



Appeal Decision

Site visit made on 4 November 2025

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 18 November 2025

Appeal Ref: APP/T1410/W/25/3369912

Land between 11 and 13 Cherry Garden Road, Eastbourne BN20 8HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Brandon Pettett (Pettett Ltd).
 - The application Ref is 240728.
 - The development proposed is demolition of garage and erection of one-bed residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. An amended plan B224-01C with the proposed floor plans and elevations and sections was submitted together with a report on Overshadowing before the end of March 2025 to address points raised by neighbours. The Appellant has advised that the plans were revised to overcome an ownership issue relating to the existing boundary wall, so that the proposal would be built inside of the existing boundary wall. The overshadowing report was prepared and submitted to address concerns by a neighbour.
3. As these documents were submitted a number of months before the appeal was made, I consider that I can take them into account, although it is not clear what further consultation actions the Council took in respect of these documents.
4. The appeal is against the non-determination of the application within the prescribed period of a decision on an application for planning permission. In its appeal statement, the Council has advised that had the application been determined by the Council it would have been refused for reasons relating to the effect on the character and appearance of the local area, harm to the living conditions of future residents as well as neighbouring residents and flood risk.
5. From all the information before me as well as my site visit, I consider that the main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the local area,
 - Whether there would be satisfactory living conditions for future residents, with particular regard to internal layout, amenity space, outlook and privacy,
 - The effect of the proposal on the living conditions of neighbouring residents, with particular regard to outlook, and

- Whether the proposal would satisfactorily address drainage and flood risk.

Reasons

Character and appearance

6. The appeal site relates to a small parcel of land between Nos 11 and 13 Cherry Garden Road (No 11 and No 13) and within a predominantly residential area. It currently comprises a garage with hardstanding in front. There is another garage to the immediate east which I understand belongs to No 11, and the appeal site and the adjoining garage separate No 13 from No 11 which turns the corner into Manvers Road. No 11 is a semi-detached property with No 2 Manvers Road (No 2).
7. The surrounding area mainly comprises semi-detached pairs of dwellings with some detached properties as well as terraces, which follow the contours of the land, sloping down from west to east. Most of these properties sit on plots of comparable size and are regularly spaced, with the use of similar materials, providing a consistent and cohesive pattern of development within the local area.
8. The proposal would introduce a one-bedroom, two storey detached dwelling with a pitched roof in place of the existing garage, with windows facing to the front and to the rear. At the front there would be a pedestrian access with provision for cycle storage and refuse bins and a small area for planting / amenity space.
9. There is no issue with the principle of residential development within the built-up area of Eastbourne, and the efficient and effective use of urban land is to be encouraged in accordance with national and local policy objectives.
10. However, the proposed dwelling would be significantly smaller than the scale of the surrounding properties and would fill the full width of the small plot. Given its size in relation to the small dimensions of the plot, the dwelling would appear very cramped and an overdevelopment of the plot. Furthermore, there is a regularity and consistency to the pattern of housing development in the local area, and the scale and design of the proposed dwelling would be visually discordant with the size, scale and spacing of the surrounding properties. I have taken into account that the proposed materials would seek to harmonise with the palette of materials in the local area, but this would not overcome the harm I have found from its small scale and design style which would detract from the more cohesive character and appearance of the surrounding residential area.
11. I conclude that the proposal would harm the character and appearance of the local area. It would conflict with Policies UHT1, UHT2 and UHT4 of the Eastbourne Borough Plan 2003 (Borough Plan), Policy D10a of the Eastbourne Core Strategy 2013 (Core Strategy) and the National Planning Policy Framework (Framework) and in particular Section 12, all of which amongst other matters, seek a high quality of design which respects the local context.
12. The Appellant has drawn my attention to two infill residential development proposals, one at Norway Street, Portslade and the other at Chiswick Place, which was allowed on appeal under the Ref: APP/T1410/W/19/3236485. Each proposal must be considered on its individual merits but in so far as the information has been made available to me, I have taken them into account. With regard to the proposal at Chiswick Place I note that the Inspector noted a variety in the size and form of properties in the local area, which contrasts with my finding regarding the

consistent and cohesive pattern of development in the local area around the appeal site. The examples provided by the Appellant do not therefore persuade me to a different view.

