

Appeal Decision

Site visit made on 19 June 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/P1425/W/23/3315948
418 South Coast Road, Telscombe Cliffs, Peacehaven, East Sussex, BN10 7BE

- 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 Adil Moharib against the decision of Lewes District Council.
 - The application, Ref. LW/22/0759, dated 11 November 2022 was refused by notice dated 10 January 2023.
 - The development proposed is the conversion of the existing structure to form 1 no. 3 bedroom single storey dwelling accessed via Amhurst Road.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and redevelopment of the existing structure to form 1 no. 3 bedroom single storey dwelling accessed via Amhurst Road at 418-420 South Coast Road, Telscombe Cliffs, Peacehaven in accordance with the terms of the application, Ref. LW/22/0759, dated 11 November 2022 and subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is the suitability the site's conversion to a dwelling as regards any effect on the character and appearance of the area and in terms of its functionality for future occupiers. I have retained the term 'conversion' as it forms part of the application wording but it seems to me that with the scheme as shown and described, the addition of the term 'redevelopment' would be more accurate.

Reasons

3. I saw on my visit that the appeal scheme seeks to convert/redevelop the ancillary buildings to the rear of the takeaway. This building fronts South Coast Road with a first floor flat above and forms the middle property in a terrace of three ground floor commercial uses. Between the frontage building and the flat roof concrete framed triple garage facing Amhurst Road, the site is at present entirely infilled with single storey buildings used as interconnecting kitchens and storage space for the takeaway.
 4. As is often the case to the rear of commercial premises, the ancillary buildings are not a good look and the triple garage with its roller shuttered front doors is particularly unsightly in the street scene of Amhurst Road. It also comprise a poor outlook for the two houses on the opposite side of the road.
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5. The appeal scheme is a second application submitted after the refusal of scheme ref. L/22/0587 in October 2022 and includes a number of amendments in an attempt to overcome the Council's previous concerns. The main elements of the proposal are the reduction of the present 146.25sqm of building floor coverage to 87.12sqm with the remaining open area of 59.13 sqm to be used for garden, car parking, cycle parking and refuse/recycling storage. Although the building would be single storey, a gable end pitched roof over the master bedroom would face Amhurst Road.
6. As regards the character and appearance of the area, I have no hesitation in concluding that in views from Amhurst Road (effectively the only view available) the conversion and redevelopment would be a significant improvement to that of the existing structures and in particular the triple garage. The unsightly bulk of the garage would be replaced by a gabled structure and with triangular glazing at its apex. The amount of footprint cover and therefore bulk of building on the site would be substantially reduced.
7. The scheme would also be acceptable in itself as a positive new development given that, as I have already indicated, the southern side of the road is characterised by a variety of ancillary buildings and parking areas as opposed to a more visually pleasing conventional street scene. There are also residential uses in close proximity to the east, west and south and this provides an appropriate context for the development, with the commercial uses the exception in this locality. Accordingly, in use terms the dwelling would be consistent with the character of the surrounding development.
8. In terms of functionality for future occupiers, the appeal scheme provides an amenity space for the proposed ground floor dwelling and the first floor flat, whilst the submitted drawings show that the space for car parking space, refuse/recycling bins, cycle storage is modest in size (but in my view not 'incredibly small' and unworkable as the Council allege). The Council's reference to 'density' is not particularly relevant as what is being proposed is in effect a ground floor flat where it is the overall floorspace and bedroom sizes that dictate the minimum size.
9. In this regard, the appropriateness of the location and the suitability of the rear of the premises for conversion residential development including the layout and amount of proposed living space has already been accepted by the Council through the planning permission for an identical but 'mirror image' dwelling at the adjoining No. 422-424 under reference LW/21/0711 granted as recently as December 2021. The Council's appeal statement appears to argue that this should not have been granted, but nonetheless it has and must therefore carry significant weight in my determination of the current proposal.
10. I acknowledge that with its location to the rear of a takeaway and constraints on design and living space the residential unit would not be the most desirable of residences. In my assessment it is the absence of outlook beyond the site confines that is the primary disadvantage. That said, the development is located in an area of open landscape and literally metres from cliff walks and sea views. There is also a bus stop in South Coast Road directly opposite No. 418-420 which facilitates access to local services. This is therefore a sustainable location.

11. For these reasons I find on the main issue that the appeal scheme would improve rather than harm the character and appearance of the area and that the residential building would function adequately in terms of living conditions for the occupiers and accessing essential servicing facilities. There would therefore be no harmful conflict with Core Policies 2 & 11 of the Lewes Local Plan Part 1 2003; Policies DM25, DM26 & DM28 of the Lewes Local Plan Part 2 2020, and with Government policy in the National Planning Policy Framework 2021 ('the Framework') when taken as a whole.

Planning Balance

12. The argument in favour of development is further strengthened when the overall planning balance as applied to the development is appraised, as required in paragraph 11d) of the 2021 update of the Framework. The Council acknowledges that it is unable to demonstrate a five year supply of deliverable housing sites to meet this identified level of housing need.
13. In these circumstances paragraph 11d)ii, as qualified by footnote 8, says that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework when taken as a whole. The Council accepts that the absence of a five year supply is a 'significant planning matter' but argues that the development of a single new home would not benefit the District enough to *'outweigh the disbenefit resulting from the proposal's site overdevelopment and poor design'*.
14. In the event, I have concluded that even allowing for the modest site size, the existing use and buildings would enable a conversion /redevelopment for residential development without adverse effects. However, if I had afforded increased weight to the Council's criticisms of the appeal scheme and thereby found harm, I would also have had to give great weight to the benefits of the addition of a new dwelling.
15. This is because in East Sussex where significant expansion of communities along the coastal strip is heavily constrained by the South Downs National Park, the incremental contribution of individual and small scale sites, especially redevelopment of brownfield land, assumes much greater significance in addressing the shortfall in supply. In these circumstances the cumulative effect of a positive application of the planning balance towards development where it is both feasible and for the most part consistent with the thrust of planning policies can play a vital role in addressing the housing shortfall. The appeal scheme is a case in point.

Other Matter

16. The long term tenant at the property has explained the background to his business and the importance of its contribution to the local community. This would be lost if the appeal scheme were to be allowed. However, whilst I acknowledge these submissions and indeed have some sympathy with them, the Council has not objected to the development on the basis of a conflict with any policies that seek to preserve land used for commercial and employment uses. For this reason I am unable to give sufficient weight to the objection raised so as to come to a different decision in the appeal.

Conclusion and Conditions

17. For the reasons explained I shall allow the appeal and grant planning permission. The Council has suggested conditions and with one exception I agree that they are reasonable and necessary. The exception is the biodiversity condition because the site is completely covered with buildings and even when a small amenity area is provided it will be separated from the site's external boundaries by a building and the hard surface parking and servicing area.
18. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition requiring a Construction Management Plan will safeguard the immediate environment, highway safety and the living conditions of neighbours. A condition requiring an Energy Appraisal will ensure energy efficiency in order to respond to local and national policy on climate change. A condition requiring appropriate measures to deal with any contamination is needed to safeguard human health and environmental quality.
19. Conditions in respect of an electric vehicle charging point and a cycle store will ensure the development meets sustainability goals. A condition requiring a workable refuse and recycling store will safeguard the amenities of the area, whilst a parking space will assist with highway safety and convenience. A condition limiting the hours of work will reduce noise and disturbance for nearby residents and a condition restricting permitted development rights will preclude a more intensive and potentially harmful form of development. Finally, a condition requiring the provision of a drainage scheme will prevent flooding, protect water quality and safeguard nearby habitats and amenities.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: Drawing Nos. 01; 02; 03; 04; 05; Mirror image plans of 418-420 & 422-424 South Coast Road; 08 & 09;
- 3) No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the Planning Authority. The approved plan shall set out the arrangements for managing all environmental effects of the development during the construction period, including traffic (through a workers' travel plan), temporary site security fencing, artificial illumination, noise, vibration, dust, air pollution and odour, site illumination and shall be implemented in full throughout the duration of the construction works, unless a variation is agreed in writing by the Local Planning Authority;
- 4) No development above ground floor slab level of any part of the development hereby permitted shall commence until a report has been submitted to and approved in writing by the Local Planning Authority, to include details and drawings to demonstrate how a minimum of 10% of the energy requirements generated by the development as a whole will be achieved utilising renewable energy methods and showing in detail the estimated sizing of each of the contributing technologies to the overall percentage. The report shall identify how renewable energy, passive energy and energy efficiency measures will be generated and utilised for the proposed building to collectively meet the requirement for the development. The approved details shall be implemented with the construction of each dwelling and thereafter retained;
- 5) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with;
- 6) The dwelling shall not be occupied until (i) details for the provision of an electric car charging point have been submitted to and approved in writing by the Local Planning Authority and (ii) the charging point has been installed in accordance with that approval;
- 7) The development shall not be occupied until full details of the covered and secure cycle store have been submitted to and approved in writing by the Local Planning Authority. The store shall thereafter be retained for that use and shall not be used other than for the parking of cycles by residents and visitors to the development hereby permitted;
- 8) The development shall not be occupied until refuse and recycling bin facilities have been provided as shown on the approved plans. These facilities shall thereafter be permanently retained;

- 9) No part of the development hereby approved shall be occupied until the vehicle parking space has been provided as shown on the approved plans;
- 10) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development described in Part 1 and Part 2 of Schedule 2, other than hereby permitted, shall be undertaken unless the Local Planning Authority otherwise agrees in writing;
- 11) No site clearance or construction works shall take place outside 0800 hours to 1800 hours Mondays to Fridays and 0830 hours to 1300 hours on Saturdays and no works shall be carried out at any time on Sundays or Bank/Statutory Holidays;
- 12) No development shall commence, including any ground works until a drainage scheme for the site has been submitted to and approved by the Local Planning Authority and the works carried out as approved. The scheme shall include proposals for surface water, storm and foul drainage, supported by calculations to demonstrate that the system and capacity will support the dwelling proposed, as well as a plan for its future management.

