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| App.No: 150694 (PPP) | Decision Due Date: 8 September 2015 | Ward: Upperton |
| Officer: Jane Sabin | Site visit date: 24 August 2015 | Type: Planning Permission |
| Site Notice(s) Expiry date: 23 August 2015 | | |
| Neighbour Con Expiry: 23 October 2015 | | |
| Press Notice(s): | | |
| Over 8/13 week reason: Request by applicant to attend committee | | |
| Location: | 51 Upperton Lane | |
| Proposal: Demolition of existing building and flint boundary wall. Rebuilding of flint wall and erection of a two storey dwellinghouse with parking space. | | |
| Applicant: | Miss Helen Dupre | |
| Recommendation: | Refuse | |

Executive summary:

It is considered that residential development of the site would be an undesirable form of backland development, inappropriate to a narrow service lane serving commercial premises. The design is ill conceived and contrived, and an overdevelopment of a restricted site, resulting in a cramped, visually dominant and intrusive form of development that would fail to preserve or enhance the character and appearance of the conservation area, and would also be detrimental to the amenities of adjoining residents by way of loss of privacy and outlook.

Planning Status:

Upperton Conservation Area
Archaeological Notification Area
Source Protection Zone

Relevant Planning Policies:

National Planning Policy Framework

Eastbourne Core Strategy Local Plan Policies 2013

B1: Spatial Development Strategy and Distribution

B2: Creating Sustainable Neighbourhoods

C2: Upperton Neighbourhood Policy

D5: Housing

D10: Historic Environment

D10A: Design

Eastbourne Borough Plan Saved Policies 2007

NE14: Source Protection Zone

UHT1: Design of New Development

UHT2: Height of Buildings

UHT4: Visual Amenity

UHT5: Protecting Walls/Landscape Features

UHT15: Protection of Conservation Areas

HO7: Redevelopment

HO20: Residential Amenity

TR2: Travel Demands

TR11: Car Parking

Site Description:

The site comprises a parking space and a single storey, flat roofed, brick built building located in the former rear garden of 51 Upperton Gardens; it faces onto the adopted service road (Upperton Lane) which connects Enys Road to Hartfield Road, which serves properties in both Upperton Gardens and Upperton Road. The building appears to be pre-1948 and is in need of redecoration/ refurbishment, whilst the parking space is gated with inappropriate solid timber gates. The site measures 9.1m wide and 11.2m deep.

Relevant Planning History:

010514

Change of use of outbuilding from workshop/garage to store/office.

Approved 11 December 2001

040867

Change of use from garages to residential dwelling.

Refused 21 July 2004

130184

Demolition of existing building and erection of a two-storey dwellinghouse.

Refused 1 July 2013

130309

Demolition of existing building and erection of a two-storey dwellinghouse.

Conservation Area Consent

Refused 1 July 2013

140741

Change of use of a one storey building with parking space and garden from B1 (office) to C3 (a dwelling).

Prior Notification Class J Issued 24 July 2014

Proposed development:

Permission is sought to demolish the existing building and part of the damaged wall on the east side of the site, and to erect a two-storey, two bedroom, flat roofed dwelling with a parking space at the side under a car port. The building would measure 6.5m wide and 7m deep, under a flat roof with a maximum height of 6m to the top of the parapet. It would be constructed of brick, with a flint band around the parapet. A 1.5m

high flint boundary wall is proposed at the front, together with a sliding gate to provide access to the parking space; the car port would be fixed to the rebuilt boundary wall on the east side at a height of 2.5m. At the rear, the existing garden would need to be reduced to the same level as Upperton Lane, and would involve the loss of a small cherry tree; the resulting garden for the property would be 3m deep.

In support of the application the applicant has state the following:

- The existing building has been damaged by creeper
- The flint wall on the east side has also been damaged by creeper
- The existing parking space would be retained and there is ample space for bicycles; the town centre is within easy walking distance and Upperton is classed as being in a sustainable area
- A new building in keeping with the residences of Upperton Gardens would vastly improve the appearance and atmosphere of the lane
- The rear garden would be lowered to the level of Upperton Lane, therefore the new building would be no higher than 49 Upperton Lane; there two storey buildings on the other side of the lane
- The building has been set back from the lane (as recommended by officers) and the boundary wall with 51 Upperton Gardens prevents any overlooking from ground floor windows
- The building is to be of brick construction with the east side incorporating the flint wall, a front boundary wall of flint and some detailing on the building in flint
- The roof is to flat with a parapet to conceal solar panels
- The windows would be double glazed timber units, and the building fully insulated; plumbing should provide grey water for lavatories
- Officers advised that blank side elevations would look unsightly, therefore windows have been provided at first floor level to balance the ground floor
- The Eastbourne Strategic Development Plan has identified Upperton as being suitable for building 399 new dwellings, but only 245 possible sites have been found. Using this brownfield site for a much needed family dwelling would be preferable to using green/open spaces and therefore complies with the Plan
- The amended proposal is on a much smaller scale, the main part being reduced in size and the bedroom above the car port removed
- The owner of F1 51 Upperton Gardens can retain his fence behind the new retaining wall; there would be no shadowing of his garden; the rear windows could be obscure glazed, as the Planning Officer requested windows on the side elevations

