
Appeal Decision

Site visit made on 7 June 2016

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 June 2016

Appeal Ref: APP/T1410/W/15/3141128

1 Baillie Avenue, Eastbourne, East Sussex BN22 8NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by St. Mary's Homes Ltd against the decision of Eastbourne Borough Council.
 - The application Ref PC/151222, dated 12 November 2015, was refused by notice dated 15 December 2015.
 - The development proposed is the erection of a two storey building to provide 1 No dwelling on land adjacent to No 1 Baillie Avenue.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of internal and external living space.

Reasons

Character and appearance

3. The appeal dwelling would be positioned in the side garden area of No 1 Baillie Avenue, which is a semi-detached two storey dwelling occupying a prominent corner location with Roselands Avenue.
 4. The surrounding area is characterised by a mix of dwelling styles comprising terraces, detached and semi-detached houses and flats. Although there are exceptions, in the main, the houses are conventionally laid out with similar proportions, set back from the road with front main entrances and reasonably sized rear private gardens.
 5. As a consequence of the rear gardens of Nos 1 and 2 Baillie Avenue being subdivided to allow development of 4 self-contained flats, their remaining rear garden areas are already shorter than that of neighbouring properties. Although this reduced depth of garden would be maintained for No 1, it would however be very apparent that there would be no meaningful rear garden area
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for the new dwelling because of the positioning of the proposed off-street car parking spaces.

6. Whilst I acknowledge that a similarly proportioned extension has been approved for No 1, the fundamental difference is that it would remain and appear as part of a larger single dwelling and would not involve further sub-division of the plot to create a new dwelling which would appear cramped and out of character. Moreover the appeal dwelling would clearly be narrower than the neighbouring houses and in contrast to the prevailing character of the area would have its main entrance on what would appear to be its side elevation.
7. For these reasons, I conclude that the proposal would appear at odds with the main pattern of development in the area and as over development of the site. This would result in material harm to the character and appearance of the appeal site and the surrounding area, contrary to Policy D10A of the Eastbourne Plan Submission Core Strategy 2006-2027 (CS) and Saved Policy UHT1 of the Eastbourne Borough Plan 2001-2011. These require, amongst other matters, all development to harmonise with the appearance and character of the local environment, respecting local distinctiveness and being appropriate and sympathetic to its setting in terms of scale, height, massing and density, and its relationship to adjoining buildings.

Living conditions

8. The proposed floor plans show that 2 bed spaces would be provided. The National technical standards¹ require a minimum Gross Internal Area of 58m² for a 1 bedroom, 2 person, 2 storey dwelling. The appeal proposal would provide approximately 36m² and as such would fall significantly short of the minimum standards. This would result in substandard, cramped and oppressive living conditions for future occupants.
9. In support of the appeal the appellant has drawn my attention to the flats to the rear of the site, which have floor areas of 33m². The Council has explained however that this development was granted planning permission prior to the introduction of the national technical standards. This therefore amounts to a material change in circumstances and as such the flatted development would not justify allowing the substantial shortfall in floor space in the particular circumstances of this case.
10. Outdoor amenity space for the new dwelling would be largely restricted to a side and front garden. Whilst I am concerned about the potential for overlooking into these spaces from the adjacent public footpath and therefore its attractiveness and usability, I am satisfied that in principle this could be overcome by condition requiring the existing side boundary planting be retained.
11. Nevertheless, for the reasons I have explained, the proposal would not provide acceptable living conditions for future residents and as such would be contrary to the national technical standards and CS Policy B2, which requires, amongst other matters, schemes to protect the residential and environmental amenity of existing and future residents.

Other matters

¹ Department for Communities and Local Government Technical housing standards – national described space standard March 2015.

12. In support of the appeal the appellant has highlighted the presumption set out in the National Planning Policy Framework (the Framework) in favour of sustainable development. However, for the reasons I have explained, the proposal would not meet the environmental and social objectives of sustainability and as such would not amount to sustainable development, having regard to the advice at paragraphs 7 of the Framework. Not being sustainable development, no such presumption, as anticipated by paragraph 14, applies.
13. I acknowledge that the Council has not raised concern in respect of the living conditions of neighbouring residents. However the lack of such harm cannot weigh in favour of the proposal and should properly be considered as neutral in the planning balance. It follows therefore that this cannot mitigate the harm I have explained above.
14. Whilst the rear of No 1 and 2 may have been sold by the appellant for two semi-detached dwellings but was subsequently approved for four flats, this is not a matter for this appeal, which I have determined on its own planning merits.

Conclusion

15. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

Inspector