



Appeal Decision

Site visit made on 9 February 2026

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2026

Appeal Ref: APP/B1415/W/25/3373584

2 Ellenslea Road, St Leonards on Sea, East Sussex, TN37 6HX

- 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 Christopher and Mrs Anne Tubb against the decision of Hastings Borough Council.
 - The application Ref is HS/FA/24/00809.
 - The development proposed is for the removal of the remaining part of front wall of the single storey recreational structure to create a single one-bedroom flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For certainty and brevity, I have used the address and description of development given on the Council's decision notice.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal would preserve or enhance the character or appearance of the Kings Road Conservation Area (CA),
 - the effect of the proposal on the living conditions of future occupiers,
 - biodiversity net gain (BNG); and,
 - flood risk.

Reasons

Character and appearance of the CA

4. No 2 Ellenslea Road is located in the CA, which is an established residential area where the principle of development is accepted. The special character and significance of the CA is derived in part by rows of older style, pitched roofed, two and three-storey dwellings with rendered elevations facing the road with garden spaces to the rear.
5. The host dwelling is a substantial semi-detached mansion type building that has a stepped roofscape that follows the topography of Ellenslea Road as it rises to meet the junction with Chapel Park Road.

6. The former hotel building has been converted into a number of self-contained apartments¹. No 2 is set below the Grade II listed building known as Saint Leonards Baptist Church, which is found to the east of the appeal site and located above the dwellings found on Southwater Road.
7. The appeal site is a garden space to the rear of the host dwelling that has the remains of the former hotel's connecting 'club house', which is set down from Southwater Road behind a block work wall to the western edge of the garden.
8. The proposal is to demolish the partial front wall of the previous structure and to construct a single storey, one bedroom flat that would be accessed through the host dwelling from Ellenslea Road. The dwelling would face towards the Baptist Church above and have 2 windows and a porch type entrance door with a side window in the front elevation.
9. The Council's Conservation Officer has not recorded an objection to the scheme or found that the proposal would harm the setting of St Leonards Baptist Church. Indeed, while the Council contends that the proposal would harm the character and appearance of the CA, I find to the contrary.
10. While I note the Council's concerns related to the construction of an independent residential dwelling in a garden type space, and notwithstanding that the proposed development would be a basic, flat-roofed structure in comparison to the more substantial pitched roofed dwellings found in the surrounding CA, the fact remains that the building would have a similar footprint and overall height to the former pitched roofed club house. Indeed, due to the topography of the appeal site and the scale of the proposal, the low-key dwelling would be set down behind No 2 and obscured from view for those passing along Southwater Road by the existing blockwork walls.
11. In addition, given the current communal use and appearance of the appeal site, which includes the outline of the former building, the simple, single storey dwelling is unlikely to draw the eye of the surrounding occupiers to the rear of No 2 and 3 Ellenslea Road.
12. I conclude therefore, that the harm to the CA in this very specific location would be negligible.
13. It follows then, in respect of the character and appearance of the area, that the proposed development would accord with Policy DM1 of the Hastings Local Plan (2015) which says, amongst other things, that all proposals must show an appreciation of the surrounding neighbourhood's historic character.

Living conditions

14. Future occupiers of the dwelling would not only look onto the scale, mass and height of the overbearing elevation of the Baptist Church to the front, but also a stepped terrace and the raised garden wall of No 3. Indeed, domestic activities associated with the new dwelling, for example use of the sitting area for leisure, relaxation and fresh air would be overlooked by the occupiers of No 2 and 3.

¹ HS/FA/87/00847

15. Moreover, notwithstanding that the proposal would meet nationally described space standards, given the orientation and the limited fenestration associated with the living space of the dwelling that has a windowless bathroom, the proposed development would provide gloomy living conditions for the future occupiers due to the low levels of daylight and sunlight that would penetrate the set-down location at certain times of the day and year. Indeed, while the appellants suggest the use of net curtains to improve privacy within the dwelling, this is likely to further diminish daylight available to occupiers of the dwelling.
16. Overall, I conclude that the proposal would harm the living conditions of future occupiers.
17. Subsequently, the proposal would be contrary to Policy DM3 of the HLP, which requires that in order to achieve a good living standard for future users, proposed developments should be designed to allow residents to live comfortably and conveniently.

BNG

18. The appellants claim that the proposal is exempt from BNG regulations as it is subject to the 'de minimis' exemption as a self-build dwelling under Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act). Nevertheless, even if the parties could agree that an exemption is applicable, the development must not impact on any priority habitat.
19. The Council argue that the appellant's submitted photographic evidence shows that the appeal site was vegetated as far back as 2019 across an area greater than the 'de minimis' BNG exemption limit. As such, it is necessary under the Act for the appellants to demonstrate at least 10% BNG in mitigation, alongside general biodiversity protection and enhancement required by the Framework Paragraph 187(d) through the submission of a Small Sites Metric. However, the appellants dispute the Council's position. Consequently, a Metric has not been submitted.
20. However, vegetation could be seen on the site at the time of the site inspection. Therefore, the minimum information requirements set out under the Act should have been submitted by the appellants, including but not limited to a plan showing existing onsite habitat.
21. Insufficient information has been provided by the appellants. Therefore I am not satisfied that the BNG requirement has been fulfilled. It would not be appropriate to secure this or the details of the required works to achieve the necessary BNG through a condition. Consequently, given BNG is a statutory requirement, this is a matter of importance and failure to comply is a fundamental flaw of the proposal.
22. Therefore, taking a precautionary approach in respect of BNG, I conclude that the development would be contrary to Schedule 7A of the Town and Country Planning Act 1990, and the Framework when read as a whole.

Flood risk

23. The host dwelling has existing on site drainage. However, the Council require the submission of a drainage report for proposals in excess of 25m². A drainage report has not been provided by the appellants in respect of proposal. Therefore, I cannot be certain whether the proposal would exacerbate flood risk or poor drainage on the site or not. Moreover, even if the imposition of a condition in respect of flood risk would address this matter, as I have dismissed the appeal on other grounds, I have not considered this matter any further.

Other Matters and Planning Balance

24. The appellants have brought to my attention to schemes in Kings Road and Laser Lane in support of their case. However, I have limited details of those schemes before me, which in any event are in a different location altogether. I afford this matter very limited weight.
25. The Council cannot demonstrate a 5-year Housing Land Supply (HLS). As such, Paragraph 11(d) of the Framework is therefore of relevance and the 'tilted balance' engaged.
26. The economic benefits of the proposal include the construction work associated with the scheme and the use of local services by future occupiers. As the construction work would be short-term and the use of local services small scale, I give this limited weight.
27. There would also be some environmental benefits related to potential for soft landscaping on the site and also for the proposal to be a car-free scheme. However, given the limited extent of the development, I afford this little weight.
28. In respect of the social benefits related to the proposal, the revised Framework is clear that Government objectives include an emphasis on housing delivery with the aim of exceeding national housing targets, including provision for smaller households. Indeed, the site is previously developed land in a sustainable location; and the Framework also recognises that small sites can make an important contribution to meeting the housing requirement of an area. Nonetheless, as the proposal is for a single dwelling the social benefits attract minimal weight in this specific case.
29. Nevertheless, I conclude that, even in combination the economic, environmental and social benefits do not outweigh the substantial harm I have found above.

Conclusions

30. Therefore, whilst I have found in favour of the appellants on the first main issue, given my findings on the second, third and fourth main issues, and the fact that the impacts of the proposal are not significantly and demonstrably outweighed by the economic, environmental and social benefits of the residential scheme, for the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR