



Appeal Decisions

Site visit made on 3 April 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2024

Appeal A - Ref: APP/B1415/W/23/3321708 **Site of former 59 High Street, Hastings TN34 3EN**

- 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 & Mrs Phil Simpson against the decision of Hastings Borough Council.
 - The application Ref HS/FA/22/00701, dated 31 August 2022, was refused by notice dated 31 March 2023.
 - The development proposed is removal of porch and side cladding to existing listed building and erection of new build residential dwelling.
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Appeal B - Ref: APP/B1415/Y/23/3321705 **60, 61 and 61A High Street, Hastings TN34 3EN**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr & Mrs Phil Simpson against the decision of Hastings Borough Council.
 - The application Ref HS/LB/22/00702, dated 31 August 2022, was refused by notice dated 31 March 2023.
 - The works proposed are removal of porch and side cladding to the building.
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Decisions

1. Appeal A is allowed, and planning permission is granted for removal of side cladding to existing listed building and erection of new build residential dwelling at Site of former 59 High Street, Hastings TN34 3EN, in accordance with planning application Ref HS/FA/22/00701, dated 31 August 2022, and in accordance with the conditions in the attached schedule.
2. Appeal B is allowed, and listed building consent is granted for removal of side cladding to the building at 60, 61 and 61A High Street, Hastings TN34 3EN, in accordance with listed building consent application Ref HS/LB/22/00702, dated 31 August 2022, and in accordance with the conditions in the attached schedule.

Preliminary Matters

Revised drawings

3. The appellants submitted two different revised proposals with the appeals. Both options would have a lesser step up to the proposed bike store to the front at ground floor level. Option A would reduce the amount of timber cladding to the front elevation, particularly at ground floor level where the cladding would be replaced by a glazed tile. Option B would be similar but with a small wall flush

with High Street on the southern boundary, and with no timber cladding at all with glazed tiles also replacing the cladding to upper levels. The appellants have indicated that they would be happy with either option to form the basis of the appeal. Option B makes the most changes in response to the reasons for refusal and is therefore the most appropriate option to consider.

4. In this regard, the Option B changes go to one of the points of dispute regarding the proposal in relation to detailed design. However, they are relatively minor. The Council had the opportunity to respond to the changes during the course of the appeal process. The Council's submissions regarding the detailed design of the proposal are specific and in-depth. It has confirmed that it would maintain its objection to the proposal in these regards. I am therefore comfortable that I have the evidence I need to understand its position in relation to the revised design. No other statutory consultees have made comments regarding detailed design as it relates to the proposed changes. I am therefore satisfied that in accepting the revised proposal no parties would be prejudiced and I have accepted the drawings as part of the formal drawing set for Appeal A.

Heritage assets

5. Because the appeals relate to works to a listed building including a refusal to grant listed building consent, and the appeal site lies in the Old Town Conservation Area (the CA), I have had special regard to Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The listed building consent application includes all the proposed works. It also uses the address of the appeal site. However, the appeal site is not a listed building. The relevant building is the directly adjacent 'No 60, 61 and 61A High Street'¹, which is Grade II listed. I have therefore changed the address and the description of development so that Appeal B only relates to works to the listed building. These changes would not prejudice the main parties because this is purely administrative.
7. The existing drawings indicate a porch to the side elevation. The porch no longer exists. However, it is shown on the existing drawings and as removed on the proposed drawings. I therefore maintain the demolition of the porch within the descriptions of development to regularise the situation.
8. To the rear of the site lies Hastings Town Wall. This is both a Grade II listed building² and a Scheduled Monument (SM)³. Historic mapping shows it is likely that it ran diagonally through the site. The appellant has submitted a detailed assessment of the appeal site, both in a Written Scheme of Investigation, dated July 2022 (WSI) and An Archaeological Evaluation, dated January 2011 (AAE). Together, these documents demonstrate, using detailed and robust assessment, that none of the wall remains on the appeal site. Historic England and the East Sussex County Archaeology Service agree. Both list entries confirm that the listed and SM area of the wall lies outside the appeal site, to the east.