The scheme as originally submitted included a third bedroom in a first floor overhang, which formed a roof over the car port. This has been deleted following comments by officers that the scale and proportions of the building resulted in a visually uncomfortable arrangement, and the building as a whole has been reduced by 1m in depth.

Consultations:

Internal:

Highways ESCC – Recommends refusal of the scheme due to lack of visibility at the entrance and the increased risk of conflict between pedestrians and vehicles. Upperton Lane is a service road and as such it is relatively narrow and there are no footways. It serves a number of parking spaces, garages and two larger commercial premises including the East Sussex Fire & Rescue Headquarters. Although not particularly busy it is

used by commercial vehicles and given its narrow nature two vehicles would struggle to pass each other if they meet and there would be no space for pedestrians.

Any pedestrian travelling to and from the site would therefore need to walk in the road and would conflict with vehicles using the street especially larger commercial vehicles. Currently there appear to be few pedestrian movements in the area which a residential property would obviously increase. This risk of conflict was mentioned by the planning inspector in the dismissal of an appeal at 39 Upperton Gardens. It should be noted that the conflict at 39 would be less than 51 as it is closer to Hartfield Road so pedestrian would have had to travel less distance in the carriageway.

The boundary wall proposed would reduce visibility to almost nothing. A car would have to advance about 2m out into Upperton Lane before any visibility was possible and a pedestrian would actually have to step out into the road before they could see or be seen by drivers travelling along Upperton Lane. The sliding gate would also mean that vehicles waiting to enter the site would need to wait in the road potentially causing interference to the flow of traffic along the street.

Specialist Advisor (Planning Policy) - The proposal would result in an additional residential unit in a sustainable location as identified in Core Strategy Policy B1, and the change from commercial to residential use would be consistent with the NPPF. In line with the Council's adopted CIL Charging Schedule the proposal results in the requirement for a financial contribution of £2,600. However the NPPF places strong emphasis on good design and states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. It is considered that, despite the proposed additional of one residential unit, the quality of design may be an issue that means that this application would not be acceptable.

Specialist Advisor (Conservation) - Located to the rear of Upperton Gardens, Upperton Lane is essentially a service road. With the exception of the outbuilding at No 49, the built character of this part of the conservation area is that of small garage outbuildings subservient in nature to the 4 storey terraced buildings addressing Upperton Gardens. There are taller later additions on the southern side of the lane, however these do not fall within the Upperton Conservation Area. Furthermore their mass, scale and design is considered incongruous when balanced against the built form which contributes to the character and appearance of the adjacent conservation area. The building on the application site has the mass and scale of a single storey, double garage. Whilst the structure makes little or no contribution to the aesthetic character and appearance of the surrounding conservation area, it does illustrate high evidential and historic value, through its siting, plan form and scale, particularly when balanced against the character associated with the lane.

The scale of the proposal is considered incongruous, when balanced against the identified character of the conservation area. The lane mostly comprises ancillary buildings associated with Upperton Gardens, which are predominantly single storey garage units. Notwithstanding No 49, a single storey, structure with usable space in the truncated hipped slate roof, the scale of which, although higher due to the roofscape, continues to be subservient in nature and as such reflective of the character of the immediate area.

Turning to the design, it is accepted that the introduction of a flat roof is usually associated with contemporary residential properties, in addition to being a design solution towards reducing scale. In context, it is reflective of the character of the ancillary non-residential structures associated with the rear of Upperton Gardens and as such the lane. However in this instance, while it is acknowledged the use of a flat roof allows for the introduction of solar panels hidden behind the parapet, it also introduces an incongruous design solution, when balanced against the character and appearance of the residential properties within the immediate and wider area. Furthermore, the proportion associated with the window openings conflicts with the proportion associated with the form (height & width) of the building and as such results in a visually uncomfortable arrangement.

