



Appeal Decision

Site visit made on 7 December 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal Ref: APP/B1415/W/21/3273769

Office and Land, 46A Battle Road, St Leonards-on-Sea TN37 7AD

- 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 B Coleman, Coleman Construction and Utilities Ltd against the decision of Hastings Borough Council.
 - The application Ref HS/FA/20/00631, dated 2 September 2020, was refused by notice dated 25 March 2021.
 - The development proposed is "Demolition of existing office unit. Proposed development to form 1 x 2 bedroom maisonette, 1 x 2 bedroom flat and 1 x 1 bedroom flat including allocated under-croft parking and visitor parking".
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Decision

1. The appeal is allowed and planning permission is granted for "Demolition of existing office unit. Proposed development to form 1 x 2 bedroom maisonette, 1 x 2 bedroom flat and 1 x 1 bedroom flat including allocated under-croft parking and visitor parking" at Office and Land, 46A Battle Road, St Leonards-on-Sea TN37 7AD in accordance with the terms of the application, Ref HS/FA/20/00631, dated 2 September 2020, subject to the attached Schedule of Conditions.

Preliminary Matters

2. The proposed development was amended during the course of the application being considered by the Council. I have therefore taken the description of the development proposed from the appellant's appeal form, which relates to the amended proposal and matches that used in the Council's decision notice. I have omitted the text "(as amended)" as it is clear the proposal has been amended from the change in the description of the proposal and the plans referred to. I have taken the appeal site address from the original application form, as this accurately describes its location as shown on the submitted plans.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The proposed development would be set over three floors in a similar style to the recent development on the opposite side of Battle Road, referred to by both main parties as the former Tivoli Tavern site. The appeal site is a vacant corner plot enclosed by a hoarding. Buildings along this section of Battle Road vary in age and design, but are mostly 2 or 3 stories in height, and arranged in short

terraces sited close to the highway. There is a change in the character of Battle Road further to the south, where family sized semi-detached houses are set further back from the highway at a higher level, while Perth Road is made up of long rows of 2 to 3 storey terraced houses. The character of the area is therefore mixed, with no particular architectural style prevalent along this part of Battle Road.

5. By reflecting the layout and architecture of the recent development on the former Tivoli Tavern site, and stepping down in height from the end of terrace on Perth Road to 46 Battle Road, the proposal would be consistent with the design and scale of surrounding buildings. It would respect the established building line along this part of the eastern side of Battle Road, set behind small areas of lawn. The third floor would be contained within the roof space in views from the street, and the proposed dormers would be small and regularly spaced, similar to those on the former Tivoli Tavern site.
6. It would abut the side boundaries of the appeal site, but reasonable separation gaps would remain between the neighbouring buildings on account of an existing parking area along the side boundary of the end of terrace on Perth Road and the single storey electricity substation between the appeal site and 46 Battle Road. These gaps would prevent the proposal from appearing cramped or congested in street scenes made up of a range of terraced buildings. The carriageway and footpaths are sufficiently wide, and the buildings would be suitably positioned and of an appropriate scale to ensure there would be no unacceptable tunnelling effect along this part of Battle Road.
7. A large expanse of the southern end of the proposed ground floor would comprise an undercroft with openings on the Battle Road and Perth Road frontages to provide parking spaces and vehicular access to the rear. The open sided undercroft would be an uncharacteristic feature for the area; however, it would be seen in the context of mixed surroundings which include the enclosed undercroft serving the former Tivoli Tavern site. There would be clear views through the undercroft from the street and only part of the undercroft would be used for the parking of vehicles, while the area to the rear of the undercroft would be overlooked by windows within the proposal. I am therefore satisfied that this arrangement would not appear wholly out of place, and nor would it suffer from a lack of natural surveillance or lighting.
8. In the context of tall terraces along Perth Road and the similar development at the former Tivoli Tavern site, the proposed development would not appear overly dominant in the street scene. It would be prominent due to its positioning on a corner plot, but the design, scale and bulk of the proposal would not be out of character with its surroundings or result in any material harm to the character or appearance of the area. The proposal would improve the character and appearance of the vacant area of land which both main parties refer to as being used for little more than the informal parking of vehicles, prior to it being enclosed by a hoarding.
9. The proposed development would not therefore harm the character or appearance of the area in accordance with Policy DM1 of the Hastings Development Management Plan (2015) and Policy SC1 of the Hastings Planning Strategy 2011 – 2028 (2014). These policies require, amongst other things, all proposals to reach a good standard of design which protects and enhances

local character and shows an appreciation of surrounding boundaries, block sizes, scale, height and massing.

10. The Council has referred to the National Design Guide¹ within their decision notice, as well as the Framework² and guidance produced by The Homes & Communities Agency³ and the Design Council⁴ within their submissions, claiming the proposal would comprise poor design and fail to accord with excerpts which seek to encourage good design. Overall, I have found the proposal would not comprise poor design and would integrate well with its mixed surroundings and improve the character and appearance of the site and surrounding area without encouraging crime, in accordance with the broad aims of this guidance.

