



Appeal Decision

Site visit made on 11 January 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/B1415/W/22/3300656

Land adjoining 115 Ghyllside Avenue, Hastings TN34 2QB

- 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 Elphick Developments Ltd against the decision of Hastings Borough Council.
 - The application ref HS/FA/21/00774, dated 11 August 2021, was refused by notice dated 23 December 2021.
 - The development proposed is erection of a single storey dwelling with car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling with car parking at land adjoining 115 Ghyllside Avenue, Hastings TN34 2QB in accordance with the terms of the application, ref HS/FA/21/00774, dated 11 August 2021, subject to the conditions within the attached schedule.

Main Issue

2. The main issue of the appeal is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

3. Whilst properties on the same side of Ghyllside Avenue, as the appeal site, are generally two storeys, there are a number of different sized properties and a variety of designs in the surrounding area. This includes bungalows on the opposite side of the road and along Old Roar Road, including a dormer bungalow to the rear of the appeal site. Ghyllside Avenue is a wide road, with properties generally set back behind driveways and/or front gardens, there is also a grass verge on the other side of the road which contributes to the verdant and spacious character.
4. There is a general uniformity of plot size and shape, unique to each side of Ghyllside Avenue. However, the appeal site is larger than other plots and a different shape to others along the same side of the road. Given the location of the appeal site on the end of a row of houses, the pattern of development amongst existing properties would be unaltered. The appeal site would also maintain a gap between properties similar to other properties on the road. I therefore consider that the proposed single storey dwelling would not unacceptably disrupt the pattern of development.
5. The appeal site is located in a prominent position within the street scene and would be visible along Old Roar Road and Ghyllside Avenue. Whilst the appeal

- property would not be stepped back from the adjacent property, like other properties in the surrounding area, it would be set back a similar distance from the road with a comparable separation between properties. Therefore, it would maintain the openness and rhythm of properties on this side of the street.
6. The evidence before me indicates that some Tree Protection Order (TPO) trees have been felled on health and safety grounds. Although the proposed development would lead to some loss of vegetation, a landscaping scheme and boundary treatment similar to neighbouring properties would ensure the appeal site does not conflict with the verdant character of the area. The proposed soft landscaping scheme could also include the planting of new trees to compliment those retained on site. The proposed development would not impact trees subject to a TPO remaining on site.
 7. I conclude that the proposed single storey dwelling would not harm the character and appearance of the surrounding area. The appeal scheme therefore complies with policies DM1 and DM3 of the Shaping Hastings, Hastings Local Plan, Development Management Plan, September 2015, which indicates proposals should protect and enhance local character and permission will be granted where considerate design solutions for space between and around buildings is shown.
 8. The appeal scheme also complies with Paragraph 52 of the National Planning Policy Framework (the Framework), which indicates that development that is not well designed should be refused, and Paragraph 52 of the National Design Guide, which says well-design new development is influenced by local or regional character.

Other Matters

9. The proposed dwelling would be single storey, have boundary treatments and be set in from the edges of the site. In addition, it would be set down from the road and any side elevation windows be fitted with obscure glazing. Therefore, any effects on outlook, daylight and sunlight at nearby properties would be limited.
10. While it would be seen from other properties, given the separation distances and scale of the dwelling it would not have an overbearing effect on the outlook from them. Furthermore, a condition is imposed with regard to finished floor levels/land levels.
11. The future occupiers of the proposed dwelling would experience sufficient levels of light; the plans show each of the habitable rooms benefits from a window.
12. Based on my observation on site and the plans before me, there would be sufficient off-street parking for future occupiers.
13. There is little evidence of the presence of biodiversity within the appeal site. The Preliminary Ecological Assessment includes measures which would protect biodiversity from the impacts of construction and the implementation of these measures would be controlled by condition. The protection and enhancement of existing habitats and provision of new habitats would also be provided through the proposed soft landscaping scheme.
14. I have no substantive evidence that the proposed development would adversely affect the sewer system. The effect of proposed vegetation on the

integrity of the drain would need to be considered as part of the soft landscaping scheme. A condition is imposed requiring details of the surface water drainage system.

15. It has been put to me that the proposed plans are inaccurate as they don't show accurate proposed ground levels and the tree canopies would be much larger than shown. Following my observation of the site, I have no reason to believe the proposed scheme could not be achieved.
16. Matters relating to the conduct of the Council and sale of the land are outside of the scope of this appeal. Whilst other proposed residential schemes on the appeal site have been refused permission, and appeals have been dismissed, those schemes are materially different to the appeal scheme in terms of size and siting of the proposed dwelling.