In considering the materials proposed these are reflective of the immediate and wider area and it is encouraging the flint stone wall, which is currently in a poor state of repair, would be rebuilt as part of the proposal. However this element of the proposal, unfortunately, does not overcome the harm associated with the proposal as a whole.

In summary the principle of a two storey residential dwelling to the proposed scale and design would result in detrimental harm to the architectural and historic character and appearance of the immediate and wider conservation area.

The Conservation Area Advisory Group considered the original scheme at its meeting on 25 August 2015, and the revised scheme on 6 October 2015. Objections were raised to the principle of a residential property in what was historically a service lane and considered it unacceptable and out of character with the surrounding conservation area. It was felt that approval could set a precedent for further residential development and the resulting cumulative impact would negatively affect the existing character of the area. Specifically, objections were raised to the mass, scale and design which had little reference to the historic architectural character and appearance of the immediate and surrounding area.

External:

Neighbour Representations:

Fourteen objections have been received and cover the following points:

- Whilst the revised plans represent an improvement, they still show an overdevelopment of a very small site
- The plans are poor and do not permit accurate scaling; the height could not be achieved as sketched
- Solar panels would sit above the parapet to achieve the necessary angle
- The building would have to be dug down into ground by approx. 2m if it were to be the same height as 49 Upperton Lane
- Concerns regarding the impact on the common boundary wall; incorporating a wall into a building would result in loss of character to the conservation area
- Adverse impact on the conservation area
- Any two storey building would be an overdevelopment
- Increase in traffic using the lane
- It is an access road not a residential street
- The proposal will set a precedent for residential development in a narrow access lane with no pavement
- Adverse impact on outlook from flats in Upperton Gardens

- The existing building has been allowed to deteriorate into an eyesore
- No car could use the car port – the entrance is too narrow and it would not be possible to open the door
- Opening windows would not be permitted in party walls, and there is insufficient headroom for the stairs
- Loss of privacy from directly opening windows
- The building should be rebuilt as garages

Appraisal:

The main issues to be taken into account in determining this application are the principle of the provision of a dwelling on the site, the impact of the physical changes on the character and appearance of the conservation area, residential amenity and parking.

Principle of development:

A similar proposal at 39 Upperton Lane was considered by the Planning Inspectorate on 8 January 2014 (130236 – vehicle repair workshop to dwellinghouse). The Inspector noted that the character is that of small garage outbuildings which are clearly subservient in nature to the 4 storey buildings in Upperton Gardens, and that these buildings dominate the views up and down the service road in either direction. At a height of just over 5m, the development would interrupt those views and introduce a dominant built form into the north side of Upperton Lane. The design of the building, because of its height, bulk and multiplicity of windows would introduce an architectural form at odds with the restrained character of the other buildings. A combination of the above would harm the character and appearance of this part of the conservation area. Whilst the building no.49 also raises the same visual concerns identified above, that is not sufficient reason to add to that harm. He went on to consider whether the harm would be outweighed by the benefits of providing a new dwelling in context of paragraph 134 of the National Planning Policy Framework, and concluded that that it would not, and dismissed the appeal. He further considered two relevant points; firstly, the road has no footpath, and is used by commercial vehicles, resulting in an undesirable conflict between pedestrians and vehicles; secondly, that whilst each application must be treated on its individual merits, the concern of precedence is not a generalised fear, but a realistic one, given previous applications at nos. 49 and 51.

Whilst the prior notification procedure resulted in confirmation for C3 use, the use has not commenced and therefore it remains as a B1 premises; in its current condition, the building could not function as a dwellinghouse. Notwithstanding this, it is considered that the prior notification has not established the acceptability of the principle of residential use for the site, and not for a two storey development in any case.

Character and appearance of the conservation area

The existing building is a later addition to the original development of Upperton Gardens, and has clearly suffered from a lack of maintenance over a long period. It is considered that no objection could be made in principle to its loss, whether or not permission is granted for any replacement building.

The Upperton Gardens Conservation Area was first designated in 1994; it was later extended in 2009 to include the north block of Upperton Gardens and Enys Road beyond, when it was renamed the Upperton Conservation Area. Located to the rear of the properties fronting Upperton Gardens, Upperton Lane is essentially a service road. The

building at 49 Upperton Lane is an incongruous addition in terms of its large mansard roof and yellow brick, however it gained consent four years before it was incorporated into the conservation area, and should not be regarded as a precedent.