Conditions

11. The Council has provided a list of suggested conditions, some of which I have amended to ensure they would meet the relevant tests set out in the Framework. A condition requiring the commencement of development within the relevant timeframe is necessary, as is a condition requiring development to be carried out in accordance with the approved plans, in the interests of clarity.
12. The appellant has disputed the need for the Council's suggested conditions relating to the provision of visibility splays prior to the first use of the proposed access on Perth Road, the provision of turning spaces prior to the first occupation of the development, and the dimensions of parking spaces, because it is claimed these details are shown on the proposed site plan⁵. It would be reasonable and necessary in the interests of highway safety to attach a condition requiring the provision of the turning areas prior to the first use of any parking spaces; however, as the access from Perth Road is already in use and the Highway Authority has confirmed there is no objection to the proposed access arrangements⁶, it would not be reasonable or necessary to attach a condition requiring the provision or maintenance of visibility splays. It would also not be necessary to attach a condition specifying the dimensions of the proposed parking spaces as these are shown on the proposed site plan.
13. Details of bicycle parking facilities, construction methods and sewerage and surface water disposal/management would need to be approved by the Council. In the case of bicycle parking and sewerage and surface water drainage/management details, these could be approved and provided prior to the first occupation of any dwelling. In the case of a construction method statement, these details would need to be approved prior to the commencement of development and adhered to throughout the construction of the proposal. These would protect against flooding, ensure sustainable means of transport would be reasonable options for future residents, and protect the living conditions of neighbouring residents throughout construction.

¹ National Design Guide: Planning practice guidance for beautiful, enduring and successful plans (2021)

² National Planning Policy Framework (2021)

³ Urban Design Lessons: Housing Layout and Neighbourhood Quality (2013)

⁴ Designing out Crime: A designers' guide (2011)

⁵ Plan 20.198.4B

⁶ Consultation responses of Carvin Tojo dated 12 October 2020 and 15 March 2021: "It is noted that the access can achieve the required visibility splays to the east of the access. Furthermore, the required visibility splays to the west of the access cannot be achieved as the site access is approx. 20m away from the junction of Battle Road. Nevertheless, I am not concerned as the junction will require vehicles to slow down considerably before turning into Perth Road. I am satisfied with the visibility splay at the site access."

14. I note the Council's concerns in respect of issues relating to drainage and a high water table across the borough, but no evidence has been presented to suggest a suitable sewerage and surface water drainage/management scheme may not be capable of providing the necessary drainage infrastructure to service the proposal. It would not be reasonable for the condition relating to sewerage and drainage details to require confirmation from the Council that the necessary drainage infrastructure is available to adequately service the development prior to the occupation of any flat, as this would be the purpose of having those details approved and completed prior to the first occupation of any flat. The approval of such a scheme and its completion in accordance with the approved details would ensure adequate and functional drainage is provided.
15. Limited details of the materials to be used in the construction of the external surfaces of the proposal have been provided as part of the application. It would therefore be reasonable and necessary to attach a condition requiring the approval of such details prior to the commencement of development above ground level, and the carrying out of development in accordance with those details to ensure the proposal is finished to a suitable standard and appropriately blends with its surroundings.
16. It would also be reasonable and necessary to attach a condition requiring the provision of the bin store shown on the proposed site plan and ground floor plan prior to the first occupation of any dwelling, which should be retained for such purposes, in the interests of efficient waste management.
17. The Council has suggested a condition requiring all external bathroom windows to be obscure glazed to a specified standard and non-opening below a specified height to protect the amenities of adjoining and future residents. However, no unacceptable levels of overlooking would be likely from or into those windows and it would be a matter of preference for future residents to decide on the method and level of any obscure glazing and opening of those windows. Such a condition would not be reasonable in this instance.

Conclusion

18. There are no material considerations of sufficient weight that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

L Douglas

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20.198.1.C, 20.198.2.C, 20.198.3.B, 20.198.4B and 20.198.5A.
- 3) No development shall commence until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the delivery, loading, unloading and storage of plant and materials;
 - ii) measures to control the emission of dust and dirt during demolition and construction activities, including measures to prevent mud on the highway; and
 - iii) measures to control noise and vibration during demolition and construction activities.

The approved Construction Method Statement shall be adhered to throughout the demolition and construction period for the development.
- 4) No development shall commence above ground level 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. Development shall be carried out in accordance with the approved details.
- 5) Prior to the first occupation of any dwelling hereby permitted, a scheme for the management and disposal of foul and surface water to serve the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The scheme shall be completed on site in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 6) Prior to the first occupation of any dwelling hereby permitted, details of bicycle parking facilities shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted and those facilities shall thereafter be retained for the parking of bicycles.
- 7) Prior to the first occupation of any dwelling hereby permitted, the bin store shown on Plan 20.198.4B and 20.198.1C shall be provided and thereafter retained for the purposes of storing of waste and refuse associated with the dwellings hereby permitted.
- 8) Prior to the first use of any parking spaces, the turning spaces for vehicles shall be provided in accordance with Plan 20.198.4B and the turning spaces shall thereafter be retained for that use and shall not be used for any other purpose.