Conditions

17. The Council and interested parties have suggested conditions in the event of the appeal being successful. I have considered these conditions and amended and/or omitted them in line with the Planning Practice Guidance (PPG).
18. In the interest of certainty, conditions specifying timescales and the approved plans is necessary. To ensure the proposed development is in keeping with the character and appearance of the surrounding area, conditions requiring details of materials; a landscaping scheme; and, the boundary enclosures are necessary. A condition specifying tree planting is not required as these details would be included within the landscaping scheme.
19. To ensure the protection of biodiversity and trees during the construction phase, conditions are necessary to ensure the tree protection measures detailed within the Arboricultural Implications Assessment are implemented and the timing of vegetation removal is specified. A separate condition relating to tree protection fencing is not required as it is covered by the measures identified within the Arboricultural Implications Assessment. The protection fencing would need to be installed prior to the start of works. A pre-commencement condition specifying details of ecological mitigation and enhancement measures are required as these details need to be agreed prior to work starting.
20. A condition is imposed regarding the provision of bin storage to ensure appropriate facilities are provided.
21. A condition requiring the full details of the surface water drainage scheme is required. To ensure foul water is disposed of in an acceptable manner, details of the proposed disposal need to be agreed with the Council. These conditions are required to be pre-commencement as they are likely to include subterranean features. However, evidence of implementation clause not required. Similarly, a separate condition identifying how to prevent surface water from the highway draining onto the appeal site, and vice versa, is not necessary as it should be covered within the surface water drainage scheme.
22. Given the extent and timing of the groundworks and excavations work required, a pre-commencement condition requiring the implementation of wheel washing facilities is necessary to prevent contamination and damage to adjacent roads. Similarly, to prevent the spread of contamination a condition is

- necessary to ensure remediation measures and a verification report are agreed and implemented, if contamination is found.
23. Conditions specifying working times and requiring the production and implementation of a Construction Environmental Management Plan are not required given the scale of the development.
24. A condition restricting the installation of external lighting is not reasonable, there is no substantive evidence to suggest that the provision of outdoor lighting would harmfully affect the living conditions of neighbouring residents.
25. A condition requiring evidence of the control programme and audit trail of when imported trees where needed and their origin is not required. I do not have substantive evidence before me that a condition requiring this information would be necessary and relevant to the development permitted.
26. Given the PPG's advice that conditions to restrict permitted development rights are unlikely to meet the test of reasonableness and necessity, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to restrict the permitted development rights of the future occupiers.

Conclusion

27. The proposed development complies with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh this.
28. For the reasons given I conclude that the appeal is allowed.

J Hobbs

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:
 - Site Location Plans as Existing (ref. 01-21-110 rev. -)
 - Plans and Elevations as Proposed (ref. 01-21-100 rev. -)
 - Street Scene and Site Section (ref. 01-21-111 rev. A)
- 3) Prior to the commencement of the development, details of ecological mitigation and enhancements shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these measures prior to occupation of the dwelling, and they shall be retained thereafter.
- 4) Prior to the commencement of the development, a detailed surface water drainage system shall be submitted to and approved in writing by the local planning authority. The surface water drainage system shall incorporate the following:-
 - a) Detailed drawings and hydraulic calculations. The hydraulic calculations shall take into account the connectivity of different surface water drainage features. The calculations shall demonstrate that surface water flows can be limited to the 5 l/s for all rainfall events including those with a 1 in 100 plus climate change annual probability of occurrence. An allowance for urban creep shall be incorporated within the calculations.
 - b) The detailed design of the surface water drainage features shall be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the bases of the drainage structures and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the hydraulic capacity and structural integrity of the drainage system should be provided.
 - c) Details of the proposed drainage to prevent the discharge of surface water from the proposed site onto the public highway and, similarly, to prevent the discharge of surface water from the highway onto the site.
 - d) Details of a management and maintenance plan for the surface water drainage scheme for the lifetime of the development, which shall include any arrangements for adoption by any public authority or statutory undertaker.

The surface water drainage scheme shall be fully implemented as agreed prior to the occupation of the development and retained thereafter.
- 5) Prior to the commencement of the development, details of the proposed means of foul water sewerage disposal scheme shall be submitted to and approved in writing by the local planning authority. The agreed foul water sewerage disposal scheme shall be fully implemented prior to the occupation of the development and retained thereafter.

- 6) Prior to the commencement of the development, tree protection fencing shall be erected in accordance with the details contained in the Arboricultural Implications Assessment, prepared by Broad Oak Tree Consultants Limited dated 11 August 2021 ref J59.97. The fencing shall be retained throughout the construction period.
- 7) Prior to the commencement of the development, details of vehicle wheel washing equipment shall be submitted to and approved in writing by the local planning authority. These measures shall be implemented prior to start of earthworks and/or excavations and retained
- 8) No above ground works shall commence 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.
- 9) No above ground works shall commence until details of a landscaping scheme have been submitted to and approved in writing by the local planning authority. The scheme shall include planting plans; written specifications; schedule of plants, noting species, plant sizes together with an implementation programme; proposed finished levels and/or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; and, proposed and existing above ground functional services.

If within a period of 5 years from the date of planting any tree is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted in the same location.

Development shall be carried out in accordance with the approved details.

- 10) Prior to the occupation of the development, the external storage spaces and collection point for refuse bins shall be provided in accordance with the details shown on Plans and Elevations as Proposed (ref. 01-21-100). Thereafter the external storage spaces shall not be used for any purpose, other than the storage of refuse bins and shall be maintained as such.
- 11) No removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive; unless a detailed check of vegetation for active birds' nests before vegetation is cleared and details of appropriate measures to protect nesting birds have been submitted to the local planning authority and agreed in writing. Works shall then be carried out in accordance with the agreed measures.
- 12) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and measures for its remediation shall be submitted to and approved in writing by the local planning authority. A verification report for all the remediation works shall be submitted to the local planning authority and approved in writing before work can continue in accordance with the verification report.