The submitted drawings are poorly drawn and detailed, nevertheless it is clear what the intended replacement building is meant to achieve in terms of the size, position and design. That is to say a two-storey, flat roofed, brick dwelling house, which fills much of the plot, leaving a 3m rear garden and a 2.6m parking space to the side. It is considered that, in principle, such a development would be totally out of character with the conservation area, and this side of Upperton Lane in particular; generally the rear gardens are characterised by low, single storey developments of garages of various styles and sizes, and most have some degree of setback, in order to allow modern, larger cars the ability to turn more easily onto the narrow lane. It would not preserve the subservient nature of the service buildings which face the lane in terms of its height and bulk. The applicant contends that it would be no higher than the adjacent office building at no.49, but it would be at least 1.5m higher. The provision of such a large building of the style, proportions and bulk proposed on the boundary with the lane would result in a clumsy, inelegant, visually dominant and intrusive form of development that would fail to preserve or enhance the character and appearance of the conservation area.

Other aspects of the design are considered to be inappropriate, such as windows in the flank walls right on the boundary with the adjoining property at 53 Upperton Gardens and solar panels on a flat roof facing south which would have to be angled up to something in the order of 35° for optimum efficiency; a front boundary wall of 1.5m would be uncharacteristically, although it would clearly help to some extent with the noise and oppressiveness of the lorries which use the lane on a daily basis.

Residential amenity:

The height and design of the proposed building, combined with its proximity to the rear boundary with the flats behind it, would result in an adverse impact on the outlook from the rear windows and garden of the flats in 51 Upperton Gardens in particular, especially those on the lower floors; even those on the upper floors would look out onto an array of solar panels in relatively close proximity (10m building to building). Notwithstanding the high brick wall proposed on the rear boundary, the first floor bedroom window would directly overlook adjacent residents to a wholly unacceptable degree. Although the applicant considers that this can be obscure glazed and fixed because there would be a window on the side, this too would look directly into the adjoining property (officers have not suggested that there should be any windows in the side elevations); whilst much of the adjoining properties rear garden is given over to parking, a first floor window would nevertheless provide overlooking to windows to habitable rooms.

The amenities of future residents of the proposed dwelling is also a consideration. Notwithstanding the current scheme has been set back from the road by 1m, the proximity of traffic which includes a high level of commercial vehicles in a road without a footpath would be less than ideal living conditions.

Impacts on trees:

The small tree to be removed is of no public value.

Highway safety:

Whilst the proposal includes a car port at the side of the dwelling, it is fairly narrow at 2.6m, thus making its use less than ideal on quite a narrow lane. Amendments to the wall and gates could be designed into the scheme, but it would not address the issue identified by the Highway Authority regarding the conflict between pedestrians and vehicles in a road without a footpath; there is insufficient space to provide a footpath. It is considered that parking is likely to be an issue in this location, where there is no available on street parking in the lane at all, and the surrounding streets are heavily parked. A two bedroom house is more than likely to create a demand for parking, but given its location within walking distance of the town centre, one space would be considered adequate, although there would be no space for visitor parking. However, as stated above, if permission were to be granted for this and similar developments, issues surrounding parking for a whole street of dwellings would create a problem for existing and proposed residents and highway safety. Again, this demonstrates that residential development in a narrow service lane which is used by commercial traffic is impractical and unsuitable.

Sustainable development implications:

The use of solar panels would provide some benefit, but is considered to be a minor consideration when compared to other matters of acknowledged importance.

Human Rights Implications:

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

Conclusion:

It is considered that residential development of the site would be an undesirable form of backland development, inappropriate to a narrow service lane serving commercial premises. The design is ill conceived and contrived, and an overdevelopment of a restricted site, resulting in a cramped, visually dominant and intrusive form of development that would fail to preserve or enhance the character and appearance of the conservation area, and would also be detrimental to the amenities of adjoining residents by way of loss of privacy and outlook.

Recommendation: Refuse, for the following reason:

The proposed development would result in an undesirable form of backland development in an unsuitable location, which would by reason of its scale, siting and design, result in a cramped, visually dominant and intrusive form of development that would fail to preserve or enhance the character and appearance of the conservation area and would be detrimental to the amenities of adjoining residential occupiers through loss of privacy and outlook. As such, it would conflict with policies UHT1, UHT4, UHT15 and HO20 of the Eastbourne Borough Plan 2001-2011, policies B2, C2, D1, D10 and D10A of the Eastbourne Core Strategy Local Plan, and paragraph 64 of the National Planning Policy Framework.

Informatives

For the avoidance of doubt, the following plans are refused:

AMENDMENT TO PLANNING APPLICATION 150694 Page 2 of 4 dated 30/9/15

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations.**