



Appeal Decision

Site visit made on 13 March 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/B1415/W/23/3328939

The Duke, 48 Duke Road, St Leonards on Sea, TN37 7DN

- 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 D Godbold against the decision of Hastings Borough Council.
 - The application Ref: HS/FA/23/00211 dated 20 March 2023, was refused by notice dated 12 June 2023.
 - The development proposed is change of use of ground floor from public house to 2 No. 1 bed apartments including rear extension; first floor extension to increase size of existing first floor accommodation; 2nd floor side dormer extension; external alterations; proposed gated parking, bin and cycle stores to rear garden; proposed living sedum roof and screening; new vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor from public house to 2 No. 1 bed apartments including rear extension; first floor extension to increase size of existing first floor accommodation; 2nd floor side dormer extension; external alterations; proposed gated parking, bin and cycle stores to rear garden; proposed living sedum roof and screening; new vehicular access at The Duke, 48 Duke Road, St Leonards on Sea, TN37 7DN, in accordance with the terms of the application Ref: HS/FA/23/00211 dated 20 March 2023, subject to the conditions set out in the schedule at the end of the decision letter.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2023 after the application was determined. Although some of the paragraph numbering has changed, I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. It is not therefore necessary to seek the views of the Appellant or the Council on the revised Framework.

Main Issues

3. The main issues in this appeal are:
 - a) The effect of the proposed dormer addition to the character and appearance of the existing property and of the local area;
 - b) Whether the proposed access would be safe for all road users, and

- c) Whether the proposal would be acceptable in terms of surface water drainage and reducing flood risk.

Reasons

Issue a) Character and Appearance

4. The appeal property is on the corner of Duke Road with Windsor Road and within a predominantly residential area, with a number of commercial and community uses. The two storey building is currently vacant and was last used as a public house. It has a rear yard/ garden extending to Windsor Road surrounding by a high brick wall.
5. No issue has been raised with the principle of converting and altering the former public house to residential and from the information before me, I have no reason to reach a different view. The proposal would create two flats on the ground floor and would extend the existing first floor residential flat with accommodation in the roof space.
6. The proposed flat roofed dormer window would sit centrally in the side roof slope and would not extend above the ridge line and would be set up from the eaves line. It would therefore sit well within the roof slope and would not appear overly large in relation to the overall roof form. Given the size of the proposed dormer in relation to the overall scale and proportions of the existing roof form and the building, the dormer would not appear visually over prominent and would respect the appearance of the existing building.
7. The surrounding street scene is varied in terms of the range and scale of buildings. The appeal building as existing, is of larger scale and height than the adjoining terrace fronting Duke Road, reflecting its former use, and as a result of its scale and corner location, is more prominent in the street scene. It is clearly seen when entering Duke Road, from the east, off the A21. However, and as I have set out, the dormer extension at roof level would sit appropriately in the side roof slope and would respect the character and appearance of the existing property. As a result, I do not consider it would appear as a visually over dominant addition to the building or visually intrusive in street scene views. I am therefore satisfied that it would respect the street scene.
8. I therefore conclude that the proposed dormer would respect the character and appearance of the existing property as well as of the local area. There would be no conflict with Policy DM1 of the Hastings Development Management Plan 2015 (DM Plan) and the Framework with particular regard to Section 12, both of which amongst other matters seek a high quality of design which respects the local context.

Issue b) Highway Safety

9. The proposed layout would introduce a vehicular access along the Windsor Road frontage to accommodate off-street parking for four cars. The Council's concern, supported by the Highway Authority relates to the proximity of the access to the 'blind' corner, whereby visibility is as existing, and would with the introduction of the proposed access be materially reduced both as a result of the nature of the corner and the high brick wall surrounding the appeal site. The siting of the new access would not meet the Highway Authority's

recommended distance for a new access from a junction of 10m, although it is recognised that this not actually a junction but a 'blind' corner.