¹ List entry number 1043487

² List entry number 1343382

³ List entry number 1002291

9. There are some inconsistencies in the documentation supporting the planning and listed building consent applications, with some documents indicating that part of the Town Wall is on the site. However, all the appeal supporting documentation is unanimous that none of the wall remains on the site. Because of the detailed and convincing nature of the archaeological explorations set out in the WSI and AAE, the appellant has robustly demonstrated that this is true. Scheduled Monument Consent is not, therefore, required, but the proposals would affect the setting of the SM. I deal with this as appropriate throughout my Decisions.

Main Issues

10. The main issues are:

- whether or not the proposal would preserve or enhance the character or appearance of the CA (Appeal A);
- the effect of the proposal on the special architectural or historic interest of the Grade II listed building, including in terms of how it is experienced in its setting (Appeals A and B); and,
- the effect of the proposal on the significance of the Hastings Town Wall SM and Grade II listed building, in terms of how it is experienced in its setting (Appeal A).

Reasons

Character and appearance

The appeal site

11. The appeal site is a vacant plot of land standing between two three-storey terraces. There is hoarding to the front and a timber fence to the rear. The ground is largely mud and stone and is uneven. Because of the density of surrounding development and narrowness of the street, the appeal site is not particularly visible, other than when viewed from when standing nearby on High Street. To the rear, it is more visible, from views from the nearby hills, and also from Winding Street and various properties to the east and south. Although not particularly visible, it forms an atypical gap in the street frontage in an area of otherwise dense development along High Street and the nearby roads. The gap it creates is harmful to the character and appearance of this part of the CA.

The surroundings and CA

12. The buildings to either side largely present blank side facades but there are three windows in the side elevation of No 60, directly overlooking the appeal site. To the rear is a hard landscaped amenity space for a block of flats, the northern boundary of which is partly formed of the Hastings Town Wall SM. The site is within the CA and in a densely developed part of the town centre, both along High Street and to the east and west, with a wide range of building types and architectural styles, although largely three to four storeys. The materiality is overwhelmingly traditional, with a mixture of brick, stone and rendered facades. The vast majority of the roof forms in the area are sloped, albeit in a variety of styles, for example hipped, half-hipped or dormer. They are mostly either clay or slate tiled.

13. The ground floors facing High Street are mostly shopfronts. Some of them are accessed at grade, and some have steps to respond to the changing levels as High Street rises up relatively steeply from the seafront. The shopfronts are mostly flush to the pavement with the entrance doors inset. However, there are also some residential or non-retail premises along High Street. These generally have windows and doors, with the doors inset behind an internal porch. Like with the shopfronts, some of these have steps to respond to the topography. The residential and non-retail premises present relatively 'dead' frontages to High Street and this is an established part of the character of the area.
14. The fenestration on the nearby buildings, and in the wider CA, varies significantly. This variety means that there is little uniformity. For example, whilst some buildings adopt the classic approach of the height of windows reducing as they go up the building, this is not always the case. In particular, there are several examples where the windows are the same size at 1st and 2nd floor levels. There are bow windows, projecting bays, arches, square heads, relatively ornate detailing, relatively simple detailing.
15. The unifying feature, however, is that the quality of most of the buildings, particularly to the front elevations, is in general very high. The C19 buildings have timber framed sash windows with reasonably deep reveals and a vertical emphasis to their shape and locations. They sometimes have relatively intricate and attractive detailing to the surrounds. Other times, the detailing is more simple, yet still elegant. The projecting bays include timber framed sash windows and pleasant detailing to the underside of the projection. Dormer windows are proportionate to the scale of the roof, inset from the edges, parapets and eaves. Shopfronts are largely timber framed, with relatively demure and respectful fascia signs. The buildings are largely in good condition and the quality of the materials is high and has stood the test of time.
16. Adding additional interest is the combination of the tight urban grain and the relatively steep slopes, both away from the sea and also up towards the hills to either side. This has created interesting junctures between streets, and compositions with neighbouring buildings being at relatively significantly different heights. Although it is mostly the front elevations fronting the roads that have the highest significance, where the return elevations are made visible by this topography, they are also often of high quality. The changing levels are particularly noticeable at ground floor level, and the ground floor frontages often have stepped entrances from street level, or even sometimes a footway that has been elevated above a semi-basement level that directly abuts the road.
17. The overall composition is of a particularly high quality that gains significance from the way it has been architecturally re-invented over time with a variety of architectural styles that nevertheless maintain an overall cohesiveness and attractiveness. Insofar as it relates to the proposals, this is the key significance of the CA.