Living Conditions for Future Residents

13. I have noted that, in terms of internal size, the proposed dwelling would be acceptable in relation to the Technical Housing Standards for a dwelling of this size. The habitable spaces at ground and first floor would be primarily single aspect only, although there would appear to be some roof lights over the rear of the ground floor to introduce some light to the rear of the ground floor. The main windows would face towards the front only, and so the internal space at ground floor would potentially be overlooked, depending on the frontage treatment.
14. The external space would be very cramped offering limited amenity area for future residents. Furthermore, given its siting at the front it would be difficult to ensure privacy for the future residents, without creating a higher screening along the frontage which would potentially result in the small space feeling very cramped and uncomfortably enclosed and potentially adversely affect light levels into the internal space. There would also be some overlooking of the small front space from windows in the adjoining properties. This would further detract from the usability of the small area at the front of the site. Taking all these matters into account, I do not consider that the small space in front of the dwelling would provide satisfactory amenity space for future residents.
15. The Appellant has contended that there is no policy requirement to provide private amenity space for future residents given the size of the house proposed. However, the objectives at both national and local level are to ensure a high standard of amenity for existing and future occupiers and which promote health and well-being, and I consider that the proposal would fall materially short of these objectives.
16. I do not therefore consider that the proposal would provide satisfactory internal or external living conditions for future residents. This would conflict with Policy B2 of the Core Strategy as well as the Framework and in particular paragraph 135, all of which amongst other matters seek a high standard of design which respects the amenities of existing and future occupiers.

Living Conditions of Neighbouring Properties

17. The land slopes down from the appeal site towards the semi-detached properties at No 11 and No 2, so that these properties and their rear gardens are set at a lower level than the appeal site. The proposed two storey house would be materially taller than the existing garage and would present a blank elevation towards the neighbouring properties.
18. I have taken into account the distance between the appeal proposal and these neighbouring dwellings, including the garage to the immediate east which relates to No 11 as well as the outbuilding to the immediate rear which serves No 2. The house to the immediate west of the appeal site at No 13 Cherry Garden Road is also materially higher than the appeal proposal. However, given the change of levels between the neighbouring properties at No 11 and No 2 and the appeal site, I consider that there would be an unneighbourly relationship and that the appeal dwelling would be overbearing and visually intrusive in views from rear facing windows and more particularly from within their rear gardens.

19. I therefore conclude that the proposal would harm the living conditions of the immediate neighbours at No 11 and No 2, through loss of outlook. This would conflict with Policy B2 of the Core Strategy, Policy HO20 of the Borough Plan and the Framework and in particular paragraph 135, all of which, amongst other matters seek a high standard of design which respects the amenities of existing and future occupiers.
20. I have noted the results of the overshadowing exercise undertaken on behalf of the Appellant, but this does not outweigh my findings in respect of the harm to outlook.

Drainage and Flood Risk

21. The application forms indicate that the appeal site is not in an area at risk of flooding and the Council has not provided any information to indicate otherwise. The application forms further indicate that surface water would be disposed of to the main sewer. There is no further information before me regarding flood risk and drainage.
22. Paragraph 181 of the Framework is clear that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Given the nature of the site and the immediate surrounding land with its sloping topography and changes in levels, I cannot be satisfied on the very limited information before me that surface water would be appropriately managed to ensure that flood risk would not be increased elsewhere. I do not therefore consider that without some further information in this regard the issue could be addressed by condition, were no other matters of concern and planning permission were to be granted.
23. I am not therefore satisfied that the proposal would not lead to an increased flood risk elsewhere. Such a risk would conflict with Policies B2 and D9 of the Core Strategy, Policy NE4 of the Borough Plan and paragraph 181 of the Framework, all of which amongst other matters seek to ensure that flood risk is not increased elsewhere.

