

# 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: 25<sup>th</sup> July 2023**

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## **Appeal Ref: APP/P1425/W/22/3309543**

### **Evershed Court, Fairlight Avenue, Telscombe Cliffs, East Sussex BN10 7BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr David Hooker, Union Workhouse Limited, against Lewes District Council.
  - The application, Ref. LW/21/0977, is dated 17 December 2021.
  - The development proposed is an outline application concerning the scale, appearance, layout, and access for the demolition of existing buildings and the erection of 7 No. dwellinghouses in the form of a terrace and changes to vehicular access.
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### **Application for Costs**

1. An application for costs was made by Mr David Hooker, Union Workhouse Limited against Lewes District Council. This is the subject of a separate Decision.

### **Preliminary Matters**

2. The outline application was for all matters to be given full consideration other than 'Landscaping' which is reserved for subsequent submission and approval. The application was recommended for approval by officers but refused by the Planning Applications Committee at its meeting on 7 September 2022.

### **Decision**

3. The appeal is allowed and outline planning permission is granted for the scale, appearance, layout, and access for the demolition of existing buildings and the erection of 7 No. dwellinghouses in the form of a terrace, and changes to vehicular access, at Evershed Court, Fairlight Avenue, Telscombe Cliffs, East Sussex in accordance with the terms of the application, Ref. LW/21/0977 dated 17 December 2021 and subject to the conditions in the attached Schedule.

### **Main Issues**

4. The main issues are the effect of the development on the character and appearance of the area and the effect on highway and pedestrian safety.

### **Reasons**

5. On the first issue, the Council's appeal statement argues that the key concern of Members was that *'the proposal by reason of the layout, the number of units proposed (and) the tight access would result in a form of development that*
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*would be out of character with the prevailing pattern of development in the area and would be likely to result in highway and pedestrian issues, contrary to Policy DM25'. It was considered that amongst the reasons for this were that the proposed houses would be of a poor design and the outside areas would be dominated by car parking and bin stores. In addition, the proposed access was considered to be insufficient in terms of its capacity and function.*

6. Turning firstly to the argument that the appeal scheme would be out of character, I acknowledge that the proposed terrace of seven dwellings with rooms in the roof would be different from the existing buildings on the site and in the surrounding area. I also accept that they would have an appearance of a higher density compared to the existing built form.
7. However with that said, the locality has a 'backland' character and appearance with a somewhat random pattern of development. As such, there is an absence of visual cohesion as regards layout and design that precludes any distinctive 'street scene' within which new building needs to harmonise. The presence of commercial uses is a negative factor and with existing buildings of a poor appearance and the appeal site and adjoining land being perceived as somewhat derelict, I consider that the changes as a result of the development would represent a significant improvement to the locality.
8. The assertions of 'overdevelopment' are in my view unjustified and I note that the development footprint would actually be smaller than at present. The proposed houses would have good sized rear gardens and there would be adequate space for parking. Furthermore, it is in the nature of infill development to be more intensive than the existing land use - otherwise it would, by definition, not be feasible. Government policy in the National Planning Policy Framework 2021 ('the Framework') is to make the best use of brownfield land and for there to be a positive approach towards housebuilding in sustainable areas. The appeal scheme meets these requirements and with the assistance of a good standard of hard and soft landscaping pursuant to an approval of the reserved matter, the appeal scheme would not be so different as regards appearance to draw the eye and be seen as a harmful change.
9. In terms of highway and pedestrian safety, the Highway Authority is satisfied that the access and approach driveway would meet its technical standards and I see no reason to dispute this. Local residents have criticised the narrowness of the access from Fairlight Avenue but in itself this will serve to limit the speed of vehicles. The Transport and Access Note v1.0 dated 20 May 2022 includes amended plans which show a passing point that will help to avoid a conflict between vehicles entering and leaving the site. This access from Fairlight Avenue also provides complete visibility of anyone walking along the proposed driveway, and there is also additional pedestrian access via the footpaths from Cliff Gardens to the north and South Coast Road to the south.
10. As regards the main issues, I therefore find that the development would not harm the character and appearance of the area and would not have an adverse effect on highway and pedestrian safety in the vicinity of the site. Accordingly, there would be no harmful conflict with Policy DM25 of the Lewes District Local Plan Part 2 2020: 'Site Allocations and Development Management Policies'. There would also be no inconsistency with Government policy in Section 12:

'Achieving Well-Designed Places' of the Framework or with the objectives of the Framework when considered as a whole.

### **Other Matters**

11. Public consultation on the application and appeal has resulted in objections as regards overdevelopment, parking, and an adverse impact on existing residents in respect of privacy, daylight, and noise & disturbance. However, from all that I have seen and read, including careful scrutiny of the application plans, I am satisfied that the proposed development would not have any harmful effect in terms of these issues.

### **Conclusion and Conditions**

12. For the reasons explained above I shall allow the appeal and grant outline planning permission but with Landscaping reserved. The Officer's Report suggests a number of conditions and I agree that these are necessary and reasonable including the pre-commencement conditions to which the appellant has not objected. I have made some minor amendments to a couple of the other conditions.
13. 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. Conditions relating to parking provision and space size, a waiting area for vehicles and visibility splays will ensure safety and convenience for residents of, and visitors to, the development.
14. Conditions to provide cycle parking and electric vehicle charging facilities, and to include measures for renewable energy and water efficiency are all required to ensure that the development is consistent with the principles of sustainable development. The amenities of existing nearby residents will be safeguarded by conditions regulating hours of work during the construction period and by a requirement for the submission of a Construction Environment Management Plan for the Council's approval.
15. Finally, conditions in respect of an asbestos survey, contamination remediation, foul and surface water drainage, landscaping, and external materials will combine to ensure a good environmental standard for the development and its surroundings. As already indicated, details of the landscaping remain a matter reserved for future approval.

*Martin Andrews*

INSPECTOR

### **Schedule of Conditions**

1. No development shall commence until details of the hard and soft landscaping (hereinafter called 'the Reserved Matter') have been submitted to and approved in writing by the Local Planning Authority. Application for the approval of the Reserved Matter shall be made within three years of the date of this Decision and the development hereby permitted shall begin not later than two years from the date of such approval.
2. The development shall be carried out in accordance with the following approved plans and documents: Drawing Nos. EVC 21.0 Rev. A; EVC 21.1; EVC 21.2; EVC 21.3; EVC 21.4; EVC 21.5; EVC 21.6 Rev. A; EVC 21.7; EVC 21.8; EVC 21.9; EVC21.10; EVC 21.11; LW/15/0410 (as approved); Corrected CEP Drawings 2, 3 & 4; Transport and Access Note v1.0 dated 20 May 2022 including Drawing Nos. TN03 & TN04; Supporting Information letter dated 24.03.22; Evershed Additional Information letter dated 30.05.22;
3. Before the development hereby approved is commenced on site, details/samples of all external materials including all facing, roofing, and fenestration shall be submitted to and approved in writing by the Local Planning Authority and carried out in full accordance with that consent;
4. The development shall not be occupied until the parking areas/spaces have been provided in accordance with the approved plans and the area shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles. The proposed parking spaces shall measure at least 2.5m by 5m with an extra 50cm where spaces abut walls;
5. The development shall not be occupied until secure cycle parking facilities have been provided in accordance with details which have been submitted to and approved in writing by the Planning Authority in consultation with the Highway Authority and the area shall thereafter be retained for that use and shall not be used other than for the parking of cycles;
6. The development shall not be occupied until a waiting area for vehicles has been provided and constructed in accordance with the approved plans and the waiting area shall thereafter be retained for that use and shall not at any time be obstructed;
7. The access shall not be used until visibility splays of 2.4m by 43m in both directions are provided. The splays shall thereafter be permanently retained;
8. 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 include, but not necessarily be limited to, the arrangements for managing all environmental effects of the development during the construction period, including traffic (to include a workers' travel plan), temporary site security fencing, artificial illumination, noise, vibration, dust, air pollution and odour, site illumination and the means of keeping local residents informed of key stages and how to complain if issues arise. The Management Plan shall be fully implemented in its approved form unless a variation is first agreed in writing by the Local Planning Authority and its provisions shall apply throughout the duration of the construction works;
9. Hours of work at the site during the period of demolition and construction shall be restricted to 08:00 to 18:00 hours Monday to Friday and 09:00 to 13:00 hours on Saturday. No working shall be permitted at any time on Sunday or Bank Holidays;
10. Prior to demolition, a full asbestos survey shall be carried out on the building to be demolished. Any asbestos containing materials (ACMs) shall be removed by a suitable and qualified contractor and disposed off-site to a licenced facility. A copy of the report of survey shall be provided to the Local Planning Authority together with a mitigation

plan that removes the risk to construction workers and future occupiers of exposure to asbestos;

11. If, during development, contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved;
12. Prior to the commencement of the development hereby approved, details of foul water drainage shall be submitted to and approved by the Local Planning Authority and water authority. The development shall be carried out in accordance with the approved details and no occupation of any part of the development shall occur until the approved works have been completed. The foul water drainage system shall be retained as approved thereafter;
13. Prior to the commencement of the development hereby approved, details of surface water drainage, which shall follow the principles of sustainable drainage as far as practicable, shall be submitted to and approved in writing by the Local Planning Authority. The document shall include details of how discharge of surface water onto the highway will be prevented. The development shall be carried out in accordance with the approved details and no occupation of any part of the development shall occur until the approved works have been completed. The surface water drainage system shall be retained as approved thereafter;
14. Prior to the completion of any residential unit forming part of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following: Details of all hard surfacing; details of all boundary treatments (including provision of mammal gates to allow for foraging animals to cross the site); details of all proposed planting, including numbers and species of plants; details of size and the planting method of any trees; details of ecological enhancements and of a Biodiversity Net Gain;
15. All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;
16. Prior to the first occupation of any part of the development hereby permitted, a minimum of 1 No. electric vehicle charging point shall be provided for each dwelling in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The charging points shall thereafter be maintained in an operable condition throughout the lifetime of the development;
17. The proposed development shall not be occupied until full details of all renewable/ carbon saving/energy and water efficiency measures to be incorporated into the scheme have been submitted to and approved in writing by the Local Planning Authority. All measures approved shall thereafter be provided prior to the occupation of any dwelling and maintained in place thereafter throughout the lifetime of the development.