



---

# 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: 24 December 2021**

---

**Appeal Ref: APP/B1415/W/21/3271660**

**130 Bohemia Road, Hastings, East Sussex TN37 6RP**

- 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 Ken Davis against the decision of Hastings Borough Council.
  - The application Ref HS/FA/19/00998, dated 12 December 2019, was refused by notice dated 5 October 2020.
  - The development proposed is Extensions and alterations to create a zero carbon two bedroomed dwelling (part retrospective).
- 

## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr Ken Davis against the decision of Hastings Borough Council. This application is the subject of a separate decision.

## Preliminary Matters

3. I have been made aware of previous planning permissions<sup>1</sup> granted by the Council in respect of what is claimed to be a similar development at the appeal site, but I have not been provided with the full details of those schemes. The appellant's submissions suggest development has commenced at the appeal site prior to the discharge of conditions attached to those permissions and those permissions may have lapsed. Retrospective permission is therefore sought for most of the works carried out, but with the replacement of the existing 'beach hut pod' at roof level with a pitched roof. As parts of the development have already been carried out, I have added the text "(part retrospective)" to the description of development proposed.
4. I have also been made aware of a previous appeal decision<sup>2</sup> at the appeal site which appears to have related to similar development. I have not been provided with the full details of that scheme and decision by either of the main parties. Based on the information provided it appears that the main difference between that scheme and the proposal is the addition of a pitched roof in place of the 'beach hut pod'. Both of the main parties have interpreted that appeal decision in different ways, but I have based my decision on the information presented as part of this appeal.

---

<sup>1</sup> The Council's references: HS/FA/02/00166 and HS/FA/14/00080

<sup>2</sup> APP/B1415/W/19/3232797

## **Main Issue**

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

## **Reasons**

6. The appeal building is an end of terrace dwelling set over three floors. Bohemia Road is lined by 2 – 3 storey buildings in a range of architectural styles which vary in age and quality of design. Most buildings are in residential use, with some commercial uses interspersed at ground floor level. The gradient of the road rises from north to south and the appeal building is prominent in views from both directions on account of it forming the end of a two and a half storey terrace, on the outside of a curve in the road. Side streets off this part of Bohemia Road are lined by terraced houses of 2 – 3 storeys. The existing character and appearance of the area is therefore varied, and although two storey buildings of traditional designs predominate, there are many examples of taller buildings and modern alterations along Bohemia Road.
7. The appellant's submissions show that the building was previously a two and a half storey dwelling and shop. It is proposed to add a 45° pitched roof with front facing gable above the existing second floor. In addition, the development carried out thus far which appellant seeks approval for includes the reworking of the front elevation in a contemporary style with one small square central window at first floor level and a tall, narrow corner window at second floor level. The front elevation is currently unfinished above ground floor level and is wrapped in a breathable membrane; the proposed plans show this would be finished with rainscreen cladding. Slate cladding has been used at ground floor level.
8. The arrangement of windows on the front elevation relates poorly to the existing terrace and wider surroundings which are residential in character and display regularly aligned windows in proportion to their front elevations. The appeal building would appear taller and bulkier than most neighbouring buildings, emphasising the unsympathetic sizes and locations of the front elevation windows. On a building of this mass, the under-sized nature and central positioning of the first floor level window and the blank expanse at second floor level create an unduly dominant and unwelcoming building in the street scene.
9. The photographs of the original state of the building show a single tall window positioned off-centre at first floor level and a central small dormer at roof level, similar to the existing arrangement at 128 Bohemia Road. Although that former arrangement was also irregular, the sizes and positions of those windows generally reflected others locally and related well to the former proportions of the appeal building, which are now substantially different.
10. The proposed pitched roof would substantially increase the bulk and mass of the building. However, despite appearing taller and bulkier than most neighbouring buildings, the overall size, scale, height, mass and form of the proposal would not be completely out of context with its surroundings, which include buildings of similar scales and heights, notably that at 138 Bohemia Road. Buildings on the opposite side of the road also form a long terrace of similar heights with varied roof forms.