Other Considerations

24. The Council has also raised concerns regarding the location of the site in terms of accessibility by means other than the private car, given the lack of any on-site parking provision. However, and although the Council and neighbouring residents have referenced local parking stress, I have no further information in this regard. The removal of the dropped kerb in front of the existing access and garage would allow the reinstatement of an on-street parking space directly outside of the house.
25. In terms of other forms of transport, the plans indicate a covered cycle store within the front garden area. The Council in its Guidance for Parking at New Residential Development (October 2017) would require two cycle parking spaces. The application forms indicate the provision of two cycle spaces, albeit the plans only appear to show provision for one cycle. Were no other matters of concern and planning permission were to be granted, I consider that this matter could be addressed by planning condition, albeit in potentially needing to take more of the front garden area for covered and secure cycle parking this might further reduce the available amenity area.

26. I have noted that the bus service for the area has its limitations in terms of the bus operating times, or accessibility of the bus stops, although I am advised by the Appellant as well as neighbouring residents that Manvers Road, which leads off Cherry Garden Road a very short distance to the east of the appeal site, is on a bus route.
27. Taking all these matters into account, including the reinstatement of an on-street parking space, the provision of cycle parking within the site, together with some bus provision in the local area, I do not consider that there would be a planning justification to withhold planning permission in terms of accessibility.
28. Local residents have raised a number of matters, most of which I have already addressed above under my main issues. Some of the points raised are not directly related to planning but I have taken all relevant matters into account, including concerns relating to the noise from the air source heat pump. However, were no other matters of concern and planning permission were to be granted, a condition could be imposed to control the form and operation of the air source heat pump to safeguard the living conditions of the immediate neighbours.
29. The Appellant has drawn my attention to two appeal decisions, one in Tring under the Ref: APP/A1910/W/24/3343381 and the other in Eastbourne under the Ref: APP/T1410/W/19/3236485. Both decisions granted permission for a new dwelling, and I have considered the Eastbourne case under my first main issue dealing with the effect of the proposal on character and appearance of the local area. In the Tring decision the Inspector undertook a planning balance exercise and concluded that the adverse impacts were limited and did not significantly and demonstrably outweigh the benefits of the proposal. However, each proposal must be considered on its individual merits and that has been the basis of my assessment. I have taken these other decisions into account, and although they raise some similar issues to the ones I am considering, in the particular circumstances of the case before me and the issues before me, they do not persuade me to a different conclusion.
30. The Appellant has referred to the delays with processing the application, leading to the appeal on grounds of non-determination. However, my assessment is based on its planning merits, as I am required to do.

Planning Balance

31. I have found that the proposal would harm the character and appearance of the local area, and the living conditions of future residents, as well as neighbouring residents and there is insufficient information before me to conclude that there would be no potential flood risk to neighbouring properties. Consequently, there would be conflict with the development plan policies which are consistent with the Framework's position seeking a high quality of design which respects and re-enforces local character, as well as the living conditions of existing and future residents and environmental resilience. As a result, I attach significant weight to this conflict.
32. There is no dispute between the parties that the Council is unable to demonstrate a five year supply of deliverable housing sites, and that there is only a 1.4 year supply based on the most recent figures made available to me. As a result, Paragraph 11 d) is engaged. Accordingly, in line with paragraph 11(d) and footnote 8 of the Framework, the policies most important for determining the application are out of date. Paragraph 11 d) i. is not relevant in this instance and therefore

Paragraph 11 d) ii. is engaged whereby planning permission should be granted unless *any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.*

33. There would be a modest social benefit in providing one additional housing unit in a generally accessible location and making efficient use of the land. Economic advantages would also arise from the construction and occupation of this dwelling. These benefits carry some weight in support of the proposal. I have also paid particular regard to the paragraphs referenced in footnote 9 of Paragraph 11 d) ii. of the Framework. I have addressed some of these paragraphs above and whilst some of the paragraphs support the proposal, they include references to achieving well designed places and securing a high standard of amenity for existing and future occupiers. This therefore limits the weight to be attached.
34. I attach significant weight to the principle of housing delivery, and this includes in this situation where the housing supply is considerably short of requirements, but the benefits arising from a net addition of one unit would be relatively modest. However, the provision of the new housing would materially harm the character and appearance of the local area and would harm the living conditions of existing and future residents. I also cannot be satisfied that the proposal would not increase flood risk elsewhere. When assessed against the policies in the Framework, taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

35. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR