



Appeal Decision

Site visit made on 15th November 2022

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 09 December 2022

Appeal Ref: APP/U1430/W/22/3300762

63-65 Cooden Sea Road, Bexhill-on-Sea TN39 4SL

- 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 Vulcan 63-65 Ltd against the decision of Rother District Council.
 - The application Ref.RR/2022/503/P, dated 28 February 2022, was refused by notice dated 12 May 2022.
 - The development proposed is the construction of an upward extension by using the airspace above an existing residential and commercial premises in order to provide a single dwelling (Class C3).
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Decision

1. The appeal is allowed and planning permission is granted for the construction of an upward extension by using the airspace above an existing residential and commercial premises in order to provide a single dwelling (Class C3) at 63-65 Cooden Sea Road, Bexhill-on-Sea TN39 4SL in accordance with the application Ref.RR/2022/503/P, dated 28 February 2022, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in strict accordance with the following approved plans: Existing Plans & Elevations, Location & Block Plan, drawing no.2018/061/PL1, dated July 2018 & Proposed Plans & Elevations, drawing no.2018/061/PL2 rev.A, dated 16.02.2022.

3. No development shall take place 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 thereafter be carried out in accordance with the approved details.

4. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details of the following as appropriate. These details are not exclusive.

- 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 used in construction of the development,
- 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 (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

5. The development shall not be occupied until the parking and turning area has been provided in accordance with the approved drawing no.2018/061/PL2 rev.A, dated 16.02.2022 including the provision of electric vehicle charging points, and the areas shall thereafter be retained for that use and shall not be used other than for the parking and turning of motor vehicles.

6. The development shall not be occupied until the cycle parking area has been provided in accordance with the approved drawing no.2018/061/PL2 rev.A, dated 16.02.2022 and the area shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Procedural Matter

2. After the planning application was determined, the appellant submitted a revised drawing (no.2018/061/PL2 rev.B dated 6 June 2022) which amends the design of the roof of the proposed flat. The revised drawing has not been the subject of public consultation and consequently there has been no opportunity for the public or statutory consultees to formally comment on the revised proposal. The public and statutory consultees would therefore be prejudiced if I accepted the revised drawing, particularly given the fundamental nature of its content. I therefore refuse to accept the revised drawing or treat it as part of the appeal scheme. Accordingly, I have determined the appeal on the basis of the same plans on which the Local Planning Authority determined the planning application.

Main Issue

3. The main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site contains a three-storey building located to the east of Cooden Sea Road. It houses 4 flats on the first and second floors and has planning permission for change of use of the ground floor commercial unit to a dwelling. The detached building stands back from the main road behind a street tree, verge and small parking area and has a flat roof and a contemporary finish. It makes a positive contribution to the streetscene. There is existing vehicular access and car parking on the site at the front and rear.

5. The site lies within the development boundary for Bexhill-on-Sea and within the Little Common District Centre.
6. The proposal is to construct a dwelling on the flat roof of the building. It too would be contemporary in appearance and would have a metal clad curved roof with UV panels on top as well as a roof light serving the stairway. It would comprise a two-bedroom, three person flat accessed via the existing stairway. It would not be flush with the elevations of the building but would stand back from three elevations and include a roof terrace.
7. The character of the area and the street scene is made up of predominantly two storey buildings with pitched roofs and some three storey buildings with flat roofs.
8. The appeal building stands cheek-by-jowl with another three storey building (67-77 Cooden Sea Road) to its south. It is made of brick and is in commercial and residential use. This building does not have a contemporary finish and has a horizontal emphasis caused by two rows of windows on the first and second floors. It has a relatively small box-like structure on its flat roof which can be glimpsed from the south of the building but is otherwise not easy to see from the ground. South of this building is Saint Martha's Church which is also red brick. It stands back from the road and verge with a small parking forecourt and it has a frontal tower element of broadly four storeys topped with a pyramid pitched roof.
9. Paragraph 120(e) of the National Planning Policy Framework introduced in July 2021 states that decisions should support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards) and can maintain safe access and egress for occupiers.
10. The starting point for an assessment of the proposed development is, in my view, a recognition that it would sit within a commercial streetscene in a busy district centre where there are buildings such as the church and 40-42 Cooden Sea Road of a notable height. Whilst the number of storeys of a building is a material factor when judging impacts on the character of an area, it sits alongside considerations such as (but not exclusively) the relative heights of buildings and the perception of heights of buildings.
11. The proposed dwelling would increase the height of the building on which it would sit but it would be seen in the context of, amongst other things, the almost adjoining 3 storey building and St Martha's Church. St Martha's Church would be perceived as a similar or slightly higher building than the appeal proposal. The proposal would also be seen in the wider context of 40-42 Cooden Sea Road which is a building on the west side of the road to the north west of the appeal site. This latter building is not quite as high as the proposal but is nevertheless a high and visually significant building in the common streetscene. There is also 47-51 Cooden Sea Road (Tesco development) which lies to the north of the appeal site and occupies a corner plot separated from adjacent buildings. This has a much larger footprint than 63-65 Cooden Sea Road and is a traditional style three-storey building with a portion of the second floor accommodation built into the roof space. It may be lower than the appeal