The proposal

18. It is proposed to erect a four storey plus attic level building, with the lowest level a part basement level. It would be a house. It would be stepped back from the frontage with High Street at ground floor level with entrance steps. The upper levels would be slightly set back from the existing facades to the

north and south but would project further than the ground floor level, creating a jetty, not unlike other buildings along High Street. To the rear, the building would be set in from No 60 creating a closet wing style footprint. The remaining space would be a hard landscaped amenity area. The access steps would be on top of the existing upstand wall to the boundary with High Street. The north elevation would run directly alongside the existing building, No 58. The architectural style would be modern, with white render, glazed tiles, triple glazed windows, and a zinc roof.

Assessment

19. The bulk and mass of the proposed house would be acceptable, as is agreed between the main parties. It would be four-storeys plus attic level, but the lowest level would be a partial basement level, and the building would further ameliorate its bulk to the rear with the closet wing. This is complimentary to the bulk and mass of surrounding buildings and the CA. Although very close to neighbouring buildings, this is a common feature of this particularly dense part of Hastings town centre. The height would also be acceptable, with the roof level sitting between the roof levels of the buildings either side, as would be expected due to the slope of High Street.
20. A modern architectural approach is adopted. This is relatively rare in this part of the CA. However, the key significance of the CA is its cohesive variety, as set out above. The roof is part-mansard, which is a style adopted by several other buildings in the CA and is therefore entirely appropriate to the area. Zinc is proposed for the material of the roof. Zinc has the potential to include detailing to articulate the roof, such as where joins are created. Depending on the specification used, it can be relatively dark in colour to reflect that used to the nearby buildings. It can also have a slightly uneven finish to add texture but without competing with the articulation and detailing of the main facade. It is also a material that would work well in the context of being on a modern building. Subject to control by condition to ensure that the detailing and quality are achieved, it would be an acceptable material.
21. The proposed green roof would not, in practice, be visible other than from distance or the surrounding hills. Even then, it would only be partially visible and would not unacceptably unbalance the appearance or composition of the roof form of the building. In addition, there are a variety of roof forms, materials and colours in the CA. In this context, the introduction of one further material and form would not harm the roofscape across the CA.
22. The windows would be triple glazed but the two over two arrangement and the similar sizes at 1st and 2nd floor levels are common in the CA. The size of the windows as a proportion of the front façade is similar to many other buildings in the CA. The simple detailing reflects the modern architectural approach to the rest of the building and is appropriate in this context. There are also several examples of windows with simple surrounds and other detailing in the wider area.
23. At ground floor level there would be an inset door and a glazed feature. Whilst this is not entirely in-keeping with the prevailing architectural approach at ground floor level, there are other examples of domestic buildings in the area. In addition, this feature is within an overall ground floor composition that reflects the wider CA, with a fascia above and steps up to an inset entrance door to the side. It is important that the architectural language reflects this and

makes it clear that the building is not in commercial use. The glazed feature is to a bike store and therefore appropriate for the use of the room behind the tile.