11. The use of rainscreen cladding on the front elevation would not be typical for the area, but it could be used to add interest to the building in an area where a range of finishes of varying quality are on display. I have not been presented with any details of the specific colour, texture or arrangement of the proposed cladding which could make a positive contribution to the character and appearance of the terrace. Further details of the specific colour, texture and arrangement of any finish to the front elevation could be required by condition to ensure a satisfactory relationship with the rest of the terrace.
12. Notwithstanding my comments in respect of the overall size, scale, height, mass, form and front elevation cladding of the proposal, the sizes and locations of the front elevation windows have created a building of poor design in the context of surrounding neatly proportioned buildings, and the proposal as a whole would harm the character and appearance of the area.
13. The proposal would therefore conflict with Policy DM1 of the Hastings Local Plan: Development Management Plan (2015). This policy requires, amongst other things, proposals to reach a good standard of design which protects and enhances local character, appreciates surrounding scale, height, massing and materials.
14. The Council's decision notice refers to Policy DM3 of the Hastings Local Plan: Development Management Plan (2015). This policy relates to the effect of proposals on the amenity of neighbouring residents and future occupants, clarifying that 'amenity' in this case relates to privacy, over-shadowing, and loss of daylight. The Council's reason for refusal and appeal submissions do not demonstrate there would be any conflict with Policy DM3.

### **Other Matters**

15. The appellant has referred to the environmental credentials of the proposal, which is claimed to be 'zero carbon', but has failed to provide any detailed information supporting these claims. I have been referred to documents which accompanied a 2018 scheme, but they have not been provided by the appellant. I note the appellant's hand out<sup>3</sup> which explains the reasoning behind locating habitable rooms to the rear of the building, away from what is referred to as a busy and polluted road, with all windows being triple or quadruple glazed. This document also refers to insulation and air tightness being maximised, the use of recycled construction materials, and the installation of a thermal store, air source heat pump, photovoltaic panels, solar water heater, water reducing measures and a heat recovery system in the roof space.
16. The appellant has referred to a declared climate emergency and explained how these measures have sought to make an old inefficient building fit for the future. However, it has not been demonstrated that any of same benefits could not be achieved by a scheme which is more sympathetic to the character and appearance of the area. As such, I am unconvinced that the environmental benefits of the proposal outweigh the harm caused to the character and appearance of the area by the front elevation window sizes and positions.
17. It has not been suggested that the size and positioning of windows on the front elevation of the appeal building are essential to achieve similar environmental benefits, and it would be a matter for the appellant to consider the character

---

<sup>3</sup> Appendix A to the appellant's statement: 'Current hand-out for visitors'

and appearance of the area when seeking planning permission prior to commencing development. I note the appellant's claims that the Council previously granted planning permission for similar schemes which have lapsed, but no details of those schemes have been presented by the appellant and I have only been provided with excerpts from the Council's officer report in relation to those decisions. In any case, as the appellant suggests those permissions have lapsed, I cannot assign significant weight to those arguments.

18. Both main parties have referred to the Council's Supplementary Planning Document (SPD) relating to sustainable design<sup>4</sup>. The SPD refers to former development plan policies, but its intention to promote sustainable building techniques while improving the appearance of the built environment remains clear. I have found the proposal would harm the character and appearance of the area and its environmental benefits would not outweigh that harm.
19. The appellant has referred to parts of the Hastings draft Local Plan, which was open to consultation until the end of March 2021. The draft Local Plan is therefore at an early stage of development, despite its intention to cover the period 2019 to 2039. Its emerging policies remain subject to change and do not form part of the development plan or carry the same weight as the Council's development plan policies. The excerpts referred to by the appellant seek to encourage sustainable development including innovative design, but their overall approach does not suggest these aims should be achieved at the cost of causing harm to the character or appearance of the area.
20. In addition to the matters referred to above, Policy DM1 also identifies the efficient use of resources as an element of good design, and requires proposals to take into account good performance against best practice guidance on sustainability. The proposal would appear to accord with these parts of the policy, but it has not been demonstrated that it would accord with the development plan as a whole.

## **Conclusion**

21. The proposal would harm the character and appearance of the area in conflict with the development plan taken as a whole. There are no material considerations of sufficient weight that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

*L Douglas*

INSPECTOR

---

<sup>4</sup> Householder Development: Sustainable Development (2007)