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## Appeal Decision

Site visit made on 26 January 2023

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> February 2023**

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**Appeal Ref: APP/B1415/W/22/3294613**

**Garages Adjacent 12 Watermans Close, Hastings TN34 2JP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by The Company of Watermen and Lightermen of the River Thames against the decision of Hastings Borough Council.
  - The application Ref HS/FA/21/00823, dated 24 August 2021, was refused by notice dated 21 October 2021.
  - The application sought planning permission for redevelopment of existing garage to provide a pair of semi-detached 2-bed dwellings without complying with conditions attached to planning permission Ref HS/FA/20/00730, dated 11 March 2021.
  - The conditions in dispute is No 2 and 4 which state that:  
The development hereby permitted shall be carried out in accordance with the following  
2. approved plans: 20020-P-105, 20020-P-104, 20020-E-004, 20020-E-003, 20020-E-002, 20020-P-103B, 20020-P-006B, 20020-E-005A and 20020-E-001A  
4. The occupation of the dwellings hereby approved shall be limited to a person aged 65 years or older, and/or a spouse, widow or widower of such a person.
  - The reasons given for the conditions is:  
2. For the avoidance of doubt and in the interests of proper planning.  
4. The development does not provide the same level of accommodation that would be expected for the wider housing market and would not normally be granted. Regard has been given to the particular circumstances submitted by the applicant, which demonstrates whom the development is intended for.
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### Decision

1. The appeal is allowed and planning permission is granted for redevelopment of existing garage to provide a pair of semi-detached 2-bed dwellings at Garages Adjacent 12 Watermans Close, Hastings TN34 2JP in accordance with application Ref: HS/FA/21/00823 dated 24 August 2021 without compliance with condition numbers 2 and 4 previously imposed on planning permission Ref HS/FA/20/00730 dated 11 March 2021 and subject to the following conditions set out in the attached Schedule.

### Background and Main Issue

2. Planning permission for the redevelopment of an existing garage to a pair of semi-detached 2-bed dwellings included a condition (4) which restricted occupiers of the dwellings to persons 65 years or older, and/or a spouse, widow or widower of such a person. The application subject of this appeal sought to remove the condition restricting the occupancy age of occupiers of the dwellings by providing each dwelling with its own private amenity space and front garden. In providing private outdoor space, it was also necessary to seek

to vary the approved plans condition (2) to allow these external works to take place.

3. The Council considers condition 4 to be necessary to prevent the dwellings from being used as family homes or wider market housing that would provide unacceptable levels of private amenity space for the occupiers. The Appellant considers the condition to be unreasonable and unnecessary.
4. As a result, the main issue is the effect that amending condition 4 would have on the living conditions of future occupiers of the proposed dwellings with regard to private garden space.

## **Reasons**

5. In order to access the Watermans Close estate, residents and visitors must pass through a gated entrance. The wider site consists of a communal building and bungalows set across Watermans Close with manicured grassed front and rear gardens. There is a distinct lack of boundary treatments which gives the impression of shared communal gardens. I observed how bungalows on the northern side of Watermans Close are connected by a footpath, with a thin strip of land being used as a vegetable patch, owl pen, greenhouse and various sheds on the boundary edge.
6. The site comprises a single-storey brick-built garage building that is to be replaced with a pair of dormer bungalows. The Council's concerns relate to the limited private amenity space that would be available to occupants of these dwellings should condition 4 be removed.
7. Policy DM3 of the Hastings Local Plan Development Management Plan (DMP) states, in order to achieve a good living standard for future users of the proposed development and its neighbours, it should be demonstrated that amenity has been considered and appropriate solutions have been incorporated into schemes. At criterion g. it requires appropriate levels of private external space to be included, especially for larger homes designed for family use (dwellings with two or more bedrooms). It goes on to expect family-sized dwellings to provide private garden space (normally at the rear), of at least 10 metres in length.
8. The proposed scheme would see no alterations to the dwellings themselves, which are dormer bungalows that contain a second bedroom within the roof space. The combined living and kitchen area, small size of the upper bedroom and the low upstairs ceiling height results in the dwellings being compact and therefore of modest size. Nonetheless, each dwelling would be able to accommodate up to 4 adults who qualify under the occupancy condition restrictions.
9. The private garden space would be in excess of what is currently available to existing residents of Watermans Close. I also note, that existing houses within the Watermans Close estate, from a planning perspective, are not subject to any occupancy conditions, and this is instead controlled through private regulation by the estate operators. I therefore do not agree with the Council that retaining the condition will ensure the appeal scheme remains consistent with other properties within Watermans Close.
10. The private garden areas proposed would fail to achieve the expected 10m length, instead providing approximately 3.5 metres. Nonetheless, the private

space provided would be an adequately sized patio area, sufficient to accommodate bins and other domestic paraphernalia, such as garden chairs, tables and storage sheds. Whilst not private, occupiers would also have access to a front garden area similar to other residents of the estate.

11. Policy DM3 does not discount undersized gardens that fail to achieve the 10 metres length as criteria g. states that this level is an expected provision. For the reasons set out above, I find the scheme would provide a good living standard for future users and an appropriate level of private external space in compliance with the overall aims of Policy DM3.
12. For the reasons set out above, condition 4 is not necessary or reasonable as its removal would not significantly affect the living conditions of future occupiers, with particular regard to the provision of private outdoor space. It would, therefore, accord with Policy DM3 of the DMP the relevant criteria of which are set out above.

### **Conditions**

13. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. Therefore, I have imposed all those that I consider to remain relevant.
14. In their statement, the Council has requested a condition requiring the submission of details of hard landscaping details for the patio area and proposed low wall. As full details have not been provided and in the interest of the character and appearance of the area, I have attached this as a condition.

### **Conclusion**

15. For the reasons given above, I conclude that the appeal is allowed.

*A Hickey*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than 11 March 2024.
2. The development hereby permitted shall be carried out in accordance with the approved plans: 20020-P-103B, 20020-P-104, 20020-P-105, 20020-E-001A and 20020-P-006C
3. No development shall take place above ground until details of the materials to be used in the construction of the external surfaces of the dwellings 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.
4. Prior to occupation of the units hard landscaping details for the patio area to the rear of the properties is to be submitted to and approved in writing by the Local Planning Authority. This submission is to include details of the proposed low wall. The hard landscaping is to then be carried out in accordance with the approved details prior to occupation.
5. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:- 08.00 - 18.00 Monday to Friday 08.00 - 13.00 on Saturdays No working on Sundays or Public Holidays.
6. The new ground floor window in the side (north-east) elevation serving the dining/kitchen/lounge, as shown on plan 20020-P-103B, shall be obscure glazed with obscure glass to a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3, or similar equivalent and be permanently fixed shut and non-opening below 1.7 metres from finished floor level, at all times.

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