proposal but it represents another high building not untypical of the type and bulk seen in district centres and is highly visible in this particular district centre.

12. The elevations of the proposal would, on three sides, sit back from the elevations of the main building resulting in a less visually intrusive form of development and giving the perception of a reduced mass and bulkiness. From street level this would appear even less intrusive. Taking this and the existing character of the area together, I consider that the development would be sufficiently consistent with the prevailing height and form of neighbouring properties and the overall street scene so as not to cause harm.
13. The set back from the principal elevation would help to dispel any perception of the building being overdeveloped. The curved roof would add interest to the building and some relief from the squared-off lines of the main block. The use of metal on the roof would not jar with the mixed commercial and residential character of the area.
14. Consequently, I conclude that the proposal would not harm the character or appearance of the area. It would not be in conflict with paragraph 120(e) of the Framework, policies OSS4(iii), BX1 or EN3 of the Rother Local Plan Core Strategy or policy DHG9 of the Rother District Development and Site Allocations Local Plan (adopted 2019).

Other Matters

15. The Council has not objected to the proposal on the basis of inadequate parking arrangements. The site would be allocated the existing unallocated visitor space associated with 4 flats at the site. I am mindful, however, that in addition the ground floor of the building is being converted to a residential unit through the exercise of permitted development rights. Of relevance to the adequacy of overall parking at the site is the good sustainability credentials of the site in relation to travel. The District Centre has good links to public transport. There are bus stops located opposite the site providing frequent services to nearby locations. Furthermore, the nearest train station, located to the south of the site, is about 1.3km away and therefore located within an acceptable walking distance. There is some cycle parking at the site. For these reasons I consider that overall, the parking provision would be adequate.
16. Some noise, disturbance or inconvenience to existing residents of the building during the construction period is possible but there is a condition on the planning permission which requires a Construction Management Plan to be submitted and approved by the Local Planning Authority and so I am satisfied that there would be controls to minimise noise. Potential noise and disturbance is not in this case a reason to withhold planning permission.
17. As to setting a precedent for the future, I have considered this scheme on its own particular merits, including its own unique spatial and amenity relationships to properties adjoining and around it and I am satisfied that precedent does not provide a reason for refusing the scheme in this case.
18. I acknowledge that there are benefits which would flow from the proposed scheme. There would be economic benefits and in particular an increase in the housing stock by one unit. The latter is of particular relevance where a local planning authority cannot demonstrate a deliverable 5 year housing land supply. The data before me with the appeal documentation in this case

concedes that the Council have a 2.89 year housing land supply (as of 1st April 2021) which plainly falls notably below the 5 year housing supply required by the Framework. As this is a case which involves the provision of a new residential unit, the tilted balance applies. However, I have not identified any tangible adverse impacts of the scheme. I find that the scheme would accord with the adopted development plan as a whole and that there are no material considerations which indicate that planning permission should not be granted.

Conditions

19. The Council suggested a number of conditions in the event that the appeal was successful. I have considered the imposition of conditions in the light of advice in national planning practice guidance. The appellant has consented to those conditions which have pre-commencement requirements. For the avoidance of doubt, I have imposed a condition tying the development strictly to the relevant plans. In order to preserve the character and appearance of the area there is a condition requiring materials used on external surfaces to be approved by the Local Planning Authority and to be used in the scheme. The materials need to be approved before any development takes place so that the Local Planning Authority can be satisfied about the appearance of the new dwelling.
20. To preserve residential and environmental amenity, there is also a condition ensuring that a Construction Management Plan is approved and followed and it is necessary for this to be approved before any works begin in order to be effective. Conditions securing cycle parking, and vehicle parking and turning space and EV charging, are necessary to ensure highway safety and sustainable modes of transport options.

Conclusion

21. I conclude that the proposal would be in accordance with the adopted development plan and that there are no material considerations which indicate that permission should be refused. Having taken into account all representations made, for the reasons given above, I allow the appeal and grant planning permission subject to conditions.

Megan Thomas K.C.

INSPECTOR