24. Furthermore, there is no objection to the principle of residential use on the site. In addition, there are several examples of residential and other non-retail ground floor frontages along High Street and in the wider CA. The ground floor design and relatively lack of animation is acceptable in this context.
25. The use of some modern materials is balanced by the use of render for the majority of the front elevation, which is a common material in the area. Most importantly, the success of the majority of the buildings in the area is that they are cohesive examples of the architecture of their time. The proposed building would be new. The use of modern materials and architectural approach and detailing is therefore in accordance with the underlying spirit of the CA. It would be relatively demure and does not seek to dominate its surroundings or compete with the surrounding architecture. It would tie in with the wider character and appearance because of these reasons, and also because the overall height, bulk and mass are sensitive to the architectural character of the CA.

Overall

26. The proposed building would preserve the commercial and the architectural character of the CA. It would also infill an atypical gap in the streetscene that currently harms the appearance of High Street. Overall, therefore, the proposal would preserve the character of the CA and enhance its appearance. The proposal therefore complies with Policies DM1 and HN1 of the Hastings Development Management Plan 2015 (the DMP), which respectively require high quality design and for proposals to sustain or enhance the significance of heritage assets. It is also in accordance with s72 of the Act.

Listed building

Significance

27. The adjacent listed building is a terraced building that runs south from the appeal site. It is three-storeys with attic. It is in a relatively poor condition but is occupied and has pleasing architectural and historic features, such as the sash windows. It was constructed in the C18. Insofar as is relevant to the appeal proposal, its architectural significance derives from its innate architectural quality, particularly to the front and south elevations. Its historic significance is from its age and the relatively large amount of retained historic fabric. However, the cladding on its flank elevation at ground floor level facing the appeal site is a modern addition with little architectural merit and detracts from this significance.
28. I have no specific details regarding the porch that has already been demolished. However, the Council has confirmed that it was a modern addition and has no objections to its removal. It is therefore likely that the porch also detracted from the significance of the building.
29. The setting of the building positively contributes to its significance because of the high quality of the majority of the surrounding buildings, as set out above, and because it forms part of an architecturally successful, yet dense, urban realm.

Listed building consent

30. The proposed removal of the modern cladding at ground floor level on the flank elevation which detracts from its significance would enhance the architectural and historic interest of the building. There is a party wall along part of the southern boundary of the appeal site where some of the proposed building would be constructed. This has the potential to cause damage to the fabric and structure of the listed building but there is no substantiated evidence before me that this could not be avoided subject to careful control of the detailed architectural design and construction methods in these areas. Subject to control of this by condition, the works would not harm the significance of the listed building.

Setting

31. As set out above, the proposal would preserve the character and enhance the appearance of the CA. This includes detailed consideration of the front façade including the proposed treatment at ground floor level. It would respect the listed building in terms of height by stepping up between the building and the taller building the other side of the appeal site. The overall bulk and mass of the building would respect the listed building by providing a closet wing to the rear, set away from the side façade of the building. The fenestration pattern and the overall use of more modern materials would not directly reflect that used in the listed building but nor does it need to in the context of the variety in the immediate and wider setting of the appeal site and the listed building.

Overall

32. Overall, therefore, the proposals would preserve the significance of the listed building, including in terms of how it is experienced in its setting, to the desirability of the preservation of which I am required to have special regard. The proposal therefore complies with Policy HN1 of the DMP, which requires proposals to sustain or enhance the significance of heritage assets.

Scheduled monument and listed building

Setting of Hastings Town Wall

33. The appeal site has been vacant since 1983. The area to the east, between the site and the wall, has been open space since the 1930s and a map from 1938 shows largely the same relationship to the rear as now. Which is to say that the wall remains as a rear boundary to the amenity area associated with a block of flats. There is an open area between this, the end of the wall, and the rear of the appeal site and the adjacent buildings along High Street. The proposal would infill a currently atypical gap in the building line along High Street.
34. No concerns have been raised by the Council regarding the bulk and mass of the proposed building, nor the detailed design as viewed from the rear. I agree with this assessment. The building would assimilate with its surroundings and would be appropriate in bulk, mass and detailed design.

Conclusion

35. The proposed development would preserve the setting of the listed building, to the desirability of the preservation of which I am required to have special

regard. There would be no conflict with Policy HN1 of the DMP, which protects the significance of designated heritage assets including their settings. Nor would there be any conflict with the National Planning Policy Framework (the Framework) which recognises scheduled monuments as designated heritage assets of the highest significance, which indicates that the significance of a designated heritage asset can be harmed by development in its setting, and to the conservation of which it requires that great weight be given.

Other Matter

36. Although the Town Wall does not exist on the appeal site, there are remnants of a potentially historic wall. Historic England consider that, if it were to be a wall from the C14 then it would have similar heritage value to the Hastings Town Wall SM. However, there is no substantiated evidence that the wall is of that age. It is not listed. There would be no planning control over its removal. Footnote 72 of the Framework finds that non-designated assets of archaeological interest should be of demonstrably equivalent significance to scheduled monuments. This is clearly not the case on the appeal site, as set out at paragraphs 8 and 9 above, and as evidenced by the fact it is not listed nor part of the SM.
37. It is nevertheless a material planning consideration but it does not need to be considered as a heritage or archaeological asset. In this regard, the proposal includes creating a two-storey living area to the rear which would have a glazed section revealing the wall. This would better reveal the wall than the current situation, despite being within a private property. This is because it is currently barely decipherable from the existing foundations and wall of the neighbouring building and hidden behind a hoarding.
38. The detailed design of this part of the proposal, including ensuring that any risk of damage to the wall would be minimised, could be controlled by condition. I have been provided with no substantiated evidence that issues with moisture caused by the proposed glazing could not be controlled by detailed design, and so by condition. Subject to such control, the proposal would be acceptable with regard to its effect on the wall.

Conditions

39. The Council suggested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions, including removing tailpieces where necessary. The appellant has also provided comments on the draft conditions from the Council, which I have taken into account.

Appeal A

40. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty. With regard to the other conditions:
- The Written Scheme of Investigation (WSI), landscaping, refuse and recycling, materials, green roof, and window details conditions are necessary to protect the character and appearance of the CA;
 - The WSI condition is necessary to suitably protect the archaeology on the appeal site, and particularly because it lies within an Archaeological Notification Area;

- The landscaping, refuse and recycling, materials, green roof, and window details conditions are necessary to sustain or enhance the architectural and historic interest of the Grade II listed building, 'No 60, 61 and 61A High Street', in terms of how it is experienced in its setting;
- The obscure glazing condition is necessary to protect the living conditions of future occupiers of the dwelling and the occupiers of the neighbouring property with regard to mutual overlooking and loss of privacy;
- The working hours and Construction Management Plan (CMP) conditions are necessary to protect the living conditions of the occupiers of nearby properties with regard to noise and disturbance;
- The CMP condition is necessary to protect highway safety and the free-flow of traffic on the surrounding highway network; and,
- The refuse and recycling condition is necessary to ensure that the proposal is acceptable with regard to these technical matters.

41. I have removed reference to foul sewerage in the surface water drainage condition because foul water is dealt with by Building Regulations and conditions should not replicate controls in other legislation. I have also removed a request that the dwelling not be occupied until the Council has confirmed it is satisfied that the drainage infrastructure capacity is now available to adequately service the development. This is because the retained parts i and ii of the surface water drainage condition provide assurance to the Council that adequate drainage facilities would be provided on the appeal site. It would be unreasonable to require any further works off-site, and in the absence of any substantiated evidence that there is any issue with off-site drainage infrastructure capacity, also unnecessary.

42. The WSI, surface water and CMP conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Appeal B

43. I have attached the standard time limit condition. A drawings conditions is not necessary because there is no provision for an application for a minor material amendment. The Council also put forward other conditions which related to the works to the proposed development that would not directly affect the fabric or structure of the listed building. I have therefore assimilated the relevant parts of those conditions into the conditions for Appeal A. They are not necessary for Appeal B.

Conclusions

44. For the reasons above, Appeal A is allowed.

45. For the reasons above, Appeal B is allowed.

O S Woodward
INSPECTOR

ANNEX A: CONDITIONS SCHEDULE FOR APPEAL A

- 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: 21126_HIG_410_001; 1X1; 100; 180; 185; 414_1X1_A; 100_B; 101_B; 102_B; 103; 105; 152_B; 160; 180; 184_B.

Pre-commencement

- 3) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation (Reference: CBAS1357) or any subsequent addendums to the scheme. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
- 4)
 - i. Prior to the commencement of development, full details of the proposed means of surface water disposal/management are to be submitted to and approved in writing by the Local Planning Authority.
 - ii. The development shall be carried out in accordance with the details approved under (i) and no occupation of the dwelling hereby approved shall occur until those works have been completed.
- 5) No development shall be commenced on site until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan 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) Full details of all measures to be employed to reduce dust and noise during the construction phase of the development; (e) Temporary traffic management / signage where required. The approved details shall be adhered to throughout the construction process.

Other trigger

- 6) Before works to the relevant elements of the development commence, details of the following must be submitted to and approved in writing by the Local Planning Authority: (i) External facades and a sample panel of the render including the proposed colour and texture; (ii) Roofs, including the installation of the green roof, parapets, fascias, trims, and flashings; (iii) Above ground drainage works and the installation of rainwater goods; (iv) Detailed drawings and sections through the proposed entrance to the front elevation at no less than 1:10 scale, to include confirmation of the materials/finishes and details of the tile materials; (v) Details of all new flues and vents projecting onto the visible elevations of the new building; (vi) Details of the proposed glazing and any relevant ventilation or other systems relating to damp proofing with regard to the glazing surrounding the potentially historic wall on the appeal site. Details must include material types, design information, and samples and colour charts of the proposed finishes. The works must be carried out in accordance with the approved details.

- 7) Prior to the commencement of any external joinery works, full details of the proposed new external windows, doors, and timber cladding structures must be submitted to and agreed in writing by the Local Planning Authority. The details must include full elevation and cross-sectional drawings through the vertical and horizontal planes at a scale no less than 1:20. The details must also include section drawings of any cills, heads, jambs, transoms, mullions, panels, stiles, rails, glazing bars, external trims, the proposed reveals, and any fixing battens at a scale no less than 1:2. The works shall be carried out in accordance with the approved details.

Pre-occupation

- 8) The hard and soft landscaping works shall be in accordance with the details provided on the approved drawings. The hard and soft landscaping schemes shall be implemented prior to the first use of the development in accordance with the approved details and retained thereafter.
- 9) The refuse and cycle store areas as shown at ground floor level on the approved drawings must be provided prior to the occupation of the dwelling hereby approved and must remain available for the storage of refuse and bicycles hereafter.
- 10) Prior to the first use of the approved development, the full details of the maintenance schedule for the green roof shall be submitted to and approved in writing by the Local Planning Authority. The green roof shall be maintained thereafter in accordance with the approved details.

For observation

- 11) The windows which are shown on plan to be obscure-glazed along the side elevation of the dwelling hereby permitted shall be fitted with obscure glass which is at least the equivalent of Pilkington privacy level 3 and the windows shall be fixed shut up to 1.7 metres above the internal finished floor level. Once installed, the windows shall remain as such hereafter.
- 12) With the exception of internal works to the building, the works required to carry out the development allowed by this permission must only be carried out within the following times: 08.00 - 18.00 Monday to Friday; 08.00 - 13.00 on Saturdays; No working on Sundays or Public Holidays.

===== END OF SCHEDULE =====

ANNEX B: CONDITIONS SCHEDULE FOR APPEAL B

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Prior to commencement of development, the following details are to be submitted to and approved in writing by the Local Planning Authority:
Interface details of the foundations, walls and roof at a minimum scale of 1:10 and to include horizontal and vertical abutments with the adjacent listed building at 60-61 High Street.

===== END OF SCHEDULE =====