



Appeal Decision

Site visit made on 29 July 2025

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2025

Appeal Ref: APP/B1415/W/25/3364036

Land to the rear of Tyrone Wildman House, Tile Barn Road, St Leonards on Sea TN38 9AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Neale Brickwood against the decision of Hastings Borough Council.
 - The application Ref is HS/FA/24/00191.
 - The development proposed is described as 'proposed residential development – pair of semi detached houses'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the description of the proposed development given on the application form. The Council used an amended description on the decision notice, which also referred to 'creation of nature reserve at the rear', as shown on the plans.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area,
 - whether suitable living conditions would be provided for future occupiers, with particular regard to the quality of private amenity space, and
 - whether sufficient information has been submitted with respect to land stability or any remediation measures.

Reasons

Character and appearance

4. The appeal site is a tapering parcel of land between a block of flats known as Tyrone Wildman House and a substantial two storey commercial building fronting Gresley Road (the Gresley Road building). Currently, the land is vacant, fenced off and somewhat overgrown. The site slopes steeply upwards from Tyrone Wildman House towards the Gresley Road building, which is elevated above steep grassed banks. The proposed dwellings would be constructed at the lower ground level,

alongside the flats, with the ground floor being set into the slope and enclosed by retaining walls, and the first floor providing level access into the rear gardens.

5. Although the surrounding area is relatively intensively developed, with housing to the south and some large commercial buildings to the north, there is also extensive soft landscaping, including wide grass verges, street trees and the grassy banks around the Gresley Road building. These collectively provide a soft landscape framework which complements the built development and contributes positively to the character of the street scene.
6. The appeal site forms a small wedge of undeveloped space separating Tyrone Wildman House and the Gresley Road building. The front boundary fence is at street level, so the upper parts of the site and the emerging vegetation are clearly visible above it. Although the Council's evidence indicates the site was included in landscaping details for previous developments, it is neither publicly accessible nor subject to any formal designation as open space. Nevertheless, I concur with the comments in a previous appeal decision¹ that it provides a valuable break between Tyrone Wildman House and the commercial development, which positively contributes to the open character of the area.
7. The Council did not raise any objection to the architectural approach or detailing, which draws on features of the adjacent buildings. Compared to the previous scheme, the modified design would reduce the massing of the dwellings, notably at roof level, and provide more green space at the front. That responds to other comments in the earlier appeal decision, regarding the importance of the wide verges and taller properties being set back.
8. Nevertheless, the dwellings would straddle the space between the neighbouring buildings. While the boundary separation might arguably be generous in another context, as this particular site narrows, the adjacent buildings become increasingly enclosing. Taking that into account, there would be little visible space along the side boundaries and no meaningful view into the open area to be retained at the rear. Despite the more spacious layout at the front, the development as a whole would look cramped, and the beneficial break between the adjacent buildings would be substantially eliminated.
9. Even in its currently unmanaged state, the site makes a positive contribution to the streetscape, for the reasons outlined above. Any short-term issues with fly tipping could be tackled through appropriate maintenance, management and enforcement and do not outweigh the more permanent effects of introducing additional built development. While passing drivers may be focussed on navigating the roundabout, the site is conspicuous at a localised level and several people walked past during my site visit. Even though no objections were expressed in response to publicity on the application, the development would have a negative effect on the character and appearance of the area, as experienced by those living or working nearby, or passing through.
10. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area. It would conflict with relevant requirements in Policy SC1 of the Hastings Planning Strategy 2014 and Policy DM1 of the Hastings Development Management Plan 2015 (HDMP) which include that development should add to local character and sense of place and show an

¹ Appeal Ref: APP/B1415/W/22/3300773

appreciation of the surrounding neighbourhood's street patterns, plot layouts and boundaries, block sizes and scale. It would also conflict with the approach in the National Planning Policy Framework (the Framework) to achieving well-designed places, including the requirements in paragraph 135 that development should be sympathetic to local character, while not preventing appropriate change, and should optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, including green space.

Living conditions – future occupiers

11. The Gresley Road building includes numerous windows along the full length of the side elevation, at both ground and first floor. Collectively, these form a substantially continuous glazed area on two levels. The windows are currently conspicuous from the site and create a strong sense of being overlooked.
12. Although the cross section on drawing 005 suggests that the rear gardens would be below the eyeline of those working in the building, that is dependent on the layout of office furniture, which may not be as shown on that drawing. Since windows are designed, amongst other things, to provide an external outlook, it cannot be assumed that blinds would always be closed or that employees would avoid standing closer to the windows, facing out towards the adjacent gardens. While some level of overlooking is not unusual within an urban environment, the sheer number of overlooking windows and their elevated position means that they would feel particularly intrusive.
13. A close boarded boundary fence and new trees are proposed, to provide some screening. However, taking into account the ground levels, that would not provide adequate privacy, particularly in relation to the first floor windows. The effectiveness of the boundary screening could also be undermined by any difficulties with establishing the new trees on the steep, constrained site or subsequent losses through natural causes. Although occupiers of the dwelling closer to the boundary may have control over the retention of the boundary screening, it is less clear that those occupying the other dwelling would have a similar level of control.
14. Evidence has been provided of the current opening hours of the Gresley Road building, indicating that it is not currently occupied during traditional leisure hours at evenings and weekends. But those hours could change. In any case, future occupiers could reasonably expect to be able to enjoy a suitable level of privacy in the rear gardens during the working week, particularly if they do not work conventional office hours, are retired, or at home caring for children.
15. There is no dispute that the proposed gardens would be of adequate length, but their quality and usability would be materially undermined by the relationship with the Gresley Road building. Although some very limited areas would be better screened, such as at the sides of the dwellings, the main expanse of the rear gardens would feel exposed. The first floor balconies would not provide an adequate substitute, being both much more limited in scale and at the front.
16. In conclusion, suitable living conditions would not be provided for future occupiers, with particular regard to the quality of private amenity space. As such, the proposal would conflict with Policy DM3 of the HDMP which requires, amongst other things, that appropriate levels of private external space are included, in order to provide a good living standard for future users. It would also conflict with relevant

requirements in the Framework, including paragraph 135 which states that development should provide a high standard of amenity for future users.

Land stability

17. On land potentially subject to instability, such as steeply-sloping sites, Policy DM5 of the HDMP requires that convincing supporting evidence from a relevant and suitably qualified professional must be supplied before planning permission is granted. Such evidence is to show that any actual or potential instability can be overcome through appropriate remedial, preventative or precautionary measures. The Framework also requires that planning decisions should ensure that a site is suitable for its proposed use, taking account of ground conditions and any risks arising from land instability. While Policy DM5 recognises that further detail may be required by condition, and the Framework recognises that responsibility for securing a safe development rests with the developer and/or landowner, both require that adequate site investigation is undertaken to support the decision-making process.
18. The Soiltechnics evidence² for this application is brief and relies on future investigations being undertaken. It does not include a detailed survey of the existing level change and slope profile, although an estimate is given. Beyond that, the evidence signposts the need for a structural engineer's design, to include amongst other things an assessment of the existing foundations of the Gresley Road building and the design of a suitable retaining wall. While Soiltechnics conclude that an engineered solution could be developed, and the proposed measures are briefly outlined in the appellant's evidence, at this stage there is no detailed design underpinned by site investigations and the appellant proposes that details are secured by condition.
19. The Soiltechnics evidence is significantly less detailed than the Elson evidence³ in support of an application on the adjacent site. That evidence drew on findings from test drilling. It included evidence of the degree of slope and the underlying ground conditions. Based on the site investigation, specific recommendations were made for the design of retaining walls and foundations. Therefore, that evidence would more convincingly have provided the basis for a pre-commencement condition to secure the final details.
20. Since both the Tyrone Wildman House development and the adjacent dwellings include retaining structures, there is some indication that a design solution is achievable. However, the appeal site has different characteristics. It is more directly alongside the Gresley Road building and there are existing retaining structures along part of the site boundary. There is little evidence whether the underlying ground conditions are comparable, since no test pits or other survey results have been provided. As such, the land stability evidence falls short of the convincing supporting evidence required by Policy DM5 and the Framework.
21. While implementation of any required land stabilisation could be secured by means of the development, the evidence available at this point does not adequately determine what measures need to be secured. I therefore conclude that insufficient information has been submitted with respect to land stability or any remediation measures. Consequently, the proposed development would conflict

² Soiltechnics Limited letter ref STW6616-L01-Rev_A, dated 24 July 2024

³ W K Elson letter dated 10 October 2020

with relevant requirements in Policy DM5 of the HDMP and the Framework, as outlined above.

Other Considerations

22. According to the Council, the site is not allocated for housing, and the wider site has already been developed to the capacity estimated in a Strategic Housing and Employment Land Availability Assessment published during consultation on an emerging Local Plan. Nevertheless, that assessment does not amount to a ceiling on development. The Council has approved residential development elsewhere on the wider site and did not raise any objection to the principle of housing in this location. The proposed development would make efficient use of a small site, and the proposed dwellings would be in a built-up area with access to public transport and a range of services and facilities. The appellant mentions a different 'gap' site where the Council has granted planning permission, although little detail is provided as to whether the circumstances are comparable.
23. Two family-sized houses would be provided, making a small contribution towards addressing the Council's acknowledged shortfall in housing land supply. There is also an acknowledged, and substantial, shortfall in housing delivery over the last three years, based on the Council's Housing Delivery Test results. There would be modest economic benefits linked to the supply of additional housing, including support for the construction industry and economic activity by future occupiers.
24. The appellant's evidence alludes to the scheme having high energy efficiency credentials although it is not explained whether that would go beyond the requirements of the Building Regulations or relevant development plan policies.
25. Conflicting accounts have been provided about the extent to which the land was used to receive reptiles translocated from other parts of the wider site. Nevertheless, the Reptile Survey for this application⁴ identified a low population of slow worms, with breeding occurring. The reasons for refusal did not allege harm to protected species and a mitigation strategy is proposed, although the Council's Ecology Officer casts doubt on its suitability. In any case, since the proposed nature reserve would be required for mitigation of the effect of the development on protected species, would not be publicly accessible, and the proposal does not purport to provide a biodiversity net gain, pre-dating the statutory requirement for such, the proposed ecological measures are neutral considerations at best, and do not attract positive weight.
26. There are no relevant heritage or landscape designations, and the proposal responds to policy requirements for parking, cycle and refuse storage, as well as internal space standards. However, these are also neutral considerations, weighing neither for nor against the development.

Planning Balance

27. In the context of the Council's housing land supply and delivery shortfall, paragraph 11d of the Framework is applicable.
28. While no conflict is alleged with the Council's spatial strategy for the provision of new housing, the proposal would be contrary to the development plan for several

⁴ Mayhew Consultancy Ltd Reptile Survey Report, September 2024

other reasons, as set out above. That would bring the development into conflict with the development plan as a whole.

29. The relevant development plan policies are aligned with the Framework's approach to providing well-designed places and ensuring that land stability issues are addressed in the decision-making process. In that context, I have given the harm to the character and appearance of the area, the unsuitable living conditions for future occupiers and the inadequacy of land stability evidence, when considered collectively, a significant level of weight.
30. While the proposal has a number of benefits, as outlined above, they are inherently modest in scale given the size of the site and the limited number of dwellings proposed. Even in the context of the shortfall in housing land supply and the substantial shortfall in housing delivery, the benefits collectively carry only modest weight.
31. Consequently, the harm arising from the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having had particular regard to key policies for directing development to sustainable locations, making effective use of land and securing well-designed places. The proposed development would not benefit from the presumption in favour of sustainable development, as set out in paragraph 11d of the Framework.

Conclusion

32. The proposal would conflict with the development plan as a whole. No material considerations indicate that the application should be determined otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

Jane Smith

INSPECTOR