



Appeal Decision

Site visit made on 31 January 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/B1415/W/22/3299150

1 St Matthews Road, St Leonards-On-Sea TN38 0TN

- 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 R Stone, Lilybank Ltd against the decision of Hastings Borough Council.
 - The application Ref HS/FA/22/00035, dated 11 January 2022, was refused by notice dated 4 March 2022.
 - The development proposed is demolition of existing dilapidated outbuilding and provision of new three bedroom detached house, with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether sufficient information has been submitted with respect to surface water drainage; and
 - The effect of the proposed development on the living conditions of the occupiers of 3 St Matthews Road, with particular reference to outlook from the garden area.

Reasons

Information relating to surface water drainage

3. The SuDS Decision Support Tool for Small Scale Development document submitted with the planning application states, "*The soil is potentially suitable for infiltration, however soakage tests in accordance to BRE365 should be undertaken to determine the actual infiltration potential*". Whilst the submitted drawings indicate a proposed soakaway location, in the absence of further testing, I do not have any evidence to address the concern raised within that document.
4. The requirement to submit further information could not be conditioned as it needs to be demonstrated, through further testing, that the soil is suitable for infiltration and that surface water can be adequately managed for the development.
5. I conclude that insufficient information was submitted in relation to surface water drainage. The appeal scheme is therefore contrary to Policy SC7 of the

Hastings Planning Strategy (2014) (HPS) which indicates that the adaptation of all developments to reduce the risk of flooding will be sought through a variety of suitable measures, including the use of Sustainable Drainage Systems.

6. The Council also alleges a conflict with Policy DM6 of the Hastings Development Management Plan (2015) (HDMP) with regards to this matter. Whilst the policy relates to pollution and environmental hazards my attention has not been drawn to any words in it that are relevant to surface water drainage. The policy has therefore not been determinative in my decision.

Living conditions of neighbouring occupiers

7. The appeal site comprises the former rear garden area of No. 1 St Matthews Road, which is a three storey property sub-divided into self-contained flats. The appeal site is separated from No. 1 by a brick wall and timber panel fence. A brick wall with a vehicular access onto Sedlescombe Road South marks the site's western boundary. To the rear of the appeal site is a communal garden which, it is understood, is shared between the occupiers of No's 3 and 5 St Matthews Road. The boundary with No. 3 is marked by a wood panel fence and high garden wall, with trees and vegetation also planted along the boundary.
8. At three storeys high, the house would extend significantly above the existing high garden wall on the boundary. As the rear of the house would be positioned close to the shared boundary with No. 3, its width and height have the potential to impact the outlook for neighbouring occupiers from the communal garden. Communal gardens are likely to be used as frequently as private gardens, and occupiers of properties with communal gardens can be equally impacted by proposed developments. At the time of my site visit the garden appeared to be well used, containing an outbuilding and garden furniture.
9. The roof of the house would be hipped and would pitch away from the shared boundary. The roof's eaves line would be low and the third floor of accommodation would be contained within the hipped roof. However, views from the area of the garden closest to the boundary would look directly onto the house's rear elevation with minimal separation distance. Whilst efforts have been made to reduce the size and bulk from previously submitted iterations, the house would have a looming presence over the neighbouring garden. The combined depth, height and proximity of the house to the neighbouring garden means that the proposed development would be a dominant and oppressive feature for neighbouring occupiers.
10. The appellant has submitted a drawing which indicates the impact of the new dwelling based on a 45 degree angle taken from the top of the proposed eaves. The appellant has also provided metrics to demonstrate that the perceivable impact of the development would be minimal. It has been put to me that the proposed development has been designed to respond to comments from the Council's Conservation Officer. Whilst I have taken note of this and the various metrics provided, these do not change my view that the proposed development, as a result of its position, height and width would be overbearing and thus harmful to outlook from the back garden.
11. The appellant suggests that the existing planting and trees on the boundary have the same overbearing impact as the new house would. However, a permanent brick wall and roof, as proposed as part of the appeal proposal, would have a more significant visual impact than the existing foliage.

12. It has been put to me that there are other properties within the area where two storey buildings are located immediately adjacent to gardens, although I have not been provided with specific examples. During my site visit I did not observe any properties which would have the same type of relationship as that proposed. In any event, their existence does not indicate that the proposed development is acceptable.
13. For the above reasons, I conclude that the proposed house would harm the living conditions of the occupiers of 3 St Matthews Road, with particular reference to outlook from the communal garden. I therefore find that it would conflict with Policy DM3 of the HDMP. Amongst other aspects, this policy seeks to protect the living conditions of occupiers of neighbouring properties.

Other Matters

14. The National Planning Policy Framework (2021) (Framework) seeks to significantly boost housing supply and indicates that substantial weight should be given to the value of using suitable land within settlements for homes. It also encourages the optimal use of underutilised land. The proposal would contribute to local housing supply and would represent a more efficient use of land in an existing urban area with access to public transport and services.
15. I acknowledge that residential development in this location is acceptable in principle and the proposal may be compliant with various other provisions of the development plan.
16. The site is not within a conservation area and the Council has not raised concerns about the proposed development's effect on the character and appearance of the area. The parties also agree that the proposed development would not unacceptably harm the living conditions of the occupiers of 15 Sedlescombe Road South nor 1 St Matthews Road. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.

Planning Balance and Conclusion

17. The Council has confirmed that it is unable to demonstrate a 5 year housing land supply. Therefore paragraph 11(d) of the Framework applies. As the site is not within a protected area or asset of particular importance paragraph 11(d)(i) is not relevant to the appeal. However, the test in paragraph 11(d)(ii) should be applied. This requires an assessment of the proposal against the policies in the Framework taken as a whole.
18. The Framework expects development to safeguard and improve the environment and ensure safe and healthy living conditions. Policy SC7 of the HPS and Policy DM3 of the HDMP are therefore consistent with the Framework. Even taking into account the Council's failure to deliver sufficient housing, the conflict between the proposal and the development plan should be afforded great weight or substantial weight.
19. Set against the harm identified there would be limited benefits associated with the proposal, such as its accessible location. Also, an additional three bed residential unit, whilst beneficial, would make a modest contribution to the overall delivery of housing. Therefore, the adverse impacts on the living conditions of neighbouring occupiers that I have identified would significantly and demonstrably outweigh the benefits when assessed against the policies in

the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

20. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR