the presumption in favour of sustainable development does not apply. The proposal conflicts with the development plan taken as a whole and there are no material considerations to justify a decision otherwise than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR