



Appeal Decision

Site visit made on 6 June 2023

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal Ref: APP/B1415/W/22/3306171

Land Between 42 & 45 Tackleway, Hastings, East Sussex TN34 3BU

- 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 Charlie Farrow of CRF Surveyors against the decision of Hastings Borough Council.
 - The application Ref HS/FA/21/01019, dated 7 November 2021, was refused by notice dated 20 July 2022.
 - The development proposed is a two bedroom infill dwelling & associated parking on land between no.42 & 45 Tackleway.
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Decision

1. The appeal is allowed planning permission is granted for a two bedroom infill dwelling on land between Nos 42 & 45 Tackleway, Hastings, East Sussex TN34 3BU, in accordance with the application Ref: HS/FA/21/01019, dated 7 November 2021, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The description of the development on the application form was as set out in the above banner heading. However, amended plans were submitted and accepted prior to the Council's determination of the application. In addition to changes to design details of the property, the amendments included removing the associated parking. I have determined the appeal based on these amended plans and changed the description in the formal decision to remove the reference to parking provision.

Main Issues

3. The main issues are whether the proposal would:
 - a) preserve or enhance the character or appearance of the Old Town Conservation area and preserve the setting of adjacent listed buildings;
 - b) provide adequate living conditions for future occupants.

Reasons

Effect on heritage assets

4. The appeal site is within the Old Town Conservation Area (OTCA) and close to Nos 40 and 45 Tackleway, which are Grade II listed buildings. I therefore have statutory duties to pay special attention to the desirability of preserving or enhancing the character or appearance of the OTCA and to have special regard to preserving the setting of the listed buildings.

5. The significance of the OTCA is derived from its development as one of the original Cinque Ports which date from medieval times. The area is characterised by a series of narrow streets running parallel to the contours of the valley connected by steep, narrow pedestrian passageways enclosed by buildings on either side. Tackleway is the most easterly street at the top of a steep slope with fine views over the town. Development is confined to its western side; the other is defined by a stone wall and marks the open land of Hastings Country Park. The street is characterised by an eclectic mix of predominantly domestic dwellings of varied style and design. Many make use of the change in levels being predominantly 2 or 3 storeys facing the street, but 3 or 4 storeys at the rear. Most date from the 18th and 19th centuries. It is the arrangement of the buildings, combined with their individualist styles along a slightly uneven building line, which contribute to the significance of this part of the OTCA.
6. There are two listed buildings close to the appeal site. No 45 is thought to be of late 18th or early 19th century construction and was originally 2 houses. It has been completely restored as one dwelling. Its first-floor tile hung front elevation punctuated by sash and bay windows are distinctive features in the street scene. By contrast the side elevation has a bland appearance arising from the large expanse of tile hanging and the render of the attached flat roofed garage. Its setting was originally between other buildings as part of the continuous development along Tackleway. The side elevation of No 45 therefore does not positively contribute to its setting or the significance of the building.
7. No 40 is a modest early 19th century dwelling with a hipped roof and sash windows. It is squeezed between what appears to be a former chapel and a taller, dwelling of typical Victorian/ Edwardian style. Its setting, which is primarily confined to its immediate surroundings, contributes to its significance insofar as it forms part of the continuous street frontage along Tackleway.
8. The appeal site is part of a notable gap in the street scene between Nos 42 and 45. It was previously occupied by two of a row of five cottages facing a narrow passageway (1-5 Zion Cottages) which stepped down the slope. Four of these were demolished as part of slum clearance in the 1930s. No 5, which is furthest from the street was rebuilt in the 1970s and faces the passageway which continues to descend the hill towards All Saints Street. The site is therefore significantly different from other gaps in the street which are narrow and enclosed by buildings on both sides. Whilst the gap provides extensive views over the town, a feature appreciated by local people, it is at odds with the tightly knit buildings that occupy the remaining street frontage.
9. In this context the insertion of a small dwelling which would mirror the scale and architectural features of other modest-sized properties in the street would not appear out-of-keeping with the street scene. It would effectively re-create a more continuous building line along Tackleway. As a fully detached dwelling, it would be less typical than the older properties which are attached or semi-detached. However, the gap between the dwelling and the flank wall of No 45's garage would be minimal and only apparent when directly facing the site. It is clear from the submitted evidence that there have been constructive discussions between the parties about the detailed design of the dwelling. The amended plans incorporated changes to the eaves overhang, the height of the chimney and the fenestration; other appropriate detailing and materials could be secured by conditions. I am therefore satisfied that the proposal would integrate satisfactorily into the street scene.