10. There is no disagreement that vehicles are generally driving slowly along Windsor Road given its narrowness and number of access points and on-street parking and in particular because of the 'blind' corner. Nonetheless it is my view that the proximity of the access to this corner together with the lack of visibility would create a potential hazard for vehicles and in turn for passing pedestrians. The access would not therefore be safe for all users and would conflict with Policy DM4 of the DM Plan as well as paragraph 116 of the Framework, both of which seek for developments to provide safe and suitable access for all users.
11. The submitted plan shows that the boundary wall would be cut back either side of the access point, but I do not consider that this would be sufficient to address and overcome the above concerns, as visibility would not be improved closer to the corner.
12. The Highway Authority has indicated that the wall should be lowered to 1m to provide improved visibility around the corner. The Appellant did not initially agree with this proposal on grounds of security but has now indicated that he would be prepared to accept a condition to lower the boundary wall to ensure the safety of all road users. I consider that the imposition of a condition to require the lowering of the wall (or alternative form of boundary treatment) to be approved by the Council and thereafter to be implemented and maintained would overcome safety concerns for vehicle and pedestrian users. The imposition of such a condition would also accord with Paragraph 55 of the Framework.
13. Subject to the imposition of a condition as set out above I am satisfied that the proposed development would provide a safe access for all users and that there would be no conflict with Policy DM4 of the DM Plan as well as paragraph 116 of the Framework.
14. I have taken into account the concerns raised in this regard by local residents but for all the reasons set out above, am satisfied that subject to the imposition of a condition regarding the boundary treatment, highway and pedestrian safety issues would be satisfactorily addressed.

Issue c) Surface Water Drainage

15. The existing rear yard and garden would become the parking area for the proposed flats. The Council has questioned the accuracy of the information provided by the Appellant, at the application stage to be satisfied that surface water drainage issues have been appropriately addressed and assessed. The Appellant has maintained that the proposed use of permeable paving and a sedum living roof would have a positive effect on water drainage, compared with the existing.
16. The requirement to ensure appropriate drainage to safeguard against increasing the risk of flooding on site and elsewhere is a key planning consideration. However, in the circumstances of this case and given the small area of land involved, as well as the existing situation in respect of the extent of impermeable paving compared with the proposed, I consider that the matter

would be capable of being satisfactorily addressed through the imposition of an appropriate condition.

17. Subject to the imposition of an appropriate condition, I am satisfied that the proposal would appropriately address surface water drainage to ensure no increased risk of flooding on or off site. There would be no conflict with Policy SC7 of the DM Plan and the Framework, both of which amongst other matters, seek to mitigate against flood risk.

Other Considerations

18. The new dormer at second floor level would face directly towards the chapel on the opposite corner of Dukes Road and Windsor Road. There would be oblique views towards the residential properties along Windsor Road but given the distance between the appeal property and these residential properties as well as the angle of view, I am satisfied that there would not be any material harm to the living conditions of the immediate neighbours from the proposed dormer window. The Council also did not raise this as a reason for refusal. Conditions should be imposed in other respects to protect the amenities of neighbouring residents, including the obscure glazing of the new side window at first floor level in the western elevation; the screen on the eastern elevation and to prevent the flat roof being accessed other than for maintenance purposes.
19. Rights of light has been raised as an issue, but this is addressed under separate legislation.

Conditions

20. In terms of conditions, materials should match the existing or as stated on the application forms to respect the character and appearance of the existing property and of the local area, although I do not consider it necessary for samples to be submitted for approval as most of the principal materials would match the existing. The approved plans should be listed for the avoidance of doubt and in the interests of good planning. Given the restricted nature of the site, access and surrounding area, I agree that a Construction Traffic Management Plan should be in place during the construction period to protect the amenities of adjoining residents and in the interests of highway safety. Hours of construction working are addressed under other legislation and do not need to be repeated here under a separate condition.
21. The access, parking cycling and refuse areas need to be in operation in accordance with the approved plans prior to first occupation in the interests of highway safety and to provide a satisfactory form of development. I do not consider it necessary to impose a requirement for an electric charging point as that is covered under other legislation. As set out above further details of the final form, and particularly the height of the boundary treatment to the site and to the rear of the site requires to be approved in the interests of highway safety. I do not consider that a landscaping scheme is required in the particular circumstances of this case and the limitations of the site; hard landscaping details in terms of the rear car parking area and boundary treatments are already addressed by other conditions.
22. I have also imposed a condition as discussed under my third main issue to require further details and calculations of the permeable materials for the

- parking area and surrounds and for the green roof to ensure that the development properly addresses flood risk and surface water drainage issues.
23. Conditions are required to protect the amenities of neighbouring occupants including the obscure glazing of the new side window at first floor level in the western elevation; the screen on the eastern elevation and to prevent the flat roof being accessed other than for maintenance purposes.
24. Given the very limited size of the site and external areas I consider that any biodiversity enhancements require to be designed into the scheme at a very early stage and for that reason have required them to be submitted and approved at an early stage of the building works.
25. For the reasons set out above and in order to be effective, it is my view that the conditions relating to boundary treatment, drainage considerations to avoid flood risk and the requirements for a Construction Traffic Management Plan all require to be pre-commencement conditions. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have therefore requested and received the Appellant's written agreement to the imposition of these conditions.

Conclusion

26. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building or as stated on the application forms.
- 3) Except in respect of the matters covered by conditions 5 and 6, the development hereby permitted shall be carried out in accordance with the following approved plans: 48DUKE.WD.100_D, 48DUKE.WD.400_C, 48DUKE.WD.500_C, 48DUKE.WD.300_C, 48DUKE.WD.200_C, 48DUKE.SUR.002, 48DUKE.SUR.001_B.
- 4) No development hereby permitted shall take place, including any works of demolition, until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority, and shall include the following:
 - (a) Routing of construction and delivery vehicles to / from the site

(b) Parking and turning areas for construction and delivery vehicles and site personnel

(c) Timing of deliveries

(d) Provision of wheel washing facilities

(e) Temporary traffic management / signage where required

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) Notwithstanding the details shown on the approved plans, no development hereby permitted shall take place, including any works of demolition, until details of the boundary treatment to the eastern, western and northern boundaries of the site together with the visibility splays from the access point shall have been submitted to and approved in writing by the Local Planning Authority. The details submitted in respect of the eastern and northern boundaries of the site shall ensure that no wall or fence shall be higher than 1 m. The approved boundary treatment shall be in place prior to the first occupation of the development hereby approved and thereafter retained as approved.
- 6) Notwithstanding the details shown on the approved plans, no development hereby permitted shall take place, including any works of demolition, until further details of the means of foul and surface water drainage shall have been submitted to and approved in writing by the Local Planning Authority. The submission shall include full details and calculations of the permeable surface treatment of the rear car parking area and of the sedum roof over the single storey rear extension, compared with the existing to ensure that flood risk on and off- site is addressed. The approved details shall be implemented prior to the first occupation of the development hereby permitted and thereafter retained and maintained.
- 7) The site access, parking spaces, refuse and cycle storage areas as shown on the approved plans shall be completed prior to the first occupation of the development hereby permitted and shall thereafter be retained for vehicle parking, refuse and bicycle storage.
- 8) Prior to the construction of the single storey rear extension hereby permitted full details of a maintenance schedule for the sedum roof shall be submitted to and approved in writing by the Local Planning Authority. The roof shall be undertaken in accordance with the approved details prior to the first occupation of the development hereby permitted and thereafter retained in accordance with the approved maintenance schedule.
- 9) No development above the foundations to the extensions to the existing building or any external building works to the existing building hereby permitted shall take place until a scheme of biodiversity enhancement measures have been submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes. The approved details shall be completed prior to first occupation of the development and thereafter retained.

- 10) Prior to the first occupation of the development hereby permitted, the proposed screen at first floor level alongside the flat roof shall be implemented, following the submission of details to be approved in writing by the Local Planning Authority. Following implementation, the screen shall thereafter be retained and maintained.
- 11) The flat sedum roof shall only be accessed for maintenance purposes and it shall not be used as a sitting out area or for recreational purposes at any time.
- 12) The proposed first floor window in the western side elevation of the development hereby permitted shall be glazed with obscure glass and fixed shut to a height of 1.7 metres above the finished floor level of the room in which the window is installed and thereafter so retained.