
Appeal Decision

Site visit made on 28 August 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2025

Appeal Ref: APP/B1415/W/25/3365393

Land and buildings rear of 89-95 Bexhill Road, St. Leonards-On-Sea TN38 0AJ

- 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 Barry Trowell against the decision of Hastings Borough Council.
 - The application Ref is HS/FA/24/00477.
 - The development proposed is use as a private fitness room. No external alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the development on:
 - flooding and drainage; and
 - the living conditions of 95a Bexhill Road, with particular reference to privacy.

Reasons

Flooding and drainage

3. The appeal site is an irregularly shaped parcel of land situated to the side and rear of 95a Bexhill Road, which is an end terrace property. The front portion of the site contains a pair of garages, whilst to the rear there is an elongated single storey outbuilding. I understand that the outbuilding was formerly a toilet block serving the terraced houses, which has since been separated from the houses albeit continuing to share a pedestrian access with them. The proposal is to change the use of the outbuilding to a fitness room.
4. The site lies within Flood Zone 3 and thus has a high probability of sea flooding. As the proposal is for a change of use, it is not subject to the sequential or exception tests, but it is required to be supported by a site-specific flood risk assessment, in accordance with paragraph 176 and footnote 63 of the National Planning Policy Framework (the Framework).
5. The appellant has argued that as the building already exists and the proposal is not for residential use, there will be no impact on flood risk and therefore a flood risk assessment is not required. The appellant has also pointed out that the site is close to existing residential properties, and being 10 metres higher than Bexhill Road will not be at risk of flooding for the foreseeable future.

6. However, Paragraph: 052 Reference ID: 7-052-20220825 of Planning Practice Guidance (the Guidance) advises that it is for the appellant to show that the change of use meets the objectives of the Framework's policy on flood risk, for example how the operation of any mitigation measures can be safeguarded and maintained effectively throughout the lifetime of the development. The Guidance explains that older properties may not previously have been subject to a flood risk assessment and appropriate mitigation measures, and the nature and severity of the flood risk may have changed over time. Even if a development's vulnerability is not increasing, a change of use can present an opportunity to improve the flood resilience of existing development.

7. The Council has further highlighted that the proposal has not provided details of existing and proposed drainage arrangements. Whilst the outbuilding already has a drainage connection, it is necessary to ensure the safe management of surface water runoff from the development.

8. Consequently, in the absence of a site-specific flood risk assessment and drainage report, the proposal is contrary to Policy SC7 of the Hastings Local Plan: The Hastings Planning Strategy 2011-2028, Adopted 19 February 2014, which advises that the Council will support development proposals that avoid areas of current or future flood risk, and that development proposals will need to, amongst other things, be of flood resistant or resilient design, and manage surface water run-off appropriately. The proposal is also contrary to the relevant parts of the Framework dealing with flooding.

Living conditions

9. The proposal does not involve any additional doors and windows in the outbuilding, which has two doors and four windows. The doors are made of solid timber, and three of the windows are very narrow, leaving just one window which could realistically be considered to give rise to potential overlooking. 95A Bexhill Road is a ground floor flat containing three rear-facing windows, one of which is screened from the outbuilding by a boundary wall, and a small rear outdoor space which is not screened. The pedestrian access to the outbuilding passes the side and rear of No 95A.

10. Although the existing use of the site has not been specified, the appellant currently has the ability to use the pedestrian access and to look out of the windows of the outbuilding, meaning that a degree of overlooking already occurs. Moreover, the outbuilding windows are set at an angle to 95A Bexhill Road, which has the effect of reducing the perception of overlooking. A proposed private fitness room is unlikely to be intensively used, and as such I do not consider that the using the outbuilding for this purpose would give rise to a harmful degree of overlooking of No 95A.

11. The Council has raised a concern that the appellant could place a table and chairs on the area of land in front of the outbuilding, with consequent overlooking of No 95A's rear outdoor space. It seems to me that there is nothing to stop the appellant doing this currently, and that a change of use to a private fitness room is unlikely to make this a significantly more likely occurrence. I noted on my site visit that the adjacent terraced houses all possess modest-sized outdoor spaces which are overlooked by neighbours and through which a shared pedestrian access runs, indicating that these outdoor spaces are not completely private. Taking these factors into account, I consider that the outdoor space of No 95A would have an acceptable level of privacy in future. Had I been minded to allow the appeal, it would have been open to me to give consideration to a condition controlling boundary treatment between the appeal site and No 95A.

12. In conclusion, I do not consider that overlooking from the proposed private fitness room would result in a harmful loss of privacy to the occupiers of 95A Bexhill Road, and I therefore consider that the proposal complies with Policy DM3 of the Hastings Local Plan: Development Management Plan, Adopted 23 September 2015. This policy guides that in order to achieve a good living standard, the scale, form, height, mass and density of any buildings should avoid adverse impacts on, amongst other things, the privacy of neighbouring properties. The proposal is also compliant with the relevant sections of the Framework which provide guidance on achieving well-designed places.

Conclusion

13. The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

J Heppell

INSPECTOR