10. The scheme would also reinstate the narrow passageway between the buildings which was part of the original development of the area. In doing so it would complement other similarly narrow passageways along the street. However, the mature garden to Zion Cottage which is visible from the footway would be lost and a sense of enclosure would be introduced along the depth of the building. However, the sense of openness would increase on the approach to Tackleway when ascending the steps due to the set back of No 42. On the descent, the passageway would open out beyond the rear elevation of the proposed dwelling alongside the gardens of the adjacent dwellings. This would prevent the proposal giving rise to any undue sense of enclosure along the passageway.
11. I acknowledge that the extensive views over the town through the existing gap are valued and would be reduced. However, they would not be altogether lost as the other side of the valley would still be seen over the flat roof of the garage of No 45. A sense of openness would therefore be retained.
12. Taking all these factors into consideration, I conclude that the proposal would not be harmful to the character or appearance of the OTCA, which would be preserved. Similarly, there would not be any adverse effect on the setting of No 45 which would be preserved. The distance between the appeal site and No 40 ensures that its setting would be unaffected by the proposal. The proposal would therefore comply with EN1 and SC1 of the Hastings Planning Strategy 2014 (HPS) and HN1 and DM1 of the Hastings Development Management Plan 2015, (HDMP), all of which require high quality development which respects its context, setting and views with a particular emphasis on preserving and enhancing the town's heritage assets. It would also accord with the National Planning Policy Framework's (the Framework) aim of conserving heritage assets in accordance with their significance.

Living conditions

13. Policy DM3 of the HDMP sets out minimum internal floor areas for dwellings and suggests 66m² for a 2 bedroom/3 person unit. In this case total floor area of the proposed dwelling would be 102m², which exceeds that requirement. The Council also relies on the nationally published Technical Guidance for Space Standards (TGSS) which gives minimum sizes for bedrooms in addition to total internal space. It states that a double room should have a floor area of no less than 11.5m² and be at least 2.75m wide. A single bedroom should have a floor area of not less than 7.5m² and be at least 2.15m wide.
14. No specific dimensions of the proposed bedrooms were shown on the submitted plans. The floor areas for the two bedrooms were given as 12m² and 7m², so the smaller of the two would fall below the minimum standard. Although the appellant considered this could be addressed by means of a condition, the Council was not satisfied that this could be achieved on the lower ground floor without affecting the size of the double bedroom and possibly the location of the side facing windows. However, the internal layout, which shows a combined living room and study on the first floor, in addition to two bedrooms on the lower ground floor, suggests that there may be alternative options as to how space on the lower ground and first floors could be used. As the house would be of an adequate overall size for 3 people, I consider it would therefore be appropriate to address this matter through the imposition of an appropriate condition.

15. The only window serving the larger bedroom directly adjoins the passageway to the side. To provide satisfactory living conditions for future occupants it would be necessary to consider a means of opening this window that ensured adequate security and privacy for the occupants, particularly as it could not open outwards onto the passageway. Even if this required minor amendments to the design of the window, I consider this is also a matter that could be addressed through the imposition of an appropriate condition.
16. I therefore conclude that, subject conditions, the proposal would provide adequate living conditions for future occupants. It would therefore accord with Policy DM3 which permits dwellings which are designed to allow residents to live comfortably and conveniently with sufficient internal space.

Other Matters

17. Existing on-street parking on Tackleway is well used. Local people are therefore concerned about any additional demand on the limited number of on-street spaces. The adopted parking standards indicate that a provision of 1.5 spaces would normally be required to serve a 2-bedroom dwelling. As none are now proposed, future residents would rely on kerbside space.
18. However, traffic regulations already operating in Tackleway. These restrict parking to residents with a permit. There was no definitive evidence to demonstrate that the area is experiencing excessive parking stress or to suggest that future occupants of the proposed dwelling would not be eligible to apply for a permit. As the site is close to many local facilities, and there is access to public transport within a 5-minute walk, it would be possible to live here without a car. In any case, the increased requirement for on-street parking from a single dwelling would not significantly change the overall demand and is therefore not a reason to find the scheme unacceptable.
19. As Tackleway is a narrow cul-de-sac, some disruption during construction would be likely. Whilst regrettable, that is not a reason to reject a proposal which would be satisfactory once completed. However, a condition requiring a construction management plan would be justified to minimise the inconvenience to neighbours.
20. It has been suggested that the house would be used as a holiday-let rather than providing a permanent home. However, this is not a matter that can be controlled under current planning policy and was not an issue about which the Council expressed concern.
21. Issues regarding the ownership of the footway and covenants on the land are matters for the landowners and not for me to consider in the context of this appeal.

Conditions

22. In addition to the standard time limit the Council has suggested additional conditions which should be imposed if the appeal was allowed. I have considered these having regard to the tests set out in paragraph 56 of the Framework and imposed them where necessary, amending them for the sake of clarity and precision.
23. A condition specifying the plans is needed in the interests of certainty. I have secured the written agreement of the appellant to pre-commencement

conditions in respect of the specific materials to be used, a Construction Method Statement and archaeological investigations. Agreement to the details of the materials, window and door joinery, rooflights, chimney mouldings and pots, and rainwater goods are essential to ensure that the development is of an appropriate quality to preserve the appearance of the OTCA. This justifies securing agreement to them before work begins. A construction method statement is required to protect the living conditions of neighbours during the construction and archaeological investigations are necessary to protect heritage interests.

24. Ensuring retention of timber doors and windows in perpetuity is necessary to protect the appearance of the OTCA. The means of disposing and managing foul and surface water drainage must be agreed and implemented to avoid the risk of pollution and flooding. Measures to adapt and mitigate the effects of climate change may be limited by other requirements to preserve the appearance of the conservation area. However, they are needed to comply with the Council's aspirations to work towards zero carbon development in accordance with Policies SC3 and SC4 of the HPS.
25. Details of refuse and cycle storage are necessary to ensure that the development functions well and the use of sustainable transport is encouraged. A restriction on working hours during construction is necessary to protect the living conditions of neighbours in the surrounding area.
26. To secure satisfactory living conditions for future occupants I have also imposed additional conditions relating to the internal layout and the windows. In doing I so sought the views of the main parties and have taken their responses into account. I have therefore had regard to the specific dimensions for bedrooms set out in the TGSS, and the need to provide secure but opening windows serving the lower ground floor rooms that face the adjacent passageway.

Conclusion

27. Subject to the imposition of appropriate conditions, the proposal would comply with the development plan. I therefore conclude that the appeal should be allowed.

Sheila Holden

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: 2120 004 A, 2120 005 B, 2120 007 A, 2120 01A, 2120 02A, 2120 03 and 2120 06.
3. No development shall take place until details of the following materials have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details:
 - a) Brick and render;
 - b) Roof tiles, ridge tiles and hip tiles;
 - c) Reconstituted concrete sample if cills and window mouldings are to be retained unpainted;
 - d) Paint finish to the front door;
 - e) Details of proposed painting scheme including manufacturer, paint type and colour references.
4. No development shall take place until details of the following matters have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details:
 - a) Full joinery details of all windows and doors to include 1:10 elevations and 1:2 or full size horizontal and vertical sections through all joinery elements;
 - b) A vertical section at 1:2 or full size through the proposed eaves boards and soffits;
 - c) Sections through the chimney moulding, the moulded profile above the windows on the front elevation and window cills at 1:2 or full size;
 - d) Details of rooflights including manufacturer, model, size, appearance, profile, materials and finishes;
 - e) Details of rainwater goods including manufacturer, model, size, profiles, materials and finishes;
 - f) Details of the chimney pots including manufacturer, model, size, profile and materials.
5. No development shall take place until details of the means of providing secure opening windows to serve the side elevation of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The windows shall be installed and retained thereafter as approved.
6. The windows and doors shall be timber and have a painted finish.
7. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - a) Loading and unloading of plant and materials;

- b) Storage of plant and materials used in the construction of the development;
 - c) Measures to control the emission of dust and dirt during construction and restore any damage to the highway and footway arising from construction works;
 - d) Measures to control noise and vibration from construction works.
8. Except for internal works to the building construction works must only be carried out within the following times:
0800-1800 Monday to Friday
0800-1300 on Saturdays
At no time on Sundays or Public Holidays.
9. No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which includes a timetable for undertaking and reporting on the Investigation having previously been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved Scheme.
10. No development above slab level shall take place until a plan of the internal layout has been submitted to and approved in writing by the local planning authority showing how one bedroom with a width of at least 2.75m and a floor area of at least 11.5m² and one bedroom with a width of at least 2.15m and a floor area of at least 7.5m² will be provided. The development shall be carried out in accordance with the approved details and retained thereafter as approved.
11. No development above slab level shall take place until details of the proposed means of foul sewerage and surface water disposal/management has been submitted to and approved in writing by the local planning authority. The designed system should provide details of how it will be managed and retained throughout the lifetime of the development. The development shall be carried out in accordance with the approved details. The dwelling shall not be occupied until the local planning authority has confirmed in writing that the drainage infrastructure capacity is available to adequately service the development.
12. No development above slab level shall take place until details of measures to be incorporated in the design to mitigate and adapt to the effects of climate change have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
13. The development shall not be occupied until facilities for the storage for refuse have been provided in accordance with details which had previously been submitted to and approved in writing by the local planning authority.
14. The development shall not be occupied until secure cycle storage has been provided in accordance with details which had previously been submitted to and approved in writing by the local planning authority.

End of Schedule of Conditions